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**A case study of gendered differences in land ownership in Nkomazi, Mpumalanga,
South Africa**

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DECLARATION

I, Mandla Abednico Mubecua, declare that:

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Dr Nojiyeza

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DEDICATION

I dedicate this study to two important individuals, my mother Duduzile Mahlalela and late father, F Makwakwa (Mbhekwa, S'latane) may your soul rest in peace.

ABSTRACT

South Africa has a dual land property rights system in which land can be distributed and owned under statutory or customary communal laws. The study aimed to understand gendered differences in land ownership in the Nkomazi Local Municipality in the context of such customary and statutory laws. It focused on how such gendered differences affect women and female farmers in the same community noting that globally, women were often oppressed by patriarchal and cultural systems. The study, therefore, relied on the legal pluralism theory which asserts that modern societies are not only governed under the power of the state but under pluralistic forces that hold different levels of acceptability to the people governed. It also relooked the feminist political ecology, a theory that relates gender to the access and ownership of natural resources including land. The study adopted a phenomenological research design guided by a critical theory paradigm that aims to empower repressed groups and transform societies. It took a qualitative research approach where data was collected from a sample of 37 participants who included male and female farmers, female residents who were not into farming, municipal and government officials and traditional leaders using semi-structured, face-to-face interviews. Collected data were analysed using thematic analysis on the Atlas.ti.8 software. The analysis generated seven themes leading to the conclusion that gendered land ownership differences are a reality in the Nkomazi Local Municipality. They manifest through differences in ease of land ownership between men and women, differences in land sizes, the security of tenure and access to training and support. Gendered land ownership differences result in gendered poverty and worsen the economic plight of women who rely more on the land than men. The study concludes that patriarchal traditional systems as institutionalised in customary law systems are the main force behind unequal access to land between men and women. While statutory laws and a gender-sensitive constitution have been crafted, the excessively overt application of customary law continues to deny women the rights to equality on land issues. The study recommended an implementation framework to resolve gendered land ownership differences and the discrimination of women on land issues. It also recommended the use of new land distribution opportunities to address land ownership inequalities, the codification of customary law, the enforcement of gender quotas on traditional councils and supporting women's land-related activism as some of the possible solutions to the unbalanced land ownership structure in the Nkomazi Local Municipality.

Keywords: Land, Gender statutory law and customary laws, Nkomazi

LIST OF ACRONYMS

ANC	African National Congress
AU	African Union
BEC	Base Ecclesial Communities
BSAC	British South African Company
CPA	Consumer Protection Act
CRLR	Commission on the Restitution of Land Rights
FDI	Foreign Direct Investments
FPE	Feminist Political Ecology
FTLRP	Fast Track Land Reform Programme
GEAR	Growth, Employment and Redistribution
HRS	Household Responsibility System
IDP	Integrated Development Plan
LEWC	Land Expropriation without Compensation
LRAD	Land Redistribution for Agricultural Development
LRP	Land Reform Programme
MDGs	Millennium Development Goals
NGOs	Non-governmental organisations
RCMA	Recognition of Customary Marriages Act
RCMA	Recognition of Customary Marriages Act
RDP	Reconstruction Development Programs
SDG	Sustainable Development Goal
SLAG	Settlement and Land Acquisition Grant
SSA	Sub-Saharan African
UNESCO	United Nations Educational and Scientific Council
WCC	World Council of Churches
WHO	World Health Organisation
YWCA	Young Women Christians Association

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CHAPTER ONE

ORIENTATION OF THE STUDY

1.1 Introduction

South Africa has a dual land property rights system in which land can be owned and accessed under statutory or customary communal laws. The statutory law system is underpinned by the democratic constitution that supports equal rights for both women and men. On the other hand, customary or communal laws are grounded in the traditional, patriarchal systems, where land and property are allocated to the men as heirs or heads of the household (Mnisi and Claassens, 2009). Customary law limits women from owning land and the worst part is that most women in rural areas rely on the same land to generate their livelihood. The unavailability of land for women restricts them from producing food to feed their families and as a result, the number of women who live below the poverty line is higher than that of men (Cheteni, Khamfula and Mah, 2019). The persistence of these challenges has also been recognised in the National Development Plan vision 2030 and other global goals like the Sustainable Development Goal (SDGs). The recognition that women are the most vulnerable gender has made the SDGs rank women and girls as goal number five in the development agenda (Sanders *et al.*, 2017); (Vandemoortele, 2018). According to the fifth goal of the SDGs, women and girls should have equal rights and opportunities with men as well as freedom from oppression and violation ((Islam *et al.*, 2018; Ramaswamy and Unruh, 2018).

Gendered differences in the access and ownership of land is a notable phenomenon in the Nkomazi Municipality (James and Woodhouse, 2017) - the study area. Nkomazi is located in a former homeland known as KaNgwane in the Eastern Transvaal. Nkomazi, like other former South African homelands, is controlled by both government and traditional leaders. Traditional leadership is mostly grounded in the practices of the customary laws known to discriminate against women (Buthelezi, Skosana and Vale, 2019). On the other hand, local government is controlled among other things by statutory by-laws and national government by legislative laws which, on paper, promote equality for both women and men. Thus, the Nkomazi municipality society is experiencing the simultaneous operation of these laws (customary and statutory) although customary law is seen as more dominant in the rural communities and tribal authorities under the municipality. With the above-discussed dual system being associated with poor coordination resulting in gendered differences in land ownership and gendered poverty,

it is important to understand how land ownership in Nkomazi is affected by the interactions between customary and statutory law and the relationships between municipality, government and traditional leaders. Moreover, some of these customary laws are not documented but they are practised daily in rural areas (Bordin, 2014).

1.2 Literature review

The present section aims to review different literature through the guidance of the objectives of the study while the subsequent section reviews the literature on the subject under study. The section starts by discussing gender equality in land ownership.

1.2.1 Gender inequality in land ownership

Gender equality in land ownership has dominated the current debate in the field of social sciences. Access to land is important as it leads to the generation of livelihood, food security, improved ecology as well as poverty alleviation (Cheteni, Khamfula and Mah, 2019; Salleh *et al.*, 2018). More often land access is associated with three rights, which are transfer rights, use rights, and control rights (Zuka, 2019). Transfer rights relate to one's ability to pass on land to a person or group of choice. Under customary laws in Africa, women rarely hold such rights (Thomlinson, 2012). Amadiume (2016) argues that in most cases women are restricted from inheriting the land with a belief that they do not belong to that household. When a female gets married, she changes her surname and moves to the husband's place. As a result, females do not own the land of their forefathers as males do (Amadiume, 2016). Secondly, land-use rights, focus on the power to make free choices relating to how one uses land in one's access and/or control (Thomlinson, 2012; Eniola and Akinola, 2019). Women use the land for different activities to generate income and livelihood. For instance, women may practice farming on the land (either crop or animal farming) (Akinola and Henry, 2019). In the same view, Dzvimbo, Monga and Mashizha (2018) argue that women are the ones who show more interest in using land compared to men. As Dzvimbo, Monga and Mashizha (2018) put it, men will go to seek greener pastures in urban areas and leave the wife and children at home (rural areas). Thirdly, in patriarchal societies, women have constricted land control rights as they do not have the power to own property (Adil, Shahed and Arshad, 2017). Therefore, when it comes to land use rights, men are considered to be superior compared to women and can therefore own land. This perceived inferiority of women in a patriarchal society has resulted in severe disparities in land ownership (Nochlin, 2018).

Customary law affects all the land rights that women require to effectively become productive users of the land (Zuka, 2019). In Africa and other parts of the world, customary law is debated to be restrictive to the development of women. Regardless of this, according to some scholars, in addressing the past injustices, the South African government has avoided disempowering customary law as a way of restoring women's land use rights (Mnisi and Claassens, 2009). Walker (2013) states that under the post-democratic government, traditional leaders are granted authority and responsibility to distribute land, more especially, in rural areas. Although there are legal rights that permit women to use, control and own the land, in rural areas, customary law dictates tend to be stronger than these rights (Ossome, 2014).

Currently, the South African government is heavily involved in policy discussions and debates on the expropriation of land without compensation as a solution to landlessness in the country. The amendment of Section 25 of the South African Constitution has been approved albeit it is not clear how this will be implemented (Niekerk, 2018). The National Planning Commission's report supports the expropriation of land without compensation in South Africa, and this leads to the questions on how it is going to be implemented in the presence of customary law that restricts women from owning the land. It is a grim possibility that land redistribution without addressing current gender-related challenges could further widen gender-based land rights disparities. Thus, it is important to understand how communities are currently being affected by the relationships between customary and statutory law as a potential path to addressing the widening gendered differences in land ownership even when new policies are being crafted. To further discuss and explore the challenges and the clash between customary law and legal rights under statutory law, the next section discusses the dichotomy of laws and their effect on gendered landownership differences.

1.2.2 Dichotomy of land rights

South Africa, like other African countries, has a dual land property rights system. Initially, there is statutory land law, which is underpinned by the democratic constitution that supports equal rights to land among both women and men (James and Woodhouse, 2017). In accordance with statutory law, women have the right to buy, sell, inherit and control land. However, Chimhowu and Woodhouse (2006) argue that statutory law unfortunately only applies to 10% of Sub-Saharan Africa. The second source of law is customary law associated with communal land (Adeola *et al.*, 2016). This is administered and controlled by the traditional leaders' authorities (Chauke, 2020). According to Gottlieb and Grobovšek (2019), communal law is

grounded in the patriarchal system, where land and property is allocated to the male as head of the household. The system promotes the fact that women should own land as secondary beneficiaries; as a result, they cannot inherit the land or property (Hopwood, 2015). In Sub-Saharan Africa, 90% of the land is administered under customary law and since more women live in rural areas it means they are significantly governed under these insecure land rights. Most rural areas in South Africa are dominated by women (Mnisi and Claassens, 2009). As much as the women population dominates rural South Africa, very few of them have any customary administration roles. This is because the traditional courts that rule over land disputes are mostly dominated by men and as a result, men have more influence in them than women (Chauke, 2020).

Statutory law affecting land ownership is strongly rooted in the Constitution, specifically Section 25 which deals with the equitable distribution of land, land restitution and land reform (Ntonzima and Bayat, 2012). Being the most supreme law of South Africa, no other law is expected to clash and prevail over the Constitution. Technically, this means that any land-related law, customary or statutory that clashes or conflicts with Section 25 is deemed ineffective and will lack any legal effect. Various land laws have been enacted since the attainment of democracy and these include the Restitution Land Rights Act 22 of 1994, Land Reform Act 3 of 1996, the Extension of Security of Tenure Act (ESTA) 62 of 1997, the Land Reform (Labour Tenants) Act 3 of 1996. These laws were designed to reflect various constitutional provisions including gender equality and non-discrimination concerning land ownership. Thus the written position of statutory law is very clear on gender equality on land matters.

Several attempts have been made to reign in customary law under constitutional and statutory ambits. These included the legal formalisation of traditional leadership offices as part of the government under the Traditional Leadership and Governance Framework Act of 2003. The Parliamentary Monitoring Group (2014) asserts that such harmonisation attempts initially failed because of the ambiguity in the roles of traditional leaders. Traditional leadership was also recognised under the Constitution, specifically under Sections 211 and 212 (Constitution, 1996). The office of traditional leaders, as well as the application of traditional laws in communities, is therefore formally legalised subject to constitutional provisions. Thus the conflict between statutory occurs in an environment where both laws are a formal part of the

legal system of South Africa. The debate, therefore, is how and why the relationship between such laws disadvantage in rural communities where the dual legal system is widely applied.

Although the statutory law is practised in both rural and urban areas, it is mostly applicable to urban than rural areas. In rural areas, communities are settled by ethnicity and traditional cultural backgrounds making it possible for them to be governed under traditional leadership systems. Thus the contradictions between customary and statutory law are mostly a rural phenomenon (Mnisi and Claassens, 2009). There are debates on which of the two systems promotes land access equality albeit the stronger view is that it is statutory law.

Some proponents of customary law believe that statutory law promotes neo-liberal land markets in which women and the poor are not well-represented (Ayano, 2018). Customary law, on the other hand, if applied in its un abused form grants better land access to poor communities and women. Statutory law in South Africa encourages the privatization of land which makes the land to be ruled and controlled by the elite as well as the well-connected individuals who can pay bribes to get the land (Ayano, 2018). The Food Agricultural Organisation (FAO) states that a major challenge of statutory law is that it can easily formulate land rights protection laws that it poorly implements and enforces. Customary law can become the only option available for women to gain access to land even though they may not get to own this land (FAO). Thus both systems can have weaknesses whose effect is the exclusion of women in broader land ownership. It is unsafe to assume that such views apply or do not apply in all South African communities similarly as cultural societies are not homogenous.

2.1.3 Women and capacity in land ownership

In developing countries, women do not have equal educational opportunities as men (Western, 2018; Rothman, 2016). Rothman (2016) holds the view that a considerable proportion of households in developing economies are headed by poor and uneducated females who cannot afford to educate their children. Therefore, they face challenges in generating income for their families (Cornwall and Rivas, 2015). Formal education develops women's critical thinking, creativity, decision-making and communication capabilities among others (Cornwall and Rivas, 2015). These capabilities are important in enhancing their effectiveness in modern economies.

In societies where parents have a higher motivation to educate sons than daughters, women stand a higher risk of growing up partially or fully illiterate (Thompson, 2017). Illiteracy, in addition to affecting one's skills efficacies, also negatively affects one's self-esteem and in gender discriminative societies women stand at a higher risk of having low self-esteem (Al-Hossienie, 2011). According to Horsley (2015), this breeds a lack of self-confidence among some women. This state of low education, skills and capacity among women contributes to gender inequality including in land-based economic activity like commercial farming.

There are various debates relating to whether uneducated women are landless because of their lack of knowledge about their rights under both customary and statutory law. One view is that lack of academic education does not make one ignorant of their rights and neither does it make them less competent landowners and users (Ferreira, 2018). Another argument strongly points to the relationship between women's emancipation and education. Educated women were more likely to be emancipated when it comes to land ownership because they know their rights and how these rights can be enforced (Makonese, 2016). Mashalaba (2012), however, argues that it was access to information rather than just formal education, which enhanced women's knowledge about their rights. Another debate also rages on whether women's education or the lack of it affects gendered poverty in rural communities. Several scholars believe that women's farming knowledge should not be used as a criterion to give them land (Makonese, 2016). Women's land rights, like men's rights to the same land, must not be tied to knowledge as is sometimes the case. Firstly, in South Africa this is unconstitutional and secondly, this exposes women to abusive and unfair decision-making as their access to education and knowledge has been more constrained than men's.

The land and farming capacity debate stems from a broader economic narrative that land reform must be considerate of economic production. Issuing land to incompetent or unprepared farmers, as envisaged could have negative and dire economic performance (Obi and Chisango, 2011). This narrative has to some extent supported views that there was some justice in limiting land ownership in those who would not use it effectively. That being said, women, due to historical and cultural forces are less educated and less exposed to agricultural training than men. This view could therefore further perpetuate the discrimination of women in land ownership. Jabeen et al. (2020) dismiss the economic narrative view and assert that there is enough evidence to show that even women without ample formal education can contribute immensely to the economy through farming. Azadi and Vanhaute (2019) also show that

economies with more equitable land regimes generally performed better than those with skewed inequalities. Hence, the third objective of the study intends to examine women's agricultural capacity and how it is affected by the land ownership situation in the Nkomazi Municipality.

2.1.4 Coordination and communication in land distribution

Land redistribution is conducted under customary structures led by traditional authorities and statutory structures under local, provincial and national government units and departments (Ngwexana, 2018). This multi-structured approach challenges effective strategic and operational coordination and communication among involved units (Mautjana and Maombe, 2014). Mautjana and Maombe (2014) further state that most communication between the offices responsible for land use were mere window-dressing events motivated by the need to give a positive public and political impression. Dubazane and Nel (2016) also comment that it was a challenge for traditional leaders and municipal authorities to come up with a common position on land redistribution because they each worked independently with very little consultation of each other. The Commission For Gender Equality (2010) shared the same view and commented that this negatively affected women's access to land. Like Raffler (2019), the Commission For Gender Equality (2010) and the Parliamentary Monitoring Group (2014) both blame the government for failing to establish effective differentiation of roles and integration standards between the two offices even under the Traditional Leadership and Governance Framework Act of 2003.

The lack of communication between traditional leaders who are grounded in customary laws and the municipality (statutory law) complicates women's access to their rights under land redistribution systems (Commission For Gender Equality, 2010). Ngwexana (2018) argues that many women do not know which procedure to follow between the customary and statutory laws to get access to land. The lack of communication between traditional leaders and municipality officials on the treatment of rampant gender inequalities in land ownership is evidence that women are not yet prioritized by either system (Twala, 2014). The fourth objective of the study therefore aims to explore the level of coordination and communication between traditional leaders and government officials on land distribution issues and concerns in the Nkomazi municipality.

1.3 Theoretical framework

As part of its theoretical framework, the study relied on two theories: The legal pluralism theory and the feminist political ecology theory. These are discussed in this section.

1.3.2 Feminist political ecology

This study referred to the feminist political ecology theory (FPE) in an attempt to understand the gendered differences in land ownership in the Nkomazi Municipality. Historically, the theory (feminist political ecology) can be traced back to the mid-1990s (Resurrección, 2017). The feminist political ecology is considered an element of political ecology. It aims to bring feminism theories to the practices of political ecology (Elmhirst, 2016). Political ecology seeks to explain the nature and the causes of environmental changes as well as the impact of human beings on natural resources. The political ecology theory also aims to build an understanding of the interactions between class, ethnicity, and gender (Resurrección, 2017). Hovorka (2006) argues that the FPE aims to explore a place of gender in the political-ecological landscape. Moreover, the theory can be explained through different variables such as dominant narratives, access, and governance.

1.3.2.1 Dominant narratives of the feminist political ecology

The FPE theory considers issues of inequality in society as being socially constructed and not naturally formed (Elmhirst, 2016; Resurrección, 2017). The inequality in gender is mostly constructed by different cultures in society. It is for that reason the first objective of the present study aims to understand the current practices of customary laws in Nkomazi. Laws and political systems as constructs of human societies can positively or negatively affect women's access to ecological resources (Gillepsie and Perry, 2018; Sato and Alarcón, 2019). At the same time, cultural practices and social norms that are also constructed by human interaction can have a similar effect (Sato and Alarcón, 2019).

In societies that have histories and cultures of gender oppression, including in societies where women have been conditioned to accept themselves as inferior to men, unbalanced access and ownership to resources can be institutionalised to an extent that restoring any equality between the genders becomes an arduous task (Gillepsie and Perry, 2018). The dismantling of institutionalised gender inequality is taken to be a challenging process that demands the reformation of cultural, legal, social, and political systems (Morimoto and Zajicek, 2012). The role of women as champions to this dismantling process is critical hence the need for feminist

focus that puts women at the front of their struggle and as the most important beneficiaries of it (Morimoto and Zajicek, 2012).

The FPE was therefore selected as a major theory for this study because of its strong resonance with the happenings in the Nkomazi municipality. As a rural community where land is a major natural resource whose access influences women's socio-economic standing, lack of access to it comes with significant consequences including poverty (Chauke, 2015). To reverse unequal ownership and access to land between men and women there is a need to confront institutionalised systems that defy the changes in legislation and the implementation of a gender-equality friendly constitution in a feminist fashion as advocated by feminist movements.

1.3.3 The legal pluralism theory

The legal pluralism theory can be traced back to 1913 to the work of Eugen Ehrlich titled "Grundlegung der Soziologie des Rechts". The theory explains the general possibility that two or more different laws govern one population or country (Teubner, 2019). The existence of two laws (customary and statutory laws) is highly observed in countries that were historically colonized. Colonialism brought a new set of laws to colonies that were traditionally governed under different cultural and communal laws (Gebeye, 2017; Kalabamu, 2019). Upon the attainment of democracy, these plural legal systems continued to operate in varying proportions (Gebeye, 2017). Hence in many parts of Africa and other parts of Asia, there is a simultaneous operation of customary and statutory law (Sossou, 2017). Customary law is the uncodified legal system that is practised by the rural communities, more especially in Africa and other parts of Asia (Joireman, 2008).

In modern post-colonial democracies, pluralism exists in different intensities. Weak legal pluralism refers to a scenario where there are two or more legal systems that are however based on the same authority (Corrin, 2017; Benda-Beckmann and Turner, 2018). In South Africa, the Constitution is the ultimate legal authority, and arguably customary law and statutory law both fall under it. This is because even customary law is recognised under Sections 211 and 212 of the South African Constitution and is statutorily provided for under the Traditional Leadership and Governance Framework Act No 41 of 2003. Deep legal pluralism, on the other hand, involves the operation of two or more legal systems that have different authorities. This being said, the argument is therefore whether the mere provisioning of customary law in the

Constitution and statutory law mean that it (customary law) has been reigned in (Mutloane, 2015). Thus there is an argument that even in South Africa, there might be deep legal pluralism depending on whether some communities under customary law fully acknowledge and apply the precepts and dictates of statutory and constitutional law, including on gender equality in the distribution of land.

South Africa (particularly the former homelands) is governed by two different laws. According to Mnisi and Claassens (2009), customary laws are more visible in communal areas where traditional leaders have authority over the land. Statutory law is also quite a powerful force in the same communities. This state-of-affairs makes the legal pluralism theory a possible candidate in aiding a better understanding of gendered differences in land ownership as a function of the two legal systems in force (Mutloane, 2015).

1.4 Problem statement

After 1994, the South African government introduced different policies and programmes that aimed to promote equal land distribution among the citizenry. In the presence of such policies, however, the country still faces disparities in land ownership among women and men (Chauke, 2015). As a result, women are poorer than men because of less favourable access and control over resources (Lesetedi, 2018). Walker (2013) argues that the problem of modern-day gender inequality in land ownership started when the democratic government recognised and gave traditional leaders the authority to control land. In traditional councils, the land is controlled by customary laws that are seen by many as hampering women's rights to own land. Contrary to this, statutory law permit women to inherit, control and own land. Customary law thus contradicts women's rights while statutory law attempts to uphold them (Mnisi and Claassens, 2009). In the presence of the by-laws in Nkomazi, the land is likewise controlled by eight traditional authorities: Mawewe; Matsamo; Mlambo; Hhoyi; Siboshwa; Kwa-Lugedlane; Mhlaba and the Lomshiyo tribal authorities (Mashele, 2013).

Agriculture is the dominant economic activity in Nkomazi (James and Woodhouse, 2017) and not having access to land is the major factor that contributes to gendered poverty (Saidi, 2017). The problem at hand is the need to appreciate the gendered differences in land ownership given the existence of potentially clashing laws in the Nkomazi municipality. Whilst several sources do indeed assert that legal pluralism adversely affected women's ownership of land, there is a need to examine this narrative from a Nkomazi municipality perspective considering the

heterogeneity of South African communities (Howell, 2019). Cultural practices across South Africa differ significantly (Howell, 2019) and this could potentially result in different communities managing pluralism and women's access to land differently. Noting that land redistribution in South Africa is a continuing process, and further noting that women continue to be landless, the problem is also to understand how current systems and practices affect women with a view of recommending changes that can improve gender equality in land ownership. With the expropriation of land without compensation being a major discussion in South Africa, it is important to understand how communities have fared under past land policies as this could improve land allocation under new systems. Lacking a dedicated study that examines gendered land differences in the Nkomazi municipality, therefore, puts this community at a disadvantage as its unique stories and challenges are not well-documented to facilitate policy and process improvement in the quest to address past and current land and gender challenges.

1.5 Aim of the study

The study aims to understand gendered differences in land ownership in the Nkomazi Local Municipality context. It focuses on how such gendered differences affect women and female farmers in the same community. Below are its objectives and related research questions.

1.5.1 Objectives of the study

The study's research objectives where:

- To understand the practices, processes and outcomes of current land redistribution activities in the Nkomazi Municipality
- To explore the effects of the dual land law system on women's ownership and access to land in the Nkomazi Municipality
- To understand women's land-use capacity and how it is affected by the land ownership situation in the Nkomazi Municipality.
- To explore the coordination and communication between traditional leaders and government officials in land redistribution matters

These objectives have been transformed into four research questions that will help the study to reach its conclusions.

1.5.2 Research questions

From the above research objectives, the following research questions were drawn:

- What are the practices, processes and outcomes of current land redistribution activities in the Nkomazi Municipality?
- What are the effects of the dual land law system on women's ownership and access to land in the Nkomazi Municipality?
- What factors affect women's land-use capacity and how is it affected by the land ownership situation in the Nkomazi Municipality?
- How is the coordination and communication between traditional leaders and government officials in land redistribution matters?

The next sub-section discusses the study's contribution to the fields of development, gender, politics, land management and culture.

1.5 Intended contribution of the study

The study intended to enhance the appreciation of gendered differences in the Nkomazi Municipality. This was deemed important for various policy-related areas including gender and land access, rural development and customary and statutory law. As highlighted in the problem statement, there is rampant evidence that the constitutional provisions on gender equality in relation to land ownership as well as subsequent statutory law, policies and programmes still leave women exposed to gendered poverty due to the continuation of the said inequalities. This suggests severe weaknesses in the past and current land redistribution systems. The study, therefore, intends to enhance policymakers and academia's understanding of the potential reasons behind the continuation of gendered land differences decades after the attainment of democracy.

In addition to exploring past and current challenges, the study also intended to build information that could be used in future land redistribution programmes in Nkomazi. The researcher notes that with new land redistribution narratives driven by the exploration without compensation hype, there is a risk that the same programmes and practices that have perpetuated gendered differences in land ownership will be repeated. Thus, exposing previous mistakes could help in the formulation of better land distribution policies. Given the view that rural women are generally an underrepresented group, by understanding their perceptions and experiences, the study intended to contribute towards the betterment of their situation. In this

regard, the study therefore partially shared a feminist concern on improving the lives of oppressed women. As envisaged, expectations were that women in Nkomazi, like women in most of rural South Africa, were less privileged when it came to land rights albeit the actual extent of their suppression on land issues differed by community. Thus a critical theory perspective was adopted with the view of enhancing this intention.

The study intended to both critique and confirm old and general findings and views on gendered differences in land access. At the same time, it aimed at bringing in new information that would add to society's understanding of the problem at hand. From the start, there was a view that a qualitative framework that could enhance society's understanding of the issues, causes, results and possible solutions of gendered differences could be established. The next section summarises the research methodology that was followed in order to meet the study's intentions.

1.12 Knowledge dissemination

The present study will be presented to the people of the Nkomazi Municipality after it is completed. It will be also published in the Journal of Public Affairs, Third Quarter Journal as well as the Journal of Gender, Information and Development in Africa (JGIDA). One of the papers will focus on: The dichotomy of land rights in Sub-Saharan Africa: the challenges faced by women in fighting poverty. As part of the conditions for my NRF grant, I will present my findings to the Regional Land Claims Commission, the Department of Rural Development and Land Affairs, and the local stakeholders who participated in the study. This will be done in the form of workshops and public lectures.

1.15 The structure of the study

This section presents the structure of the study, which is organised into eight chapters. The chapters were organised in this way: each chapter comprises an introduction, body, and summary.

Chapter 1: Orientation of the study

This chapter contains an introduction to the study, which provides an overview of the background, preliminary literature review, research problem, aim and objectives, research questions, the definition of concepts, research limitations, and methods of data collection, data analysis and methods of data interpretation.

Chapter 2: Literature Review

Chapter two of the study reviews the literature on gendered land ownership and access differences globally, regionally and locally. Moreover, different South African land policies are also reviewed. Women's farming capacity issues are also discussed.

Chapter 3: Theoretical framework

The theoretical framework of the study will focus on two important theories linked to the objectives of the study. These are the feminist political ecology and legal pluralism theories. The chapter attempts to discuss these from a gendered land ownership and access perspective.

Chapter 4: Physical Setting of the Study

This chapter describes the Nkomazi Local Municipality's location, brief history and demographics. It also reviews the municipality's policies relating to land redistribution.

Chapter 5: Research Methodology

Chapter four discusses the research design, research methods, and the role of the researcher in qualitative and quantitative research. The chapter goes on to discuss data verification, ethical considerations, disposal of the research data and records.

Chapter 6: Data Analysis and Interpretation

The data analysis results from the study are presented in chapter six. The results are mainly presented in themes.

Chapter 7: Discussion of Results

In Chapter 7, data analysis results are discussed further comparing them with findings from other studies and views and concepts shared by other researchers. The study's thematic analysis results are then aligned with the aim, objectives and research questions of the study.

Chapter 6: Summary, Conclusions and Recommendations

The last chapter gives a summary of the whole study. The chapter also provides closing remarks on the aim and objectives of the study. Lastly, the chapter provides recommendations based on the findings of the study.

CHAPTER TWO: LITERATURE REVIEW

2.1 Introduction

In South Africa, the 2017 land audit shows that Whites own 72% of the total farmland, Coloureds - 15 %, and Africans - 5% (Government of(Land Audit Report, 2017). This unequal state in land ownership is not only a racial issue but is also a gender issue. For instance, among the 5% of the land which is owned by Africans, men own more land than women (Government of South Africa, 2017). Sultana (2010) notes that women who do not own land find themselves at a risk of facing hunger, poverty and unemployment. For that reason, the ability for women to inherit, own, and control land and property is important for their dignified survival (Allendorf, 2007; Resane, 2021).). One of the factors that cause limited land ownership among women is customary law (Hopwood, 2015). A significant number of women living in customary law-administered communal and tribal lands do not have any power and authority over the land (Hall, 2004). Consequentially, the manifestation of poverty and unemployment is stronger among women compared to men (Adeniyi, Longo-Mbenza and Ter Goon, 2015). This chapter reviews land ownership by gender and land redistribution under statutory and customary law, strongly dwelling on the above-highlighted issues.

This chapter is divided into ten sections, the first section presents gender differences in land ownership at a global level by discussing the Sustainable Development Goals and making example of Latin America and China. The second section of the chapter explores gender differences in land ownership on the African continent. Agenda 2063 is examined with the need to understand how African countries intend to deal with issues of inequality in land ownership. The second section dwells on the inequality in land ownership in Namibia and Zimbabwe. The third section focuses on the challenges of land ownership in South Africa through reviewing different land reform policies such as land redistribution, land restitution and tenure policies, the Reconstruction Development Programs, and the Communal Land Policy. The fourth section deals with the expropriation of land without compensation. The fifth section dwells much on customary and statutory land laws and also reviews the dual land ownership systems discussed earlier. Section six deals with the land ownership-related experiences of South African women under customary laws. Section seven reviews the capacity

of women and land ownership. It is further broken down into three parts: the education of women; lack of access to complementary services and financial access issues. Section eight looks at land reform in the Mpumalanga province. The ninth section discusses identified gaps in the reviewed literature and the last section summarises the chapter.

2.2 Global overview of gendered land

On a global level, much concern has been shown towards addressing challenges faced by women since the UN Declaration of the Decade of Women in 1975 (Ghodsee, 2010). The first decade of the declaration (1975-85) paid much attention to challenges faced by women including unequal remuneration, gendered violence, land issues (which is the focus of the study) and other human rights concerns (Htun and Weldon, 2015). There were many conferences and symposiums held during that period to solve gender inequality (Owuor, 2016). The first one was in Mexico (for consciousness-raising), the second in Copenhagen focusing on networking. The last conference was held in Nairobi to promote the “solidarity of women worldwide”. There were many other regional gatherings with some specific United Nations (UN) agencies including the United Nations Educational and Scientific Council (UNESCO) and the World Health Organisation (WHO) among others (Owur, 2016). Non-governmental organisations (NGOs) were also part of the regional meetings. Some of the NGOs include the Young Women Christians Association (YWCA), the World Council of Churches (WCC) and the National Association of Women (Omuse and Naliaka, 2018).

The main intentions of these conferences were to advocate and promote increased literacy, access to education, job opportunities, health services, land and other economic resources as well as the welfare of women in general (Ghodsee, 2019). In total there were 30 principles formulated by the first conference and these were meant to guide the areas of focus in the struggle to emancipate women. In 1975, the UN’s General Assembly formulated the United Nations Voluntary Fund for the Decade on Women (UNIFEM) as well as the UN International Research and Training Institute for the Advancement of Women (United Nations, 2020). The result of the conference held in 1979, led to the adoption of the Convention on the Elimination of All Forms of Discrimination against Women (United Nations, 2020).

Another conference was held in Copenhagen, Denmark in 1980 (UN Women, 2020). The main aim of this conference (UN Women's Conferences) was to track the progress made by the

Mexico conference in addressing the challenges of women (UN 2020; UN Women, 2020). According to Omuse and Naliaka (2018), several unresolved issues contributed to women's oppression. One of these was the absence of male participation in global efforts to solve gender inequality and the oppression of women (Omuse and Naliaka, 2018). Also, it was noted that some countries lacked the political will to implement proposals put in place in these conferences (Omuse and Naliaka, 2018). The role of women was still not recognised in many communities despite many advocacy-centred interventions by the United Nations agencies, women welfare organisations and NGOs (Zinsser, 2007). Facilities to support women initiatives remained insufficient and worse still most women were still not aware of their rights. the conference was criticised for being dominated by the United States and the United Kingdom (Zinsser, 2007). The conference adopted a resolution that focused on how women can contribute to development (education, health, employment and economic participation).

The third global conference on the advancement of women's rights and gender equality was held in Africa, in Nairobi in 1985. Among other goals, the conference aimed to celebrate the achievements made over the decade. It also aimed to create a plan on how to deal with women's challenges beyond 1985. The conference led to the creation of a document titled "The Nairobi Forward-Looking Strategies for the Advancement of Women". After the conference, the UN published the first "world survey on the role of women in development" (UN Women, 2020). In 1995, another conference was held in China (Beijing). World women conferences were also held after every five years in 2005, 2010, 2015 and 2020 (UN Women, 2020). Regardless, Omuse and Naliaka (2018) reveal that globally, women still suffer from gender discrimination because of the patriarchal nature of society. Resource ownership, economic and political power are still dominated by man. One such economic resource is land.

The gendered differences in land ownership have remained a critical issue the world over. Globally, approximately 80 million hectares of land is leased for agricultural purpose while only one per cent of the land is owned by women (Rai, 2014). This has limited women's economic participation through agriculture (Charles, 2010; Rai, 2014). The restriction of women from owning the land has even resulted in some women becoming homeless, especially after the death of their husbands (Ruttan, Benson and Munro, 2010). Addressing the land challenge is fundamental since many people rely on the land for the generation of livelihood through agriculture (Bhalotra *et al.*, 2019). Musakwa (2018) also confirms that agricultural land is key to food security and economic growth. The above conferences highlight the severity

with which global agencies including the UN notice these gender-related challenges and the plight of women worldwide. They show the need for global, regional and national policies in addressing gendered differences in land ownership as well as in the access of resources and opportunities in general. Women's challenges have also been captured under the Sustainable Development Goals (SDGs). SDGs relating to gender issues are discussed in the following subsection.

2.2.1 Sustainable Development Goals and women

In September 2015, the UN approved the Sustainable Development Goals (SDGs)- also known as the 2030 Agenda (Sims *et al.*, 2019). The SDGs comprise 17 goals as well as 169 targets. The 2030 Agenda was adopted to substitute the Millennium Development Goals (MDGs). Unlike the SDGs that have 17 goals and 169 targets, the MDGs had 8 goals and 18 targets (Lomazzi, Borisch and Laaser, 2014). Lomazzi et al. (2014) assert that the MDGs originated from developmental campaigns that took place in the late 1980s to the early 1990s. The MDGs were formally accepted after the Millennium Summit of the United Nations in 2000. In the summit, there were 189 United Nations member states (Salvia et al., 2019). The failure of the MDGs in meeting their goals and set targets by 2000 led to the emergence of the SDGs (Battersby, 2017).

The goals and targets of the SDGs encompass a collection of sustainable development problems like the eradication of poverty and hunger, enhancing health and education, promotion of sustainability among cities, fighting climate change, ensuring gender equality as well as promoting the protection of oceans and forests (Battersby, 2017). One of the targets of the SDGs is to resolve gender differences in access to resources and opportunities (Onditi and Odera, 2017). The SDGs also aim to promote the elimination of poverty through advocating and increasing land ownership among both women and men (Massay, 2018).

To address the challenges faced by women, some of the SDG indicators relate to women's land access and ownership issues (Battersby, 2017; Onditi and Odera, 2017). The first goal of the SDGs is poverty eradication. This goal aims to eradicate poverty in all its forms and manifestations. It also promotes the social protection of the poor and vulnerable (Massay, 2018). Moreover, the first goal also aims to increase access to basic services to people who have experienced challenges such as natural disasters (Massay, 2018). Indicator 1.4.2 of goal number one of the SDGs focuses specifically on the issues of women's land rights. The goal

centres around the “Proportion of total adult population with secure tenure rights to land, with legally recognized documentation and who perceive their rights to land as secure, by sex and by type of tenure” as a key indicator of successful land and gender policies (Massay, 2018).

The fifth goal intends to address gender inequality by 2030. It states that “everyone must have equal rights and opportunity, and be able to live free of violence and discrimination” (Massay, 2018). Unlike the first goal that has only one indicator that talks about women’s land rights, goal number five have two other indicators (Collantes *et al.*, 2018). The first of these two indicators is the “proportion of total agricultural population with ownership or secure rights over agricultural land, by sex; and share of women among owners or rights-bearers of agricultural land, by type of tenure.” The second indicator is the “proportion of countries where the legal framework (including customary law) guarantees women’s equal rights to land ownership and/or control of land”(Collantes *et al.*, 2018). The significance of granting women equal land rights have also been acknowledged under African goals and policies that relate to the SDGs (Cotula *et al.*, 2009; The African Union, 2009). For instance, the Framework and Guidelines on Land Policy, as well as the African Union Declaration on Land Issues and Challenges, also aim to enhance women’s equal access and ownership to land (Cotula *et al.*, 2009; The African Union, 2009; Bernstein, 2014).

Ending poverty and gender inequality is not only a South African matter but a global issue. The fact that under the SDGs, the poverty eradication goal will be determined by the total number of adults (both male and female) who own land highlights a globally-acknowledged relationship between land ownership and poverty alleviation. Hence, it is this reason that motivated the study to research gender differences in land ownership and how this affects women. To facilitate a further understanding of the global gender and land ownership issues the next section presents land-related challenges of women in Latin America and China.

2.2.2 Gendered land ownership differences in Latin America

Most of the countries in Latin America have severe gendered differences in land access, ownership and control (Bose, 2017). In these countries, the eradication of gendered differences in land access and ownership is seen by many as the only solution for addressing inequality, poverty and unemployment (Bose *et al.*, 2017). Similarly, Pena Maiques and Castillo (2008) reveal that access to land is important for the reduction of gendered poverty and food insecurity. Having full ownership of the land grants the poor an opportunity to farm for food and income.

Land can also be collateral for the poor who may intend to have access to credit (Pena Maiques and Castillo, 2008). Thus gendered differences in land ownership have motivated some Latin American states to establish formal rights for women to access, own and control the land. Nonetheless, the recognition of the need for gender equality in land issues is just a starting point after which the formulation and implementation of policies to transform the situation are needed.

According to Pena Maiques and Castillo (2008), gender and land rights challenges are complicated and cannot be addressed with a single formula. In the 1970s, women's demand for equality in land issues manifested themselves through numerous women's movement in Latin America. These movements aimed at addressing economic crises in various countries with land being part of the solution (Pena et al., 2008). Most of the women's organisations in Latin America followed three different ways. The first path followed was insisting on human rights observation and preservation (Do Amaral Valério, 2019). The second path was initiated by a feminist organisation driving for the general emancipation of women. The third path was motivated by the Base Ecclesial Communities (BEC) which was an organisation that targeted the upliftment of poor women in both rural and urban areas. The organisations directly and indirectly aimed at addressing gendered land differences. This promoted various levels of recognition of women's participation in farming (Do-Amaral-Valério, 2019). Women in Latin America have recorded some successes in organising themselves into bodies aimed at uplifting their participation in their respective economies. Mello and Schmink (2017) assert that women have successfully organised themselves into collective microenterprises so that they can contribute to the generation of income for their households and communities. Mello (2014) states that the main aim of these micro enterprises was to promote and support women with intention of developing their self-confidence, social visibility and political awareness.

Despite such effective mobilisations, gendered differences in land ownership persist in several Latin America countries (World Bank, 2017; OECD, 2020). For instance, in Guatemala women own 8% of the land and in Peru women own 31% of the land while women in El Salvador own about 13% of the land and in Nicaragua, 23% (Bose, 2017). In Latin America, issues on the discrimination of indigenous people, including women are a concern to several world bodies. The year 2017, marked the 10th anniversary of the United Nations Declaration on the Rights of the Indigenous People. This declaration was approved as a tool that will set a standard of treatment for the indigenous people by eradicating the violation of their rights (Bose, 2017).

Among the indigenous people, the most affected are women, hence, addressing the challenges of the discrimination of indigenous people will, directly and indirectly, address gender differences in land ownership and control (OECD, 2020). Presently, Latin America has introduced different frameworks and policies to recognise the indigenous people in rural areas (Bose, 2017). RRI (2017) states that the accessibility of the land to women depends on certain aspects like use control, divorce, death and marital property rights and inheritance. Most rural societies in Latin America are still patriarchal in nature. Like in many parts of the world, the culture of patriarchy in Latin America is associated with the oppression of women and the violation of their land rights (Zubair Aslam and Khowaja, 2018; Wood, 2019). Land redistributions have been one of the tools applied for reducing gendered inequalities in land ownership.

On a positive note, in countries like Chile, Colombia, Costa Rica, El Salvador, Honduras, Mexico, Nicaragua and Peru the number of women who benefited from the land redistribution program is higher than that of men (Alazmi, 2016). The OECD (2020) also confirms that in some Latin American countries, gendered differences in land ownership were disappearing as a result of protracted interventions. For instance, in 18 countries, women had finally achieved a state of equal rights in the inheritance of land (OECD, 2020). In 2017, The World Bank confirmed that disparities between men and women or the gender gap had decreased in some Latin American countries specifically Bolivia, Guatemala, Brazil, Chile, Colombia, Honduras, Haiti, Uruguay and Venezuela. Women in these economies were getting better access to land than they did in the past decade albeit it did not mean then land ownership inequalities had completely fallen away. Also, other access indicators, like general ownership were still skewed towards men (OECD, 2020). For instance, it was only in 2017 that Ecuador granted women the same land ownership rights as men through statutory law changes (OECD, 2020). Hence the region exhibits varying levels of gendered differences in land ownership albeit there is an element of hope in these.

In Brazil, gender inequality in land and farming relating issues is rife. Common agribusiness models operational in Brazil discriminate against women (Bose et al., 2017). The models are said to be providing more training, credit and infrastructure to men than women (Bose et al., 2017). Daley (2011) also argues that many food producers (the majority being women) face discrimination under both formal and customary system of land tenure. The majority of women

are small scale producers since they lack independent resources (Daley, 2011; Alzami, 2016; OECD, 2020). Thus in addition to inequalities associated with land ownership, there are also gender disparities in the types and level of agricultural and land-use support between men and women in Brazil.

The Brazilian government initiated the Third National Plan for Women's Policies 2013-2015 as part of efforts to reduce gender inequality in the country (Bárcena, et al., 2017). Brazil has also attempted to craft more inclusive legislation and policies in consultation with women and women groups (Bárcena, et al., 2017). However, other scholars do not believe that government effort is yielding much since there is still discrimination against women in Brazil as the land distribution which is under the agrarian reform does not address the issues of gendered land (Alazmi, 2016; Bárcena, et al., 2017). Like in most parts of Latin America, gendered differences in land ownership persist even in the face of many policies, laws and programmes crafted to create equality in land and resource-allocation issues. This suggests the existence of policy-related inefficiencies in the quest to eradicate gendered land ownership differences in the Latin American region. Similar challenges can also be noted in distant countries including China whose gendered land ownership issues are discussed in the next subsection.

2.2.3 Gendered land in China

Gendered differences in land ownership are historically linked to patriarchal cultures. Song and Dong (2017) state that in China women are socially considered subordinate to men. This is despite efforts to transform Chinese society towards gender equality. In China, women are said to have equal rights to use community land but their rights are not permanent and can be reassigned when they remarry or when a husband dies (Namubiru-Mwaura, 2014). During the founding of the People's Republic of China on the 1st of October 1949, the Chinese Communist government stood firm in fighting against ideals that promoted gender differences in the country (Song and Dong, 2017; Zhou, Guo and Liu, 2018). The idea of communism permitted women to partake in paying jobs to generate their livelihood. As a result of the socialist transformation, both men and women had equal land rights, at least on paper (Namubiru-Mwaura, 2014). In 1978, the Household Responsibility System (HRS) was introduced with the aim of substituting the team farming practice of the communes. According to Song and Dong (2017), "under the HRS, collectively owned farmland in most villages was contracted out to households on a per capita basis for private farming". The execution of the HRS enhanced the incentives of the farmer workers, which also encouraged the fast growth in the agricultural sector as well as farm income (Guo and Liu, 2018).

The Chinese land ownership system underwent various transformations. To improve land security and land-use rights, China passed the Land Management Law in 1998 with the extending land lease contracts between the government and citizens to 30 years (Song and Dong, 2017). In 2003, the Rural Land Law encouraged leasing for 30 years and those who use the land were given the rights to sub-lease as well as the right to get compensation from land leasing. The Law has terminated the act of adjusting land holdings for demographic changes. Keliang and Prosterman (2006) point out that the enhancement in land tenure stability has resulted in a situation where land investment is rising. The gender differences in China has been perpetuated by the land tenure reform since most of the land was registered under the name of the head of the household (Song and Dong, 2017). Thus equal land rights exist in policy and not in reality. The practical implementation of the law was different from what was written down. Li and Bruce, (2005) argue that the patrilineal and patrilocal aspects of the law contribute to gendered differences in land ownership in China. As a result, Zhang (2019) argue that China has experienced a resurgence of a high rate of gender inequalities in land ownership. Women's property rights in China are limited and ambiguous. This is because of changing land adjustment policies, the political system of the villages, and the latent powers of the traditional patriarchal society in resisting women-emancipating transformation (Zhang, 2019).

Several scholars studying the Chinese gender equality landscape associate land ownership with political, social and economic empowerment. In support of women empowerment, Mishra and Wiig (2013) and Sam (2016) state that having formal land rights economically and socially empowers poor rural women. Land ownership can play an important role in increasing the decision-making power of women on economic, social and political issues (Menon, et al, 2014; Mishra and Sam, 2016; Zhang, 2019). Li (2003) argues that women can only secure their living when their formal land rights are recognised. Similar to the Latin American situation, Chinese women face insecure land tenure as well as general land ownership inequalities despite the existence of a myriad of laws and policies meant to guard against this. More still, China exists in a socialist landscape that, according to some scholars such as Triantis (2018) puts class and gender equality at the fore of its principles. In reality, as shown from the perspectives of the scholars cited in this section, that too (the socialist/communist mode) appears to be lagging in the eradication of gendered land ownership differences. In the next section, gendered land ownership differences are further looked at from an African experience.

2.3 Gendered land ownership differences in Africa

In Africa, gendered differences in land ownership are a function of customary cultures, colonial histories and legislative forces that shape the land policies in many countries. In the bulk of Africa, colonialism resulted in the dispossession of resources including land from the hands of indigenous mostly black populations living under customary systems (Akinola, 2018; Madimu et al., 2018).

Upon the attainment of independence from colonialism, much focus and debate have been put on addressing the land question – the question of how best to restore land taken away from traditional pre-colonial societies back to the population (Murombo, 2019). While race has played a major role in land dispossession, gender has also played another (Segueda, 2015; Moagi and Mthombeni, 2019). Women own less land than men because previously under pre-colonial systems, patriarchy impeded them from inheriting land. This was, however, a lesser problem considering that in pre-colonial systems land was highly abundant to all. Colonial systems also oppressed women with African women, viewed as a less important source of capital-labour, being considered inferior to men (Akinola, 2018; Murombo, 2019). Colonial systems generally pushed Africans into smaller portions of tribal lands. Within these lands, men had a higher priority to own farming and grazing land than women.

The post-colonial era's attempts to rid gendered inequality has seen different often disappointing levels of success. Many reasons among them the low emancipation of women, repressive laws, customary practices, lack of government will power and the political struggles over resources control have left more women as landless victims than men (Ojilere Onuoha and Igwe, 2019). Some scholars have argued that women in Africa are generally less exposed to educational opportunities than men and this situation has left them in positions where they do not fully understand their land rights (Handayani and Moersidik, 2018). Thus, skewed land ownership and control on the continent is a notable reality. Table 2.1 below shows land ownership figures for Sub-Saharan African (SSA) men and women between the ages of 20 to 49 as collated by UNDESA (2015).

Table 2.1: Gendered land ownership in Sub-Saharan Africa

		Ownership						Population	
		(rates, in percent)			(number of people, in million)			(aged 20-49, in million)	
		Female	Male	Gap	Female	Male	Gap	Female	Male
Land	Sole	13.1%	36.0%	22.9%	21.8	60.0	38.1	167.3	166.6
	Sole and joint	37.8%	50.6%	12.8%	63.2	84.2	21.0		
Housing	Sole	12.9%	39.2%	26.2%	21.6	65.3	43.6		
	Sole and joint	43.1%	55.0%	11.9%	72.1	91.6	19.5		

Source: UNDESA (2015)

In terms of sole land ownership, only 13.1% of women owned land compared to 36% of men resulting in a land ownership gap of 22.9% in favour of men (UNDESA, 2015). Numerically, this translated to 60 million men with sole land ownership compared to 21.8 million women. In terms of both sole and joint ownership, there was a gender gap of 12.8% in favour of men as 37.8% of women owned land (under sole and joint arrangements) than 50.6% of men. This shows that women were less likely to own land independent of men. Their chances of owning land were tied to being married and then getting to own land as marital property (Gaddis et al.,2018). At the same time, joint ownership had its risks, one of which was the dispossession of the land as a result of divorces, separations and the death of a husband (Gaddis et al.,2018).

The challenges that African women face cannot be distanced from legal pluralism (Hallward-Driemeier and Hasan 2013). Religious, constitutional, statutory and customary laws in Africa have played a major role in perpetuating women's land ownership challenges (Gaddis et al.,2018). Conflicting systems had in some cases resulted in the weakening of modern legal systems that give women better opportunities and equal access to land. According to Nakanyete et al. (2020), most African countries have statutory laws that promote gender equality in land ownership. However, it is difficult for the statutory law to solve the injustices in land ownership among women due to the existence of customary law systems largely responsible for the on-going land tenure insecurities among women. Doss et al (2013) found that when customary and statutory laws conflict, communities are keener on enforcing the former and this has tended to reduce the empowerment of women on land issues. Worse still, there is generally limited political will to intervene in favour of women (Yesufu and Nkomo, 2018). Women in most rural communities are therefore exposed to the power of customary law. Deininger et al., (2010) assert that there is a lack of security in customary land rights for women and this has added to diverse forms of battles through land seizing and invasions. The

next section discusses Agenda 2063, one of the moves that attempt to address women's land challenges on the African continent.

2.3.1 Agenda 2063

Africa arises as a remarkable player in the global economy. Presently, Africa is overtaking other regions in terms of Foreign Direct Invest (FDI) growth (Fingar, 2015). However, not all African countries are benefiting equally in terms of FDI growth. For instance, while other countries like South Africa, Nigeria, Egypt and Morocco continue to attract investors, other countries fail to draw the attention of investors because of civil conflicts in their midst. The African Union (AU) introduced Agenda 2063 to address the major challenges faced by the African continent (Slavova and Okwechime, 2016). Among the challenges faced by African countries is the dominant existence of patriarchal systems. According to Durokifa (2019), patriarchal systems have had a negative impact on development. Agenda 2063 aims to provide a solid, unified plan of action that will help to move Africa forward to attract investors and foster economic growth (Bishoge, Zhang and Mushi, 2018). The agenda is the region's 50-year roadmap that has been proposed and accepted by African leaders (Mpungose and Monyae, 2018). The agenda has been seen as "A global strategy to optimize the use of Africa's resources for the benefits of all Africans"(Kamara *et al.*, 2019). It also aims to "effectively learn from lessons of the past, build on the progress now underway and strategically exploit all possible opportunities available in the immediate and medium-term, to ensure positive socioeconomic transformation within the next 50 years" (De-Ghetto, Gray and Kiggundu, 2016). It is seen as a call for action for all parts of Africa to work together and rebuild a successful and United Africa. Agenda 2063 is grounded in a diverse development idea than that of the SDGs (Turner, Cilliers and Hughes, 2015).

Agenda 2063 has 20 goals. The most important to this study is Goal number 1 and 17. Goal number 1 is "A High Standard of Living, Quality of Life and Well Being for All Citizens". This goal has several priority areas one of which is the eradication of "Poverty, Inequality and Hunger" in all AU countries (African Union, 2020:1). Goal 17 is "Full Gender Equality in All Spheres of Life" and prioritises the eradication of all forms of inequality, violence and oppression among women and girls" (African Union, 2020:1).

To this study, Agenda 2063 is important for its strong gender parity component. In the report by Mwebaza (2020), it is stated that under the Agenda, all forms of political, economic and

social imbalances imposed by gender would be eradicated. This includes women's access and ownership to critical economic resources including land (Mwebaza, 2020). In rural economies, more than 90% of women are targeted to have full land ownership or use rights and this in turn is expected to free them from extensive impoverishment (Mwebaza, 2020). Assié-Lumumba (2018) asserts that without the educational emancipation of women, Agenda 2063 would be difficult to achieve. Current, inherited and embedded customary and legal systems that negatively affect women's access to education and knowledge therefore needed to be reviewed.

Scholars (DeGhetto Gray and Kiggundu, 2016; Hingston, 2016) are of the view that Agenda 2063 seems to be transparent and open, hence, there is hope in the African future. Durokifa (2019) argues the Agenda should take note of cultural practices that have limited women from benefiting from land ownership. Nakawuki (2015) states that the continuation of patriarchy in Africa manifests more through land transfers from father to son with women having very slight chances of getting land through cultural and inheritance systems. In addition to anti-patriarchal transformation, the implementation of Agenda 2063 will comprehensively empower women in all political, social and economic aspects of life. The success of this Agenda will not exclude the recognition and acceptance of women's rights to own and inherit property (Hingston, 2016).

Agenda 2063 highlights a broad acceptance that the political, economic and social spheres of African countries are strongly gendered skewed with men most likely to have better opportunities than women. This continentwide acceptance as well as the development of policies that aim to reverse the situation is a positive step towards eradicating gendered poverty as a function of gendered differences in access to resources. However, a worrying trend is that there has been many conferences, bodies and policies that have been advocating for change on the continent without desired levels of success. In the previous sections, African countries have been delegates to all United Nations women conferences from 1975 to 2020. This suggests that there is a greater need to move towards the implementation of past programmes and policies rather than focusing on new formulations. This also suggests that the problem at hand is not the unavailability of policies, but rather the weaknesses of implementation systems both at continental and national levels. The next subsection discusses gendered differences in land ownership from a Namibian scenario. Namibia is an AU member that also stands to be guided by Agenda 2063.

In Namibia, gendered differences in land rights are evident in rural communities that rely on agriculture for survival. In 2013, the Namibian Ministry of Lands and Resettlement mapped registered communal land use rights by gender and severe disparities were noted. While 44% of households in Namibia are female-headed, this statistic did not reflect in the below mapping.



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and Kunene 42% and 41% of communal land rights were held by women. It is also important to note that the above land rights were officially registered giving women secured tenure (German Federal Ministry for Economic Cooperation and Development, 2014). While the above statistics show an element of hope towards land ownership and use parity by gender, women in Namibia still face land access challenges like those in other parts of Africa.

To understand the challenges of women in land ownership in Namibia, a pre and post-independence review of the land question in that country is important. Before independence in Namibia, women were confronted by several land injustices. It was normal for women to have access to land through their husband (Nakanyete, et al., 2020). Just like in other African countries, during the colonial era, men left their homelands to seek better opportunities in urban and mining centres. During that period women were mostly restricted to homelands. In Namibia, it was known that if the husband died, the land went into the hands of the husband's close male relative leaving the women who would have tended for it landless (Muduva, 2019).

Nakanyete, et al., (2020) state that policies and legislation in independent Namibia have been favourable to women, supporting women to have a right to properties. Werner (2008) also sees Namibian policies and legislation, as led by the country's constitution as actively positive in attempting to address women's land and property-related injustices. Werner (2008) cites Article 95(a) of Namibia's Constitution that aim to "enact legislation that will ensure equality of opportunity for women, to enable them to participate fully in all spheres of Namibian society" as a testimony of gender-sensitive legislation in Namibia. Werner (2008) further cites Article 23 on Apartheid and Affirmative Action which states that "the fact that women in Namibia have traditionally suffered special discrimination and ... need to be encouraged and enabled to play a full, equal and effective role in the political, social, economic and cultural life of the nation". Women in Namibia were formally disempowered from any land-related decision-making at a community level. Even in the present times, the remnants of pre-independence discrimination can be observed in cultural systems that do not permit women to make land decisions in In traditional councils (Nakanyete, et al., 2020).

Thus while it can be celebrated that Namibia has passed policies and laws intending to close gender gaps through enabling women participation in decision-making, some injustices still linger. Nakanyete, et al., (2020) discusses that widows are still very vulnerable to land losses under customary inheritance laws. This exposes such vulnerable groups to entrenched poverty

due to not having land as an important mode of production. Among rural women in Namibia, having a piece of land is important for the sustenance of their livelihoods (German Federal Ministry for Economic Cooperation and Development, 2014). Muduva (2019) argues that corruption in the land sector, more especially in the land administration hinders women from using and owning the land in Namibia. In some cases, corruption in land distribution motivates the practice of customary laws. Another African country discussed in this section is Zimbabwe.

2.3.3 Gendered differences land in Zimbabwe

Zimbabwe's land issue and the related gendered differences in land ownership can be looked at from pre-colonial, colonial and post-colonial perspectives. In the pre-colonial period of Zimbabwe, women were excluded from land ownership under patriarchal cultural systems (Mazarire, 2003; Murombo, 2019). Similarly, Milazzo and Goldstein (2017) and Ojilere Onuoha and Igwe (2019) state that customary laws affected the participation of women in other pre-colonial economic areas. Under Zimbabwean tradition, the repression of women was also strongly associated with marriage practices that demanded the bridegroom to pay a significant bride price (Lobola) for his wife. In traditional societies, this payment of lobola gave men power or authority over women (Shope, 2006; Chireshe and Chireshe, 2010).

In the colonial period, the status of Zimbabweans women entered into another dimension. Historically, Zimbabwe was colonized by the British from 1890 to 1980 (Muzondidya, 2016). The country was colonialized under the British South African Company (BSAC) an entity that was strongly poised towards exploiting the country's resources (Madimu, Msindo and Swart, 2018). During that period, many factors influenced the status of women (Makaudze, 2019). At the household level, however, there were no major changes in the status of women compared to the pre-colonial era. Women continued to exist as subordinates of men without much power over land and other economic resources (Madimu et al., 2018).

Outside the home, however, the oppression of women was more intense in the colonial period than in the pre-colonial period (Murombo, 2019). The British imposed laws that enabled them to take the land from the indigenous people (blacks) (Murombo, 2019). The most notable of these was the 1930 Land Apportionment Act, the Land Husbandry Act of 1951 as well as the Land Tenure Act of 1969. These acts restricted black people from owning the land and this permitted more whites to have access to the land (Murombo, 2019). Under all the acts, women who were recognised as subordinate still did not own land including in the tribal trust lands

and reserves created as zones where blacks could own land (Toro, 2013). The laws forced most men into mining and industrial towns as labourers and this left women as temporary custodians of often unfertile lands that blacks had been pushed to (Mukaudze, 2019). Women relied more on agriculture given that the capitalist systems did not accommodate them as industrial labourers but still did not own land as a mode of production (Toro, 2013). Some scholars assert that during the colonial period, the colonial land policies in Zimbabwe targeted land expropriation using race as a segregation element and not gender (Cliffe, Alexander, Cousins, and Gaidzanwa, 2011). However, it can be argued that there was no need for it to apply any gender discrimination practices on the African population because women were already a landless group making gender-targeted land dispossession irrelevant. On a related view, Mate (2001) maintains that the discrimination of women also existed in the European settler communities where women were considered as secondary owners of the land.

Post-colonial Zimbabwe was also marred by land ownership inequalities. The most prominent land redistribution programme in Zimbabwe was the Fast Track Land Reform in Zimbabwe (FTLRP) that occurred towards the end of the 1990s (Mkodzongi and Lawrence, 2019; Shonhe, 2019; Dande and Mujere, 2019). The FTLRP was a government programme that was started to acquire and redistribute land to the landless masses (Chiweshe and Chabata, 2019). Land was therefore repossessed from white farmers and distributed to Blacks without any compensation being given. Several scholars including Hentze, Thonfeld and Menzb(2017) and Karimanzira and Mapolisa (2018), reveal that section 3(i) of the FTLRP restricted the displaced landowners from instituting any legal proceedings against the government. According to Sadomba (2008), the FTLRP was characterised by disorderly land dispossessions, violence as well as a lack of planning. Literature (Bhatasara, 2011; Matondi, 2012; Chakona and Chiweshe, 2018; Murombo, 2019; Zvokuomba and Batisai, 2020) shows that the FTLRP affected more women compared to men.

According to Bhatasara (2011), in Zimbabwe, discrimination against women continued even after land redistribution. In 2013, a new constitution gave women equal rights to land ownership (Bhatasara, 2020). However, this has not led to land ownership equality as customary law practices still dominate (Bhatasara, 2020). Some pieces of legislation also favour the allocation of land by gender. Bhatasara (2011) and Hartnack (2017) also argue that during the fast track land reform women faced a dichotomy of laws. The first was the old

constitution which discriminated against women and the second was the patriarchal customary practices.

Regardless of patriarchy, the recognition of the importance of land tenure amongst women in the development of Zimbabwe is rising especially after the chaotic effects of the FTLRP (Toro, 2016). While the number of women in Zimbabwe is higher than that of men, more men than women own land. Toro (2016) reports that women constitute 53% of the population. Moreover, 86% of the women who reside in rural areas rely on the land for the generation of their livelihood. The FTLRP failed to adequately meet the needs of the poor rural women who are also landless. Women farmworkers in Zimbabwe were evicted, regardless of whether they had a place to go or not (Hartnack, 2017). The process, therefore, exposed women to violent evictions and displacements (Chakona and Chiweshe, 2018). The works of Goebel (2005) and Bhatasara (2011) highlight that in the program (Fast Track Land Reform Programme), women did not receive the same share of land as men. This is confirmed by a study by Mgugu (2008) that shows gendered land ownership in all provinces of Zimbabwe after the FTLRP (see Table 2.2).

Table 2.2: Gendered land ownership by province in Zimbabwe

Provinces	Model A1				Model A2			
	No of Males		No of females		No of males		No of females	
Midlands	14800	82	3198	18	338	95	17	5
Masvingo	19026	84	3644	16	709	92	64	8
Mash Central	12986	88	1770	12	1469	87	215	13
Mash West	21782	81	5270	19	1777	89	226	11
Mash East	12967	76	3992	24	*Missing	*Missing	*Missing	*Missing
Matabele South	7754	87	1169	13	215	79	56	21
Matabele North	7919	84	1490	16	574	83	121	17
Manicaland	9572	82	2190	18	961	91	97	9
Total	106986	82	2 2723	18	6 043	88	796	12

Source: Utete Report (2003)

Based on the above statistics the number of males who own land is higher than that of females and the worst part is that this manifest in all province so Zimbabwe. To understand the table, under the A1 model land is allocated to the household as a family while model A2 refers to commercial farming land rights. As reported by the Utete Report, a land audit carried out in Zimbabwe in 2003, only 18% of women owned land under the A1 model while only 12% owned land under the A2 model (Utete Report, 2003). The same report cited corruption, bureaucracy and violence as some vices that affected the effective redistribution of land in Zimbabwe (Utete Report, 2003).

Traditionally, man is head of the household and it is for that reason that the land is registered under the name of the household heads who are male. According to *Women and Land in Zimbabwe* (2007), the Zimbabwe government does not decide which partner (male and female) should come forward to submit the land claim as such decision is made by the family members. As noted, strong patriarchal systems put the male partner as the one who is most likely to claim the land. Such processes still put widows and divorcees at the risk of losing land rights (Bhatasara, 2011).

Thus women in Zimbabwe still suffer inequalities in land access and ownership despite the country having undergone one of the most talked-about land redistribution programmes. Despite various controversies attached to it, the FTLRP was able to reverse land inequalities by race, a phenomenon that several African countries still suffer from. What is disheartening, however, is that the country Zimbabwe did not use this opportunity to address deep-seated gender inequalities in land access despite a majority of Zimbabwean rural women being dependent on land as a source of economic output. The observations from Zimbabwe conscientises other governments to be wary of the potential failures of land redistribution programmes to address gendered differences in land ownership. The next section looks at land reform in South Africa. Like with the pre-FTLRP in Zimbabwe, there is much debate on whether land redistribution should be done in a radical, non-compensatory manner owing to the failures of most legislative processes in instilling land ownership equality by race and gender.

2.4 South African land reform

In South Africa, just like other African countries poverty manifests in different forms including through race and gender (Cheteni, Khamfula and Mah, 2019). At end of the apartheid, the developmental policies (the land reform policies will be discussed later) focused more on race as the main factor that causes poverty, unemployment and inequality (Ntsebeza, Lungisile and Hall, 2007). It was for this reason that in 1998, the former South African president, Thabo Mbeki, revealed that South Africa was a two-nation society. The first nation is White and the second nation is Black, between the two nations, Whites own more land and properties than Blacks (Bernstein, 2014). The key challenge faced by the democratic government was how to amicably reverse these racial differences in poverty and wealth, more especially in land ownership. This was motivated by the notion that the apartheid government expropriated ninety per cent of the land through the Native Land Act of 1913 (Lueong, 2019).

The Native Land Act of 1913 legally empowered White farmers to take the land from Blacks, in that process, Blacks leaving most of them landless thus forcing them into the capitalist economy where they worked as labourers in farms, mines and factories, among others. Thus, the Act further undermined Africans by making them a source of cheap labours (Ntsebeza, Lungisile and Hall, 2007). All these issues moralised the democratic government to focus more on the issue of race than on the issue of gender as causes of economic inequality in South Africa. Nonetheless, even today the issue of injustice among the South African citizens still exist, more especially in the economy. Moleko (2018) reveals that presently in terms of hectareage, Whites owns 72 per cent of the land, coloured 15 per cent, Indians 5 per cent, African 4 per cent and others 3 per cent. This emphasises that twenty-five year from the end of the apartheid government the country still faces inequalities in land ownership.

Gender inequality exists as an additional layer next to racial inequality. The percentage of women who own land is lower than that of men (Yesufu and Nkomo, 2018). The table below was extracted from the 2017 Land Audit Report (Government of South Africa, 2017).

Table 2.0.1: Gendered land ownership in South African provinces

Province	Male		Female		Male-Female		Co-owners		Other		Total
	Ha	%	Ha	%	Ha	%	Ha	%	Ha	%	
EC	3 704 812	80	439 032	9	229 159	5	60 218	1	178 308	4	4 611 528
FS	3 518 907	70	854 107	17	414 059	8	44 566	1	177 626	3	5 009 264
GP	235 362	51	112 110	24	98 483	21	6 060	1	10 654	2	462 669
KZN	934 891	58	134 896	8	130 532	8	86 998	5	330 76	20	1 617 493
LP	1 022 742	58	275 057	16	315 703	18	46 164	3	90 310	5	1 749 977
MP	955 454	66	218 791	15	190 483	13	27 293	2	49 131	3	1 441 152
NW	2 047 590	62	487 229	15	523 392	16	120 084	4	132 914	4	3 311 210
NC	11 000 772	73	1882 645	12	1 693 539	11	166 088	1	267 958	2	15 011 002
WC	2 782 161	72	467 145	12	374 965	10	97 772	2	141 951	4	3 863 994
Total	26 202 689	71	4 871 013	13	3 970 315	11	655 242	2	1 379 029	3	37 078 289

Source: Government of South Africa (2017)

The 2017 land audit shows that by hectareage, there were 37 million hectares under agricultural land and women own 13 per cent of this while men own 71 per cent (Moleko, 2018). In terms of the number of landowners, the report shows that there were 181 532 registered landowners and of this 52% were male, 34% were female and 14% were classified as “others” and these included corporation and organisations. Women, therefore, owned less land than men in terms of both total hectareage and numbers. Gender disparities by hectareage were even wider showing that men owned larger tracts of land the women.

One of the main reasons there are gender differences in land ownership is because of the traditions that associated the role of women with household activities rather than active economic participation (Sharma, 2019). Unfair inheritance laws further add to this state of land ownership disparity by gender. In most cultures, women are restricted to inherit land even after the death of a husband. The ownership of the land is considered to be the responsibility of the eldest son in that household (Rivera, 2019). Lohmann *et al.*, (2018) state that after 1994, there were many land reform strategies or policies introduced to fight and solve the injustice of the past. It is important to explore these policies in detail and also understand how they have responded to gender differences in land ownership.

2.4.1 South African land reform policies

It is important to understand the land history in South Africa before discuss the policies related to land ownership. Though, the study is not intended to discuss the detailed overview of South African history but to highlight what is essential. The dispossession of land by the Dutch and British colonizers was more in South Africa compared to other African countries (Hall, 2004).

The colonizers settled at a place called a “Cape of Good Hope” in the 1650s and advanced northwards and eastwards over a period of 300 years. In the mid-20th century, most of the greatest agricultural land was set aside for the minority group (white) (Rijpma, Cilliers and Fourie, 2019). The African majority were restricted to own much of the arable land. Based on this, the system of the apartheid government has failed to provide services not only to Blacks but also to women (Lahiff, 2007).

The democratic government under the Department of Land Affairs (Currently known as the Department of Rural Development and Land Reform) started the process of changing the policies to be aligned with the needs of the South African citizens (Hall and Kepe, 2017). The policies targeted Black communities intending to create opportunities, that will ensure economic growth, poverty alleviation and employment creation (Habib, 2016). The main aim of the land reform policies was to solve the past injustices of land distribution that was an ideology of the apartheid government system (Schneider, 2018). The formulation of the policies promote justice, reconciliation and contribute towards building the economy of the country (Kepe and Hall, 2018). Somewhere somehow the land reform policies have recognised the domination of one gender in land ownership. Some of the policies or strategies of land reform were land redistribution, restitution and tenure security (Triantis, 2018). Moreover, other policies related to solving the injustices of the past are the Reconstruction Development Programs (RDP), Communal Land Policy and Land Expropriation without Compensation (it is not yet approved as a policy).

2.4.1.1 Land redistribution policy

The land redistribution target to solve the division between Black and White in South Africa. It is argued above that Whites people in South Africa still own more land than other races. It was that reason the land redistribution policy was introduced (Akinola, 2018). This was done to enhance the lives of the poor and ensure the quality of lives of the people (De-Satgé and Cousins, 2019). Furthermore, land redistribution was implemented to encourage economic growth, more especially in the agricultural sector. According to Lahiff (2007), the policy targeted South African citizens that have an interest in agricultural production, for instance, labour tenants and emergent farmers, moreover, the land is also given for residential purposes.

There are two most important programs implemented by the South African government to support or ensure land redistribution. Between 1995 and 1999, the government made a grant

available through the program called Settlement and Land Acquisition Grant (SLAG) (Makhetha and Hart, 2018). This was the first grant that was given by the democratic government to support the land reform program (Tshuma, 2012). The grant aimed to ensure that even those who were living below the poverty line were capable to buy the land. The households who benefited from the SLAG program were given an amount of R16 000.00 (Antwi and Chagwiza, 2018). However, the grant was criticized that it is too small to purchase the land. As a result, the beneficiaries had to collaborate with others and join the funds together so that they may afford the land (Boudreaux, 2010). Lahiff (2007) mentions that the grant under the SLAG was planned in a manner that permits the start of projects only, it was that reason most of the emerging farmers faced challenges in sustaining the grant.

The sub-program (SLAG) included different projects like individual, groups production, group settlement and farmworker equity schemes. At the end of the year 2000, it was discovered that there were an estimated 484 projects that were approved by the Agriculture and Land and Affairs (Lahiff, 2007). Furthermore, Turner and Ibsen (2000) reveal that these projects took approximately 780 407 ha that was transferred to 55383 households. There was a question of whether it was a success to South Africa since according to Knight Lyne and Roth (2003) the sub-programme aimed to solve the past imbalances in land ownership. In response to the question, Tshuma (2012) argues that even though the approval of 484 projects can be considered as a success, however, the reality is that the land transferred was less than 1.2 per cent. Against this background, it is somewhere somehow misleading to consider 1.2 per cent as a success against the 72 per cent which is own by the minority (Whites). Also, Boudreaux (2010) reveals that the sub-program did not work because the funds provided by the government were not enough for Blacks to purchase the land.

Following the 1999 elections, the ruling party (ANC) decided to suspend the sub-program (SLAG) because it was hindering the progress (De-Satgé and Cousins, 2019). In response to the shortfall of the SLAG, the South African government replaced it with a new strategy. The SLAG was replaced in 2001 with a programme called Land Redistribution for Agricultural Development (LRAD) (Mearns, 2011). The new sub-program (LRAD) has two different parts, firstly is where the agricultural land is transferred to individuals or groups. The second part deals with the commonage projects that intend to enhance people's access to the municipality and tribal land, for grazing purposes (Tshuma, 2012). The LRAD offers an admirable vehicle for rectifying gender differences in land access and land ownership (Antwi and Oladele, 2014).

The program intended to create job opportunities and allow women to participate in the development of the country. Moreover, by giving women security against poverty and to be economically independent by ensuring that women fully partake in the distribution of properties or asset (Tshuma, 2012). Just like the SLAG, the LRAD also failed to distribute the land as it was targeted. As a result, the target of reallocating 30 per cent of the agricultural land between 2000 to 2015 was not met (Hall, 2004). The land redistribution policy only managed to redistribute 7 per cent of the land to the poor who do not have the land, labour tenants as well as the new farmers. The redistribution of land policy has been criticized for being too slow a process (Tsheola and Makhudu, 2019). Moreover, Blacks continued to be poor because of a lack of land ownership. As argued before, the focus of the policy (land redistribution) was not much in tackling gender difference in land ownership instead is intended to resolve more racial issues. As a result, the South African land continue to be gendered, offers more land to men than women. The gender differences in land ownership encourage more opportunity in one gender and this develops questions on how women generate their livelihood.

2.4.1.2 Land restitution policy

The sub-programme under restitution supported that South Africans who were deceitfully dispossessed their land under the Land Act of 1913 have to be given back or compensated (Alan-Dodson, 2013; Beinart and Delius, 2014). The Commission on the Restitution of Land Rights (CRLR) was established by the Restitution Land Rights Act 22 of 1994. The commission aimed to confirm the belonging of the land or property to that individual who claims it (Mekoa, 2018). The CRLR in partnership with other stakeholders (both public and private) started to open call or advertise the submission of the claim. The claim had to be submitted by December 1998 (Fortuin, 2018). However, there were complains about the due date of the submission of the claims the complaint was that the claims made in 1913 took 35 years (1913-1948) to close. However, the post-1994 claims only took 4 years (1994 to 1998). This developed a lot of debates that why the timeframe of a democratic government is shorter than that of an apartheid government (Maluleke, 2018). This policy of restitution did not work in the level of expectations because there were still number of Black South Africans (including women) who did not have land.

Just like the land redistribution policy, the attention of land restitution was more on resolving racial issues rather than gender issues. It cannot be hidden that not only men lost their property through the Land Act of 1913 but also women (Hunter, 2010). Even though there were many Blacks who did not benefit or compensated through land restitution as stated above, However, when comparing gender, men benefited more than women (Bradstock, 2006). On the same view, Khuzwayo *et al.*, (2019) argue that the present society is affected by the policies and legislations that intentionally ignore women as beneficiaries.

2.4.1.3 Land tenure policy

Similar to the other policies (land redistribution and restitution) the tenure reform intended to pursue social justice by undoing not only racial discrimination but also ensuring that the poor people also benefit, and the promotion of commercial farming amongst Blacks (Moosa, 2019). The White Paper of 1997 defines tenure reform as an important pillar of the Land Reform Programme (LRP). The focus of the tenure reform is on two dissimilar objectives (Turner and Ibsen, 2000). Firstly, the tenure reform aims to solve the administration of land in the communal parts of the past homelands and coloured reserves (Gumede, 2014). The communal areas make about 17 million hectares. The high levels of poverty and unemployment are mostly experienced in communal areas. Furthermore, it should be noted that the communal areas are approximately home to one-third of South Africans (Sibanda, 2001). The majority (Blacks) have insecure or unlawful forms of tenure, the unlawful form of tenure hinders them from getting investor that can lead to development (Kloppers, and Pienaar, 2014).

Moreover, the tenure reform also aimed to reinforce the safety of the tenure of farmers, more especially those who live in commercial farms (Hull and Whittal, 2018). The majority of those who reside in farms possess access to residential land not for commercial farming. On the other hand, the minority are labour residents who also have permission to the browsing land for their livestock. South Africa has experienced a high rate of farm evictions (Spierenburg, 2019), it was that reason the Department of Rural Development and Land Reform was criticised for having weak legislation and policies that focus on protecting parties against evictions. The residence lives and farm in the tribal land, which is controlled under the communal tenure (Shackleton, Shackleton and Cousins, 2001).

The focus of the land tenure policy just like the other policies (land redistribution and restitution) was more on solving the racial problem than gender issues. Hence, the issue of

gender difference in land ownership still exists (Charles, 2010). Moreover, when comparing the number of men and women who benefited in the land tenure, it shows that men benefited more than women (Kaarhus, Benjaminsen, Hellum, and Ik Dahl, 2011). There were many other policies introduced by the democratic government, for instance, Reconstruction Development Programs as well as the Communal Land Policy.

2.4.1.4 Reconstruction Development Programs

One of the strategies intended to solve the injustices of the past was the Reconstruction Development Programs (RDP) (Hall, 2004). This policy was adopted by the democratic government in 1994. The RDP intended to empower the citizens by increasing opportunities and sustain their lives through engaging in productive activity. It also aimed to build a non-racial and non-sexist future economy in South Africa (Visser, 2004). Hall (2004) reveals that in the land reform, the RDP intended to redistribute 30% of agricultural land to the Blacks. However, the democratic government could not put the RDP concept into practice. According to Visser (2004), the RDP staff members lacked basic skills in implementing the concept as defined in the RDP work plan. This was characterised by huge backlogs in providing basic services to communities. In 1996, the democratic government continued to implement strategies that will help in poverty reduction, for instance, Growth, Employment and Redistribution (GEAR) (Currie *et al.*, 2018). Since both RDP and GEAR intended to address the challenges of that past, however, did not have an approach to solving the previously disadvantage gender.

2.4.1.5 Communal Land Policy (CLTP)

The challenges faced by the above-discussed land reform policies encouraged the Department of Rural Development and Land Reform to start a Communal Land Policy (CLTP). The policy aimed to encourage the transference of the outer boundaries of the tribal land, more especially, in communal areas (Weinberg, 2015). This meant that traditional councils are now given full ownership of the land (Lahiff and Scoones, 2003). Moreover, the CLTP gives the traditional councils the power to manage and control any development of the communal areas which include but not limited to grazing, forest, and rivers (Weinberg, 2015).

However, the CLTP has been criticised by civil organisations and activists that communities are unable to hold the traditional councils accountable for land redistribution. In 2016, the draft of the Communal Land Bill of 2016 was established to regulate communal land. Gugile

Nkwinti (minister of Rural Development and Land Reform) created a parliamentary portfolio committee on Rural Development and Land Reform on 09 May 2017 (Tlale, 2018). The Bill is not different from the CLTP, the difference is in clause 28(1) which states that the community choose to have its communal land managed and regulated by the traditional and Consumer Protection Act (CPA).

The power to register the CPA is determined by the Department of Rural Development and Land Reform, not the traditional councils (Hall and Cousins, 2018). Clause ten of the CPA states that the minister may not transfer the land into the name of the community if there is an argument about the land (Boudreaux, 2010). Furthermore, many different approaches can be put in place to ensure that the public polity eradicates gender discrimination and promote the economic, political and civil rights of women (Tshuma, 2012). For women to fill the gender gap, women should have a political voice and participation in public services (Tshuma, 2012).

The CPA was established in 2016, however, the strategy has not benefited the vulnerable group (including women). The land redistribution, restitution, tenure, RDP and Communal Land Policy aimed to solve the racial injustice of the past, however, little focus was said about solving gender inequality in land ownership. Moreover, these policies did not even solve racial issues.

Presently, the debate about the land in South Africa has shifted from the capitalism system to the socialism approach, since most of the above-discussed strategies and policies were market-related. According to Dirlik (2018), capitalism is exploitative in nature and it creates economic inequality in the country. Based on this, one can argue that may be capitalism contributed to the gender differences in land ownership. Moreover, since it is argued that the capitalism model is not good for the country, hence, a policy that supports Socialism is required rather than a free-market system. The burning concept in South Africa which intends to be supporting the socialism approach is Land Expropriation without Compensation (LEWC). The big concern of the LEWC is race, it intends to solve the past injustice that was caused by the system of the apartheid government. Its intention is also to help in solving women poverty since differences in land ownership is not only in race but is also in gender. It is for that reason, the present section discusses land expropriation without compensation and gender differences.

2.4.2 The concept of land expropriation without compensation

There is no universal conceptualization of land expropriation without compensation. The concept “land expropriation without compensation” comprises two different words “land expropriation” and “without compensation”. Firstly, land expropriation relates to an act whereby the government or authority dispossess privately owned property specifically land for the benefit of the public (Guo, 2001). Secondly, the concept “without compensation” means the denial of incentives or compensation in exchange for an asset. Thus, we define LEWC as the government’s act of taking privately owned land for the benefits of the public or collective without providing any incentive or compensation whatsoever. The privately-owned land or farmland is forcefully taken without the expected inducements for the current owners.

To further understand the concept, it is necessary to examine its political, economic and social aspects. Private properties in South Africa are mostly owned by the whites in the forms of game parks/reserves, hotels resort centres and farms (Williams et al., 2018). Therefore, in respect of the political aspect, this means that most of the white in South Africa will lose the land as well as their properties without incentives. Based on the colonial and Apartheid realities of land dispossession of black South Africans by the whites, the latter lost possession of arable land to the whites without any form of compensation (Andrews, 2018). According to Kwarteng and Botchway (2019), while international law has granted states a right to expropriate land, however, this does not mean that they should unlawfully seize properties without following the right procedures on compensation. However, during the initial dispossession, the land was taken without any compensation to colonised communities. The economic aspect relates to the neoliberalist needs for colonial seized lands to be bought back at market prices as a way of establishing land ownership equality (Kaunda and Kaunda, 2019; Bond, 2019). The existing willing-buyer, willing-seller approach reinforces the liberalization of South African land reform. Altogether, this presents an interesting scenario where restorative justice on land demands a lot of money from states and also enriches groups that have owned land believed to have conquered during colonial times. Such lines of arguments motivate the LEWC aspects discussed below.

2.4.2.1 Modification of Section 25 of the Constitution

The South African national assembly approved the Constitutional Review Committee report on LEWC (Molope, 2018). The LEWC was won with more than 200 votes in the National Assembly. The report recommended that Section 25 of the Constitution have to be modified to

permit LEWC (Kwarteng and Botchway, 2019). The constitution was seen as a barrier to the implementation of land LEWC. However, there were numerous debates regarding the changing of section 25 of the South African constitution (Hlomendlini and Makgolane, 2017). The Constitutional Review Committee confirmed the amendment of section 25 of the South African constitution on the 15th of November 2018. Historically, most of the land was forcefully taken from the original citizens (in this case black South Africans), they were removed from their arable land as revealed above discussion. For that reason, the approval for the constitution to be amended may help in addressing the injustices of the past (Molope, 2018).

2.4.2.2 LEWC strategy and addressing gendered land

The previous strategies and policies that aimed to distribute land among the previously disadvantage group were unsuccessful to serve women as they also failed to service the Black South Africans as the main target. As a consequence, South Africa faces inequality in income distribution among men and women, this is because of the inequality in land ownership as argued before (Musavengane and Leonard, 2018). Since it is discussed above that the LEWC strategy has been approved by the South African, now this leads to the question that will the LEWC strategy benefit South African citizens or it will be unsuccessful just like other land policies in South Africa. Moreover, it is important to know how will this approach going to benefit women in rural areas.

The concerns of LEWC is more on race than gender, for that reason, the LEWC strategy does not seem to be encouraging or emphasising that women should be prioritized (Niekerk, 2018), more in land ownership. Moreover, South Africa is made up of different tribes, for instance, Zulu, Xhosa, Sotho, Pedi, Tswana, Venda, Tsonga, Tsonga and Swati (Herbert and Bailey, 2002). Most of these tribes still rooted in cultures that do not believe that women have to be equal with men (Cheteni, Khamfula and Mah, 2019). For that reason, there is no clear approach on how the LEWC approach can be implemented in such a setting, as a result, one may think that this approach may somewhere somehow support the patriarchal system (a strategy that oppresses women). Moreover, although the LEWC strategy may have a good strategy that supports that women should own land in traditional places this might be visa-versa. One of the weaknesses of the strategy (LEWC) not much has been said about women, more especially in land ownership (Shabodien, 2018). Not focusing much on gender issues give doubt about the success in ensuring gender equality in land ownership (Suleiman and Amuda-Kannike, 2019).

Apart from the effort of the South African government to solve the issues of inequality in land ownership, women themselves also play a role in fighting for their rights.

2.5 Land laws in South Africa

The legal pluralism theory (this theory is discussed in detail in chapter three) shows that there are two legal systems which are customary and statutory law. The present section discusses these legal systems and how it affects rural women in land ownership. The section opens by discussing customary law in the South African context.

2.5.1 Customary law in the South African context

The South African government through the Recognition of Customary Marriages Act (RCMA) of 1998, defines customary law as the practice of customs and usages of tradition which is observed among the indigenous African people, the practices are part of their culture (Rosser, 2008). Moreover, it is also considered as a living law that evolves as people living with their customs and norms changes (Osman and Himonga, 2017). Likewise, Sossou (2017) believes that customary law comes from the day to day social practices that are eventually accepted as an obligation to each society. Considering the work of Oba (2011), there are different sources of the customary law, for instance, religious law (ethical and moral codes) and the received law (civil law or common law). Furthermore, Osman and Himonga (2017) argue that religious law is a belief in the worship of a superhuman (God/gods). In Africa, there are different religions, for instance, Christianity, Muslim etc. Some of the daily practices of the customs and tradition emerge from these religions. It is for that reason that the majority of the countries (Sub-Saharan Africa) who were historically colonized their customary laws function similar to statutory laws and religious laws (Joireman, 2008).

Initially, the received law was adopted by the South African government as legislation that was used to govern the South Africa tribes. The legislation was then adopted by the democratic government (Joireman, 2008). Furthermore, the customary law has been transferred from one generation to another to ensure that everyone in South Africa is familiar and is guided by them (Ribot, 2003). The customary law controls the different lives of people in different South African tribes. Although it is not easy to get the exact number of people who live under the customary law, however, it is estimated to 16 million Black people in South Africa live in homelands and these homelands are controlled by the customary laws (Herbst and Willemien,

du Plessis, 2008). In addition, it is also revealed that half of the South African who live in homelands are said to be married through the customary laws.

To further understand the customary law concept, it is important to discuss different customary laws in South African. Customary law is two-fold, firstly is the official customary law, and the living customary law. The official customary law is also known as codified customary law. It was established by the apartheid government, such laws are viewed as an oppressive type (Abel, 2015). The second type of customary law is the living customary law, which controls the lives of people who live in rural areas or their homeland (Chigbu, 2019). The living customary law evolves from time to time and it influences by the beliefs and circumstances of the people of that particular society as argued above (Tejan-cole and Leone, 2005). On the same view, Mc-Ginnis (2015) argues that the rules and guidelines of customary law are flexible and change to respond to the changes in the socio-economic challenges. The rules and guidelines are grounded on what is happening now in that environment. Moreover, there is no group or individuals assigned to make rules and guidelines for the customary law (Joireman, 2008), the rules are created by the practices of the whole community. Once the customary law is established it has a great influence on the majority of the tribes in South Africa (Bordin, 2014).

To understand the concept of customary law the section has discussed the different sources of the customary law, which are religious law (ethical and moral codes) and the received law (civil law or common law). The section went further to discuss the different types of customary law which are official law and living law. The following section discusses statutory law within the South African land contexts.

2.5.2 Statutory laws in South Africa

Statutory law also called statute law or legislation, is the written law that is passed by a parliament. (Matheson and Heinze, 2019). Post-1994, the South African parliament introduced three pillars of land reform to address the injustices of the past. The present section aims to discuss the statutory laws by looking at the three important pillars of land reform (land redistribution, restitution and tenure security) in South Africa. The South African government introduced land redistribution to address the inequality in both race and gender that was established by the apartheid government. The racial inequality in land ownership is seen in that

Whites own more land than Blacks. With gender inequality, the number of males who own, control and use the land is higher than that of females (Moyo, 2013). Hence, land redistribution was introduced to solve these challenges (Akinola, 2018). Moreover, land redistribution was established to empower and enhance the lives of those who live below the poverty line (De-Satgé and Cousins, 2019). It was furthermore implemented to enhance economic growth, more especially in the agricultural sector. Enhancing the economy may help in addressing poverty and high unemployment in the country.

Just like land redistribution, land restitution was proposed to address the past injustice of the South African land. It was motivated by the apartheid acts which oppressed more blacks (men and women) through the Land Act of 1913 which left many Black South African landless (Alan-Dodson, 2013; Beinart and Delius, 2014). The third pillar of land reform is tenure reform. Tenure reform intends to address the administration of land in communal areas and homelands (Gumede, 2014). In South Africa, homelands take about 17 million hectares of national space and are home to one-third of South Africans (Sibanda, 2001). The majority of Blacks have insecure forms of tenure, this interrupts the development of women who are said to have relied on the land for the generation of their livelihood (Kloppers and Pienaar, 2014). Tenure reform was seen as a solution to this scenario. However, since 1994 there has been little progress in addressing poor land tenure among other past injustices in the country. Very few lands managed to be given back to their original owners, women do not own land as a result the number of women who live below the poverty line is considerably and comparatively high (Matheson and Heinze, 2019).

2.5.3 Dual land ownership in South Africa

In South Africa, there is a Bill of Rights that support the equal distribution of resources among the people. However, after so many years of independence, South Africa still facing gender differences, more especially in land ownership (Becker, De-Wet, and Van-Vollenhoven, 2015). On the same view, Ngomane (2016) argues that gender differences in land ownership still exist in South Africa. Gender differences in land ownership are more protracted in rural areas where also women seem to rely more on land as a mode of production (Ngomane, 2016). In most cases, traditional leaders entrusted with rural land redistribution do not advocate the democratic distribution of land by gender. These leaders are not elected into and out of office making it difficult for aggrieved persons and communities to remove them from power (Khuzhwayo, 2019). Thus their presence creates a democratic dilemma in which powerful, unelected forces

exert unfair and unequal leadership and control on communities. On the other hand, politicians who govern through statutory law and have a stronger voice in national government-land redistribution are chosen into power. Citizens have the rights not to vote if they are not satisfied with the services of that political party (Eagly and Johannesen-Schmidt, 2001; Keulder, 2010). This at least gives women an element of power to change leaders who might be seen as not supporting equality causes in land distribution. This also justifies a view that it is the state rather than customary law authorities which should carry out land redistribution in communal and homeland areas rather than traditional or tribal authorities, possibly eliminating the dual land redistribution system. The following section discusses the experiences of South African women.

2.6 The experiences of South African women under customary law

As emphasised in previous sections, there are two main ways in which women can individually own land outside market arrangements. This is through inheritance or land allocation through land redistribution and resettlement programmes (Matheson and Heinze, 2019). In inheritance, the rules and regulations differ among South African tribes and this has changed over time (Charles, 2010). Normally, the practice of customary traditions dictates that at the death of a father, the land and other properties he owned are inherited by a male child (Matheson and Heinze, 2019; Rivera, 2019). This shows that the discrimination of women does not start at the community level but is highly practised at the family level (household). Women can also access the land through a government programme of distribution. Outside inheritance and land redistribution, women can buy land, an option that is not feasible in most low-income societies (Arora, 2015). The government system established the willing buyer willing seller strategy to distribute the land through market forces under neoliberal practices. However, the strategy does not seem to benefit women that much due to historically-seated financial and economic inabilities (Arora, 2015).

Many policies and laws recognise gender inequalities as a challenge in South African society and attempt to instil equality between men and women (Goetz and Jenkins, 2018). However, the challenges that affect the implementation of such policies is the lack of political will. If those mandated to execute the policies or laws are not interested in doing so it is then impossible to cater to women's land and equality needs (Kiye, 2015). The failure to meet the needs of women give doubt to the possibilities of attaining goal number five of the SDGs

(gender equality) by 2030 (Hutton, and Varughese, 2016). The policies that promote gender equality include the RDP as well as the Green Paper on Land Reform. The RDP is an integrated, coherent socio-economic policy framework. It (RDP) aimed to “mobilise all our people and our country's resources toward the final eradication of apartheid and the building of a democratic, non-racial and non-sexist future” (Karriem and Hoskins, 2016; Mikhaylov, 2017). On the other hand, the Green Paper on Land Reform “is a strategic policy document of the Department of Rural Development and Land Reform that intends to bring drastic changes in the implementation of Land Reform and overhaul the rural communities into vibrant, equitable and sustainable rural communities”. All these policies somewhere somehow recommended equality in race and gender (Hull and Whittal, 2018). However, when it comes to practice these policies are not implemented to the fullest leaving women vulnerable to patriarchal, cultural and historical inequalities.

Such inequalities cannot be divorced from archaic but presently felt traditional practices and beliefs that exist in South Africa as well as in some parts of the world. In some cultures, women are seen as having no other economic contribution outside their household (Rosser, 2008; (Bhalotra, Brulé, and Roy, 2018)). Patrilocal marriages take away land ownership rights from women. They cannot own land from their husband’s families and can also not inherit land from their own families of origin (Lau, 2016). They cannot own land yet they are expected to toil on it and be productive for the benefits of their families (Mookerjee, 2017; Sharma, 2019). Women also need to report and fully submit to men and not to make any decisions without full consultation and authority of a male figure (Adil, Shahed and Arshad, 2017). This is despite the fact that they take the burden of raising families when men are away (Ellis, 2016). In such patriarchal societies, women are considered as sex property and once she is married her duty is to give birth (Ellis, 2016; Khan *et al.*, 2017). This becomes a challenge to barren women because are being replaced by another woman who will give birth. Even though the barren wife may not be replaced by another wife but she may face discrimination by some members of the family (Rangan and Gilmartin, 2002). Some customary traditions support the beliefs that young women who are not married do not have the rights to access the land and after the death of the parents, such young women are even evicted from that household. Single mothers are also shunned in such societies (Baldwin, 2014).

Some measures have been put in place in an attempt to protect women against archaic, oppressive cultural systems, including matrimonial relationships. Post-1994, the Recognition

of Customary Marriages Act (RCMA) was one such measure (Maluleke, 2012; Mamashela, 2017). The act (RCMA) aims to address inequality between the husband and wife in customary marriages (Mamashela, 2017). It also promotes the right to own and access land as a matrimonial resource (Moore, 2015). Vincent (2009) argues that such laws indeed promote equality among women and men in societies ruled by patriarchy. However, Williams (2012) states that it is proven that even though some acts and laws promote equality, cultural barriers among African families and societies still act to deny women equality in marriages. Some believe that the total dismantling of traditional cultural practices could be the only solution to gender inequalities that eventually manifested in gendered land ownership differences (Liebenberg, Sandra, Quinot, 2012).

2.6.1 Challenges of integrating customary and statutory laws

The presence of different legal systems in South Africa is a huge challenge. South Africa is facing the challenge of integrating the two legal systems so that they work towards the attainment of similar ends (Kiye, 2015). According to Kiye (2015) and Maluleke (2018), different practices of the customary law among South African tribes makes it difficult to combine the customary law and the statutory law into a single, integrated entity. Rosser (2008) sees a lack of political will as another factor that makes the desired integration difficult. This is despite some voices that customary law should be brought in line with statutory law as a way of limiting its often gender unbalanced dictates and their negative consequences on women's land and resources ownership situation (Fester, 2007; Hopwood, 2015). Other challenges discussed include a lack of role clarity between customary and statutory law systems (Baldwin and Raffler, 2019). The two believe that when the South Africa government empowered traditional councils with the power to distribute land it did not clarify their roles and modes of operation making it difficult to integrate and align their activities with existing laws and policies. Bottazzi, Goguen and Rist (2016) opine that the integration of the two systems is a challenge considering their diametrical views on gender and land issues.

2.7 Capacity of women and land ownership

One of the objectives of the study was to understand women's land-use capacity and how it is affected by the land ownership situation in the Nkomazi Local Municipality. Hence, the present section intends to explore strategies that have been developed to capacitate women's land usage. The early 1990s were characterised by an intense debate on women and land ownership equality which running into the formulation of the first democratic constitution in 1994 (Doss

et al., 2015). A Women's Charter was launched after the attainment of democracy in 1994 and pressured society to strongly consider the capacitation of women in the country's economic spheres (Rai, 2017). Thus various entities have established themselves intending to facilitate and capacitate women's land-use abilities including through advocacy and education.

2.7.1 Women and education

Education and training are discussed as major land-use capacitating factors in South Africa. With training and education came the skills that one needed to make a meaningful output from land (Omolewa, 2007). As observed, trained land users often perform better in terms of efficiency and productivity than those without training. The present section discusses the lack of education among women as the contributory factor to land use inefficiencies. In general, education is a process of acquiring knowledge through formal education. In the past decades, the number of females who attended primary and secondary was smaller than that of males. Comparatively, there are more rural women without education than men (Shahidul and Karim, 2015). Also, rural women also had less agricultural training access than men (Zamxaka, 2015). Post-1994, the government introduced different programmes to encourage black rural women to access formal education. Regardless of the hard work of the democratic government to promote gender equality through education, it was discovered that the school drop-out rate was higher among girls than boys (Chigona and Chetty, 2007). Also, pass rates were lower for girls than boys (Chigona and Chetty, 2007). The reason for both failure and the dropout rate was the result of unplanned pregnancies amongst the school girls. The unprepared pregnancies affect more schoolgirls compared to the unexpected fatherhood of boys. Girls were exposed to challenges that included early marriages, teen pregnancies and sexual abuse and these negatively affected their educational performance (Naidoo, Muthukrishna and Nkabinde, 2019).

The lack of formal education limited one's extent to comprehend complex land-use issues (Kapungu, 2013). It also affected one's ability to seek solutions and opportunities through academic sources. However, practical farming skills can be instilled in women, even in the presence of low education levels (Omolewa, 2007). According to White (2012), some rural women had access to adequate land but did not have proper farming skills and this can still result in gendered poverty. Zamxaka (2015) suggests that there is a need to help rural women with proper and relevant infrastructure and farming strategies so that they can use their resources sustainably. The important considerations of the subsection were that the access to

education and training differed by gender with men being the more advantaged. Thus, the promotion of equal access to land must also come with training support for women as a way of reducing gendered poverty.

2.7.2 Lack of access to complementary inputs and services

One of the serious land reform challenges that affect women is the lack of complementary inputs and services (Kapungu, 2013). This prevents many women who are interested in farming from using advanced agricultural technologies (Kapungu, 2013; UN Women, 2018). Women's farming capacity is facilitated by the availability and affordability of the technology which includes but not limited to planting materials, agro-processing technologies and fertilizers as well as the planting materials (UN Women, 2018). Women's land use capacity is also affected by the lack of mobility and access to transport. Rural women also lack proper farming infrastructure (Kapungu, 2013). For instance, rural women who are involved in livestock farming may lack veterinary services and this may lead to a high rate of livestock mortality (Zamxaka, 2015). Thus land ownership among women must come with adequate technological, material, logistical support as a way of enhancing farming productivity and reducing gendered poverty which, as emphasised, is higher among females than males.

2.7.3 Financial constraints

Regardless of the lack of education among the majority of women, the capacity of women in effectively using the land is determined by the availability of resources like funding (UN Women, 2018). The present section argues that financial constraints contribute to the lack of capacity among women who may be interested in farming. Access to funding is an agribusiness barrier for the poor not only in South Africa but in developing countries (Zamxaka, 2015). This has been more visible to poor rural women who, without external funding, fail to afford technologies (agro-processing, internet, and planting materials) that may help them to enhance their productivity (Kapungu, 2013; UN Women, 2018). Hence, Ducastel and Anseeuw (2017) argue that access to finance is a deciding factor for the success and the failure of the projects which are owned and controlled by rural women. The practices of cultures among the African countries limit women from accessing financial loan without the husband's permission. On the same view, Zamxaka (2015) reveals that rural people in general are the most vulnerable in terms of having access to basic services. Start (2001) argues that the challenges in attaining the needs of women are related to the isolation of the rural areas from urban areas, while the rural

areas. The failure for women to get these affect their interest and capability in the farming sector (Ruel *et al.*, 2010).

2.9 Land Reform in Mpumalanga Province

In Mpumalanga skewed gendered land ownership is a major problem. Most land in the province is male-owned. Table 2.4 below shows gendered land ownership in the province by percentage hectarage using data from South Africa's Land Audit Report 2017.

Table 2.1: Gendered land ownership in Mpumalanga

Province	Male		Female		Male-Female		Co-owners		Other		Total
	Ha	%	Ha	%	Ha	%	Ha	%	Ha	%	
MP	955 454	66	218 791	15	190 483	13	27 293	2	49 131	3	1 441 152
Total	26 202 689	71	4 871 013	13	3 970 315	11	655 242	2	1 379 029	3	37 078 289

Source: Government of South Africa, (2017)

Of the 1 441 152 hectares of farmland in the province, 66% was owned by males, 15% by females, 13% by males and 13% by females in joint relationships. Males independently owned 955 454 hectares of the province's farming land indicating an extremely wide disparity across genders (Government of South Africa, 2017). This data highlights the existence of a major challenge in the policies and programmes targeting the establishment of gender equality in land ownership in the province.

According to the Commission For Gender Equality (2010), the Land Redistribution and the Land Reform for Agricultural Development (LRAD) play important roles in land allocation. There are grants within the LRAD that target households seeking to acquire land. The LRAD grant targets both males and females (Hicks, 2010). The Commission For Gender Equality (2010) argues that the success of land resettlement and redistribution programmes is seen through assisting projects that are run by women. In Mpumalanga province, women's access to land is mostly encumbered by cultural factors. These cultural factors give priority to men as heads of households in the allocation of land. The Commission For Gender Equality (2010) states that the traditional leaders in the province do not address gender issues and the situation is worse for poor rural women. Just like other former homelands in South Africa, the land in Mpumalanga is grounded on patriarchal philosophy that disadvantage women access and ownership.

There is no centralised information management system to understand and monitor the delivery of land reform. The Commission For Gender Equality (2010) argues that most of the institutions that deal with the land reform operate in isolation and there is no even coordination and integration of projects. The traditional leaders in the province (Mpumalanga) distribute land in as unplanned settlements where IDP is not taken into considerations. There was a lot of workshops conducted by the department in the province to overcome this tendency (Hicks, 2010). These workshops aimed to encourage women to partake in the decision-making process associated with the land. According to the Commission For Gender Equality (2010), it should be acknowledged that there is a commitment to ensuring gender equality in the province. At the same time, it cannot be denied that the delivery of the land-related programmes in Mpumalanga was never spelt out clearly (Commission For Gender Equality, 2010). The conflict of power between the Department of Rural Development and Land Reform and the traditional leaders is a clear signal that there is a problem in the land reform programme in the province. Additionally, the programme does not have any strategies for dealing with the patriarchal social order that is dominant in the province (Commission For Gender Equality, 2010).

2.9 Gap in the focus of the study

The present section discusses the research gap this study intended to fill. The literature shows that many scholar focus on the shortage of, and the inequitable access to land among women within and without South Africa. This includes Khuzwayo, Chipungu, Magidimisha and Lewis (2019) who conducted a study to examine women's access to rural land in UMnini Trust traditional area of KwaZulu-Natal. A study conducted in Global South and Northern Tanzania by Goldman, Davis and Little (2016) also discovered that women continue to face land access and ownership challenges. Najjar (2017) found that women were still fighting with challenges of traditional-political illegal land acquisition. The Commission For Gender Equality's study conducted in (2010) focused on the "extent to which land reform policy and implementation programmes have incorporated gender interests both at a policy level and in implementation practices between the period 2006, 2008 and 2009". In short, most of the studies acknowledge the existence of gender inequality. These studies have not been conducted in Mpumalanga specifically in the Nkomazi Local Municipality. They also did not fully address issues relating to the practices, processes and outcomes of current land redistribution activities, women's land-use capacity and how it is affected by the land ownership situation and the coordination and

communication between traditional leaders and government officials in land redistribution matters. Also, they have not generated a framework that can guide policymakers in managing the identified gendered land ownership differences issues in any South African locality.

2.10 Summary

This chapter discussed gendered land ownership differences using Latin American, Chinese, Namibian and Zimbabwean cases before finally discussing the same within a South African context. It outlined and discussed the challenges in land ownership in South Africa through reviewing the country's land redistribution, land restitution and tenure as well as the issue of the expropriation of land without compensation. The chapter also discussed land ownership experiences among South African and the effects of customary laws on the fairness of land redistribution processes. The next chapter presents the study's theoretical framework.

CHAPTER THREE

THEORETICAL FRAMEWORK

3.1 Introduction

A theoretical framework is viewed as a required philosophical foundation for connecting the theoretical aspects of a phenomenon to its practical components (Anfara and Mertz, 2014). In this study, the theoretical framework aims to explain gendered differences in land ownership in the Nkomazi Municipality. The study referred to two vital theories. The first is the legal pluralism theory which focuses on the existence of, and relationships between or among multiple legal authorities in a state. As revealed in chapter one, the Nkomazi Municipality's land redistribution is controlled under both statutory law and customary law, the two legal sources of interest in the study. In the presence of customary law, the land is likewise controlled by eight traditional authorities: Mawewe; Matsamo; Mlambo; Hhoyi; Siboshwa; Kwa-Lugedlane; Mhlaba and the Lomshiyo tribal authorities (Mashele, 2013). At the same time, statutory laws, as administered by the Department of Agriculture, Land and Rural Development (DALRD) are also applied in land redistribution in the municipality. The chapter assesses the relationship between these two sources from a legal pluralism perspective. The second theory is the feminist political ecology. This theory is adopted as part of the theoretical framework to explain how gendered differences in land ownership contribute to gendered poverty. The theory further explains how the governance of land by men affect rural women. This chapter is divided into three sections. The first section deals with the general overview of the legal pluralism theory. The second section looks at the laws and legal systems in pre and post-colonial Africa. The last section concludes the study and links the reviewed theories to the study's objectives.

3.2 An overview of legal pluralism theory

The study adopted the legal pluralism theory to explain the dichotomy of land laws (customary and statutory law) which has affected not only racial equality but also gender equality in land ownership. The study uses the legal pluralism theory to attempt to explain the existence and reality of statutory and customary law in South Africa. Scholars and anthropologists have been dealing with the question of what legal pluralism is and what it is not? According to Corrin (2017), legal pluralism does not have a single or universally approved definition. This may be because it is rooted in several disciplines which include law, anthropology, and the social sciences (Corrin, 2017). Historically, the legal pluralism theory can be traced back to where it

originated in the anti-positivist legal philosophy. The theory emerges in the 20th century to react to the belief and view that only a state is the power and authority behind laws affecting and governing its citizens (Wilson, 2000). Borrowing from John Griffiths, legal pluralism is a “state of affairs, for any social field, in which a behaviour pursuant to more than one legal order occurs.”

Tamanaha (2011) states that legal pluralism is “a context in which multiple legal forms coexist”. Moreover, legal pluralism theory considers the state as an element that is not all-important in the determination of the law but whose significance is intertwined with other entities (Gebeye, 2017). Generally, most societies have had a pluralised legal past, present or both (Tamanaha, 2011). In Africa, legal pluralism has been seen by the existence of customary law in the same environment where state laws exist. The daily practice of customary law by the indigenous people is not determined by the state’s approval. On the same view, Merry (1988) believes that the state is one of the sources of law but not the only one. At the same time, some scholars argue that the state often behaves as if it is the only source of law, in the process disregarding the existence of customary law that guide some indigenous groups. (Gebeye, 2017). The legal pluralism theory tends to oppose the legal positivism theory, (also called legal positivism or legal centralism) which views the state as the only source of law.

According to Swenson (2018), four forms of pluralistic relationships can exist between state and non-state legal systems. The first is a combative relationship that involves outright conflict, rivalry and non-cooperation between state law and non-state legal systems. The second relation is a competitive relationship. This differs from a combative relationship in that the parties contest for public attention and legitimacy without necessarily attempting to destroy each other (Swenseon, 2018). The third is the cooperative relationship which occurs as parties recognise the need to work together albeit acknowledging the greater power of state legal systems. Finally, the complementary relationship where both state and customary laws work under the auspices of common statutory or constitutional systems (Swenseon, 2018). The relationships, therefore, show the extent to which state authorities recognise and accept non-state law with a complimentary relationship indicating the highest positive degree of collaboration between statutory and customary law.

Three important elements are associated with the legal positivism theory. The first is the difference between law and morality (Morbach, 2020; Moore, 2020). This element focuses on

differentiating between norms and expectations that have legal value and those that do not (Tschorne, 2018; Moore, 2020). Thus, it involves questions like “what is the law? And what it ought to be?” The second element of legal positivism is the source of law, and this is where the law gets its normativity and coerciveness. John Gardner argues that in any legal system, the law, whether valid or not depends on its sources and not its merits (Gebeye, 2017). The third element is adjudication which focuses on how and by whom are legal judgments made (Gebeye, 2017). Legal positivists focus on the first and second elements of legal positivism without focusing on the third element (Tschorne, 2018). Legal pluralists, on the other hand, focus on the “by whom” aspect of legal judgments indicating an acceptance that besides the state, other players can also play a role in law creation and legal adjudication processes (Moore, 2020). Moore (2020) calls this situation legal validity of competing sources of law.

What makes the state to be supreme is the principle of sovereignty in the political theory as well as the utilization of force in the social theory. The 1648 Treaty of Westphalia is argued to have given the state the power to control everything including the legal system (Dabova, 2014). Modern states adopted their principles under the auspices of international peace bodies like the United Nations (United Nations, 2017). The Westphalian concept is considered as a principle in the international law that supports that each state has exclusive in its territory (Happold, 2013; United Nations, 2017). The state is defined as a legally constituted system operating for the benefits of its citizens (Happold, 2013). This gives it the power to determine what is and what is not law within its borders (Dabova, 2014). Similarly, in the school of legal positivism, it is not possible to separate the state and law, hence, the law should be the law of the state (Griffiths, 1986). Thus in an analysis of countries riddled with war and without identifiable governmental systems as countries without a state system and therefore definite law (Dale, 2011).

A major limitation of the legal positivism theory is its exclusion of other sources and authorities of law that may be operational in the same state. Among the presence of the laws which are established by the state, there are living laws (customary laws). These living laws govern the African societies even though some of these laws are not documented as revealed in the previous chapter (two) (Rautenbach, 2010). Undocumented laws are not considered legal (Rautenbach, 2010). Moreover, the source of knowledge of this law is the present legal document, the general observation and experience in life, as well as the customs (Swenson, 2018; Jabeen et al., 2020). The most important source of law is not those who are recognised,

passed and approved, however, the living customary laws are practised daily even though they may not have been passed or approved by the government (Gebeye, 2017).

African countries had laws and legal systems before the arrival of the colonialists on the continent (Gebeye, 2017). Colonialism brought with it the Westphalian principles discussed earlier, these seeking to install the state, as established and governed by colonial systems. The debate among scholars is whether colonial systems were receptive enough to Africa customary law to an extent that these (colonial administrative systems) can be labelled as legal pluralistic systems. The second view is whether they totally disregarded African cultural law systems and therefore operated within the legal positivism realm. Some legal pluralists believe that there was an intersection between indigenous and European law. According to Warman, Isra and Tegan, (2018), customary law corresponded with statutory law. Some customary law elements were accommodated within colonial administrations pointing towards a slight pluralist attitude (Gebeye, 2017). Gebeye (2017) however believes that legal positivism theory or legal centralism broadly excluded the pre-colonial African legal systems.

Even though legal pluralism views customary law as one of the sources of law, there are criticisms about the function or operation of the customary law in African societies. The patriarchal practice of the customary laws in African countries has limited social and economic development on the continent (Allanana, 2013). Sponsors and International Development Agencies refrain from providing funding because of the lack of trust in customary law. Bardhan (2016) and Currie-alder and Currie-alder (2016) support the statutory law-based legal centralism under the belief that the presence of the state is more important for economic growth and poverty alleviation than the presence of the customary law systems. Customary laws are known to promote inequality, it is for that reason, it is considered to be oppressive to women and children (Khuzwayo et al., 2019; Jabeen et al., 2020).

On the African continent statutory law passed on from colonial western systems is the dominant form of law (Rautenbach, 2010). Most states have however a chosen few laws in the customary system that have been documented and form part of the constitution (Benda-beckmann and Turner, 2019). Benda-beckmann and Turner, (2019) further argue that some parts of customary laws were registered to cooperate with the colonial state since they were acknowledged and codified by the colonial government. The general system has however been to make the statutory law system more formal while customary law mostly remains informal. For instance,

the state established the formal training of lawyers, judges, prosecutors as well as the training of police. On the other hand, the customary law does not provide formal training for those who work in the traditional councils, hence, the judge according to how they feel (Babiker, 2018). Lack of formality therefore affects the standardised operations of customary law, a factor that limited the level of trust and acceptance it received from different stakeholders. Thus state legal system is normally considered to be genuine and legitimate while the customary legal system is considered less genuine and in cases even illegitimate.

Although the critiques of the legal pluralism theory (including the proponents of legal positivism and centralism theory) advocate that the state should be the supreme source of legal authority there is also criticism of the state. The states face challenges that hinder them from uplifting economic growth and social change and this has resulted in calls to an alternative supporting system that will ensure social change and development. According to Kokal (2019), non-state or informal justice systems become alternatives when state systems are perceived to be failing to deliver to the citizens' expectations. Wilson (2000) also argues that in reality, statutory law is far away from being good or useful to its citizens and in some communities, it is neither relevant nor supportive in promoting development. The arguments above therefore also make a case against statutory law. Despite its formality and organisation, it may fail to meet specific communities' social and economic development needs. Under such situations, customary law is viewed as one of the many sources of law that can be opted for in an attempt to harmonise societal needs and the legal environment.

3.3 Law and legal system in pre-colonial Africa

The present section discusses the existence of customary law before the arrival of the colonialists in Africa. The concept of legal pluralism would not have existed without the existence of customary law in pre-colonial Africa. Borrowing from the work of Joseph Raz's legal theory, the theory elucidates the combination of statutory and customary law. It acknowledges three important features of the law to explain the existence of the legal system before the arrival of colonialists. The features involve normativity, institutionalised as well as the coercive nature of law. Before the arrival of the colonialist in Africa, the custom was normative, since it directed or guided the behaviour of the different tribes in the African continent. According to Hjort (2010), colonialism slowly eroded the traditional political institutions that existed before the arrival of the colonialists. The Europeans wisely moulded

the power structures of their subordinates into a pattern that would permit them to have access to the resources of the African countries (Hjort, 2010).

In pre-colonial Africa, land was not individually owned. It was vested into chief not as his own property but for the community at large. The land was distributed among the married members. In Botswana for instance, the laws and customs governing property rights comprised of the full modern idea of land rights (Hjort, 2010). The land which the tribesmen obtain from the chief was not forced to be handed over. Moreover, in pre-colonial Africa women were authorized to have their land. The husbands did not have control over the area allocated to their wives. The indigenous people could also hand over their property to others or lend it out. Moreover, women could own cattle, and household heads were mandatory to give cattle to their wives (Hjort, 2010).

To further understand the pre-colonial life of the indigenous people it is important to explore Murdock's (1967) "Jurisdictional Hierarchy beyond the Local Community Level" guide (Gennaioli, 2005). The Murdock's index ranges from 0 to 4, it explains the number of political jurisdictions above the local (usually village) level for each ethnicity. A zero score shows a society without a state "lacking any form of centralized political organization." A score of 1 shows few chiefdoms, furthermore, a score of 2 describes the importance of chiefdoms. Score 3 and 4 designate societies that were part of large states. The study by Murdock (1967) excludes colonial regimes since it was aimed at explaining the lives of the indigenous people before their colonisation by the Europeans (Michalopoulos and Papaioannou, 2013).

Some scholars, however, strongly reject the views that in pre-colonial Africa, there was a sense of gender equality in relation to land access. Pearce (2017) goes to the extent of describing such views as a myth indicating that gender oppression and women landlessness was common in this era. Akinola (2018) also describes the pre-colonial era as composed of gender inequality in resources access. However, given that land tenure systems in pre-colonial Africa were communal rather than individual and given the fact that land was generally in greater abundance, women's land-related oppression was not widely visible. According to Akinola (2018), however, this does not exonerate the culturally exploitative systems that tended to view women as lesser members of society. This is in sharp contrast with the arguments by Segueda (2015) and Moagi and Mthombeni (2019) who believe that gender equality was a common phenomenon in pre-colonial Africa. Segueda (2015) sees gender exploitation in pre-colonial

Africa as originating from two intrusions into African cultural systems, one through external religion-another through colonialism. Thus there is significant debate on the status of pre-colonial women as a function of customary laws and their defining cultures.

In summary, Among African societies, during the pre-colonial period, land was not owned by the chiefs but owned by the community at large. This land was only vested into the chiefs so that it may be equally distributed among the community members. The land was not only distributed to the males but even females had access to it. Furthermore, it is shown that the husbands did not have access to the land that was allocated to their wives. Based on this line of argument, there may have had fewer issues relating to gendered land ownership differences. This leads to the question of whether colonialism introduced gendered land ownership differences in Africa or whether the phenomenon already existed before colonialism. The next section takes the above arguments from a colonial-era perspective.

3.4 Law and legal system in colonial Africa

Originally, statutory law was brought to Africa by Europeans. The Berlin Conference of 1884 – 1885 (also known as the Congo Conference) created a legal basis for the exploitation of African resources and perpetuated the domination of the Europeans in the African countries (Craven, 2015). There were many different laws introduced in Africa, including English law, French civil law, Roman-Dutch law among others depending on the colonial power involved in the colonisation of a given part of Africa. All these laws were set to guide and give legal order about the operation of the African government. The colonialists' laws dominated local customary laws, as it was forcefully enforced on societies with heavy penalties being levied for non-compliance. Colonialism in Africa changed the socio-economic, politic, legal life in most of the African countries. On the same view, Korieh (2010) reveals that it inserted a new order in all three aspects of African life: social, political and economic. The arrival of the colonialists changed the strategies and notions of pre-colonial governance. As a result, the customs which were the engine in controlling the society in pre-colonial Africa were terminated or ceased to be the foundation of the organisation of traditional councils as well as the exercise of power (Gebeye, 2017).

Pre-colonial African states lost control of their ways to govern, hence, the pre-colonial laws of Africa were replaced by the colonial legal systems. In some African countries, the legal

pluralism device was utilised to combine the pre-colonial laws with the body of laws that came with the colonial system. There were rules of incorporating or recognising the customary law into the colonial legal system. Firstly, customary law was to support or not deviate from any written law (colonial law). Secondly, the customary law was not to contradict the principles of natural justice, morality and good conscience (Diala and Kangwa, 2019). There is a view that the new existence of different laws on the African continent resulted in the exclusion of women from benefiting from important resources (Muzondidya, 2016). European law that brought was brought into Africa through colonialism did not recognise the equality between men and women. Additionally, it restricted women from owning and inheriting land (Gebeye, 2017). Women were expected to take subservient roles and to submit to the authority of men. Thus, European legal and social inequalities were imported into African systems with the forceful transfers of power that came with colonialism (Akinola, 2018; Murombo, 2019). As noted in the next section, the transformation from colonial to post-colonial systems did not automatically eradicate these inequalities.

3.5 Law and legal system in post-colonial Africa

During the pre-colonial era, women had equal opportunities with men. The arrival of the colonialists in Africa resulted in the oppression and exclusion of women more especially in land ownership. The exclusion and oppression of women continued in the post-colonial period. The colonialist laws did not recognise the norms and the traditions of the indigenous people of Africa. Moreover, the socio-economic status of women was affected by these laws which elongated women's impoverishment as they continued to be treated as inferior beings to men. In post-colonial Africa, the constitution is considered as supreme law of the land demonstrating that the legal systems (statutory and customary law) are not parallel but one dominates the other (Gebeye, 2017). For instance, the constitution of Ghana, section 1.2 states that "This Constitution shall be the supreme law of Ghana and any other law found to be inconsistent with any provision of this Constitution shall to the extent of the inconsistency, be void" The heavy and negative impact that constitutionalism had on customary law was to relegate it to a minor, less significant form of law that existed under a constitution.

To understand how African customary law has fared under modern constitutions, it is essential to view four waves of constitution-making processes in post-colonial Africa (Hessebon, 2014). The first wave can be traced back to the 1950s and 1960s when several African states gained their freedom from colonial governments. These independence constitutions were important

for the juristic and empirical availability of the new states. In this first wave, there were three most important approaches were used regarding the customary law (Banda., 2005). In the first approach, the colonial legal system was maintained while permitting the use of customary law. The second approach is the Anglophone-African-oriented systems in which customary or native courts were avoided. This led to the formulation of the general court system. The third approach was the francophone and Lusophony-oriented systems which supported the integrated court system where customary courts were treated as the courts of first instance on traditional cases while higher courts operated on a statutory-law platform.

The second wave dates back to the 1960s to 1980s (Gebeye, 2017). Constitutionalism led to the abolishment of the pre-colonial legal systems in the name of promoting development and democracy. An example can be seen in countries like Tunisia and Ethiopia where customary laws were abolished. In Ghana, Zimbabwe and Mozambique, traditional leaders' powers were greatly diminished (Banda, 2005). The second wave, just like the first wave also failed to recognise the customary law systems.

The third wave is can be traced to the 1990s and this wave involves the post-cold war constitutions (Ndulo, 2011). This differed from the second wave which restricted the power of the traditional authorities. It supported the involvement of the pre-colonial legal system alongside modern mostly Westaphalian-based systems (Ndulo, 2011). Bennett (2004) asserts that constitutions in the third wave incorporated the rights to culture as part of human rights directly promoting the presence of cultural systems and laws as part of governance structures. This also encouraged the practice of Islamic laws in some African countries. Lastly, the fourth wave which is currently in progress has also been accommodative of customary laws (Gebeye, 2017). For example, in South Sudan, Kenya, Zimbabwe, and Angola customary law has been recognised in these countries' respective constitutions. The fourth wave strongly resembles the existence of legal pluralism in post-colonial Africa (Gebeye, 2017). The third and fourth waves see the reconciliation of customary and statutory law. This has mainly involved attempts to combine pre-colonial and the colonial legal systems into a common body of law (Gebeye, 2017). The next sections narrow the legal pluralism debate into the South African context.

3.6 Understanding legal pluralism in South Africa

This section aims to review legal pluralism in the South African context from the colonial to the post-colonial period. Just like other African countries, South Africa has experienced colonialism, repression and discrimination (Ramutsindela, 2003). Before the arrival of the colonialists in South Africa, indigenous people were grounded in their various cultures and laws (Alfred and Corntassel, 2005).

According to Breines (2006), the effect of colonialism manifested itself through patriarchy. Patriarchal norms of European systems as engrained in the legal rubric were transported to colonised African societies through the imposition of colonial laws. It is important to note that European laws as passed on to African societies already contained cultural and religious norms that strongly looked down upon women. European common law, which eventually became African societies' common law was in itself engrained with a lot of customs and can in some sense be viewed as European customary law. Thus colonisation resulted in the substitution of African cultural law with European common and cultural laws (Mutloane, 2015). Thus it was not surprising that South African white women were not immune to gender oppression experienced by rural black women in society as they originated from patriarchal law systems. Women (both black and white) in the early 20th century were subordinates of men. Women were treated as inferior to men, men had the power to decide on important social, economic and political matters at all societal levels. It is however undeniable that black South African women experienced more challenges of inequalities in the society compared to white women. This is because race was added as another discrimination dimension.

Colonial laws were considered superior to indigenous or customary laws (Wolfe, 2006). When the colonialists arrived in South Africa they took the land that was mostly cared for and cultivated by men. Still, there were challenges of governing the colonies, since the indigenous people practised and believed in customary law while colonial administrations wanted to impose their laws (Wolfe, 2006). According to the indigenous people, this was the best way to govern their societies (Bennett, 2009). In the same way, the colonialists wanted to govern the country in a way that enabled them to exploit local mineral and land resources (Beinart and Delius, 2014). Colonial governments managed to document their laws while new laws were also crafted. Such laws include the infamous Land Act of 1913 that left both indigenous men and women landless (Beinart and Delius, 2014).

In 1994, a black majority government came into power. This created opportunities to modify some parts of racially and gender oppressive statutory laws through a new constitution. The new democratic government tried to combine customary and statutory law in the new constitution to address the challenges of poverty, unemployment and inequality. However, the challenge was that the courts interpreted African customary law in a Eurocentric manner (Bennett, 2009). Although Black people were in power many elements of the customary laws were not allowed to be practised. For instance, customary marriages were not permitted because they perpetuated polygamy. Bennett, (2009) states that customary laws only got recognised by the South African legal system in 1998. The failure of the South African government to recognise customary law was said to have caused a backlash from indigenous people who relied on, and believed in this form of law. As expected, the new constitution needed to practically protect the cultures of the indigenous people and ensure the approval of the customary law in courts. The Constitution, more especially section 30 and 31 of 1996 give all South Africans a right to practice cultures of choice. Moreover, the Constitution in section 112 (3) makes it obligatory for all the courts in the country to "apply customary law, when that law is applicable, subject to the constitution and any legislation that specifically deals with customary law."

Customary law in South Africa was then viewed as a symbol of African culture, hence, it was celebrated as an important element of the new rainbow nation. According to Bennett (2009), there the customary laws which developed during the apartheid era that need to be revitalized and to be aligned with the South African Bill of Rights. The following section discusses the challenges of South African women in accessing land.

3.7 Legal Pluralism and women's access to the land

The main focus of the study is women and land ownership hence, this section is important in explaining the relationship between gendered land ownership and the legal pluralism theory. The African indigenous practices support men as custodians of the land (Yeboah, 2014). In the African continent, women produce approximately 80 per cent of the agricultural product, however, in terms of ownership women own only 1 per cent of the land. In sub-Saharan Africa, 90 per cent of the land is owned under the communal or customary tenure (Chimhowu and Woodhouse, 2006). This shows that most of the countries in sub-Saharan Africa still operate the indigenous systems of land tenure. The land policy has been marked by the dichotomy

between the colonial state and customary system of land tenure as stated above (Chimhowu and Woodhouse, 2006).

In South Africa, the post-1994 government to some extent managed to integrate statutory and customary law, to ensure (among other things) women's land rights. According to Eniola and Akinola, (2019), the South African government developed and introduced programs, legislation and policies to ensure that women have access to land. Such programs include GEAR strategy, and the Communal Land Rights Act. However, such programs, legislation and policies received criticism for their slow progress in addressing gendered land access and ownership differences (Eniola and Akinola, 2019). Odeny (2013) argues that women are still unable to benefit from land programs in the presence of the customary law systems that still endure.

Even in the presence of statutory law aimed at improving land access equality among other things, the persistence of customary practices like the empowering of traditional leadership councils to rule over land persist (Eniola and Akinola., 2019). For instance, in South Africa, section 21 (2) of the Communal Land Rights states that “if a community has a recognized traditional council (in terms of the Traditional Leadership Act), the powers and duties of the land administration committee of such a community may be exercised and performed by such council”. In such traditional councils, much like in the broader political systems in African states, gender disparities are not uncommon and play a major part in the unrepresentative allocation of land by gender (Eniola and Akinola, 2019). Traditional authorities entrusted with communal land redistribution believe in patriarchal hereditary systems thus reinforcing gendered land differences to the disadvantage of women. The principle of equality in land ownership is strange to the custom and traditions that govern the traditional authorities. Based on this, women find it difficult to fully benefit from the land reform programs, legislations and policies since their rights to the land are absorbed by their husband through customary law.

Thus the legally pluralistic South Africa system puts women at the centre of a power struggle between statutory laws that attempts to afford them equal land rights with men and the customary law system whose distorted form appears to be taking away the same rights. Of interest from the section is the use of statutory law to empower customary entities that eventually facilitate gender inequality as noted with the quoted section of the Communal Land Right Act. Its recognition of the powers of gender-uneven traditional councils in land

redistribution despite their known role in precipitating gender inequality run contrary to the same statutory law's proclaimed needs for gender equality in land distribution. This, therefore, leaves South Africa women in a precarious position where laws are both contradicting and unintentional reinforcing each other to the detriment of their (women's) land-use rights.

3.8 Application and gap of the legal pluralism theory

According to Adom, et al., (2018), a theoretical framework "serves as the focus for the research and it is linked to the research problem under study". It is therefore important to recap the main problem statement of this study and to link it back to the legal pluralism theory. In the Nkomazi Local Municipality, land redistribution processes occur under the simultaneous guidance of statutory and customary law. Statutory laws relating to land are mostly administered by the Department of Agriculture, Resettlement and Rural Development. Customary laws are administered by various traditional authorities among them: Mawewe; Matsamo; Mlambo; Hhoyi; Siboshwa; Kwa-Lugedlane; Mhlaba and the Lomshiyo tribal authorities (Mashele, 2013). In the legal pluralism theory, this existence of both statutory and customary law in the same environment is referred to as legal pluralism.

Of interest is whether legal pluralism is wholly or partially accountable for gendered differences in land ownership and if the interactions of the laws could be managed to ameliorate this disadvantaged position of women. Also, the study takes an interest in understanding the nature and forms of legal pluralism active in the Nkomazi Local Municipality. Without much doubt, there is strong support for the elevation of customary laws amongst the Pan-African scholarship. With gender-focused writers arguing that the same laws are behind the oppression of women, it is interesting to understand whether land redistribution is a battle frontier between pro-culturalist and feminists. Ideally, the next section reviews the feminist political ecology theory as one that puts gender parity needs above political and cultural views.

3.9 Theorising the feminist political ecology

The legal pluralism theory is used to explain the reality and existence of customary and statutory law in the Nkomazi Municipality. The present section focuses on the feminist political ecology theory adopted to discuss the gender differences in land ownership and how it affects women. The feminist political ecology theory (FPE) arose as a subfield of political ecology and the development of this theory is traced to the 1990s (Mollett and Faria, 2013). Rocheleau (2008) notes that researchers have, over the years, extended the focus of the political ecology theory to analyse gender. Against the above background, it is seen that it is not possible to

discuss and unpack feminist political ecology except through unpacking the political ecology theory.

In short, political ecology questions the way power operates to determine people's unequal access and control over important resources at a local, regional or national scale (Watts, 2015; Paulson *et al.*, 2020). In the 1980s, the theory (political ecology) came to the front of human geography, carrying political analysis to understand the connection between the environment and society (Mccarthy, 2002). Through the concept of "socio-nature", the political ecologists explain how society is linked to the environment and its natural resources including land (Turner, 2012). Political ecology centres on power relations, exclusion and privilege in struggles over the environment and its resources (Neumann, 2017).

The feminist political ecology arose from the political ecology's concern on social equity problems in environmental change putting more attention on how this impacts the lives and social strata of women (Elmhirst, 2016; Resurrección, 2017). It aims to bring feminist theories to the practices of political ecology (Elmhirst, 2016). Historically, the theory can be traced back to the mid-1990s where it gained ground in debates and discussions on feminist politics in environmental engagements (Resurrección, 2017). The concept "feminist political ecology" was primary suggested as a new conceptual framework by Dianne Rocheleau, Barbara Thomas Slayter and Esther Wangari in their landmark 1996 book - *Feminist Political Ecology: Global Issues and Local Experiences*. The FPE scholars presented it as a sub-field of political ecology that recognizes gendered power relations as a "critical variable in shaping resource access and control interacting with class, caste, race, culture, and ethnicity to shape processes of ecological change' (Rocheleau et al., 1996). Moreover, they explain that it draws on insights from feminist cultural ecology, feminist geography, and feminist political economy. The theory facilitates a multi-scalar analysis of knowledge production, gendered rights and responsibilities, and more pointedly, the workings of power and politics in the use, access and distribution of resources in the context of neoliberal economic growth and structural adjustment trajectories (Elmhirst, 2016).

The feminist political ecology theory seeks to explain the nature and the causes of environmental changes as well as the impact of human beings on natural resources. The theory also aims to understand the interaction between class, ethnicity, and gender (Resurrección, 2017). Hovorka (2006) argues that the theory aims to explore a place of gender in the political

ecological landscape. This study preferred the feminist political ecology in order to understand gendered differences in land ownership in the Nkomazi Municipality. The theory's concerns link well with this study's agenda. In this study, land is viewed as a critical natural and ecological resource whose access and use, as noted in several sources, is closely tied to gender equality dynamics. As discussed earlier, the tussles between customary and statutory laws in men-dominated societies often leave women at disadvantaged land access and ownership point. As suggested in the theory a women-centric view on addressing such differences is direly needed in affected communities. The theory, therefore, relates to the legal pluralism theory discussed earlier as it focuses on the outcomes of customary-statutory law relationships on the lives of women. The following subsections discuss two important elements of the feminist political ecology theory – access to natural resources and governance.

3.9.1 Access to land under the feminist political ecology

One of the elements of feminist political ecology is access to land. The theory holds that access to land is always a challenge (Chigbu, 2019). It is undeniable that South Africa face challenges of gender inequality. It has been discussed above that men own more land compared to women in South Africa. The majority of the underprivileged rural women live in landless families, without natal family or marital land to contest (Jackson, 2010). The ability for women to own, inherit and control land or another important property is important for her to successfully participate in developing the country's economy (Bhatasara, 2018). In most countries, the constitution does allow women to own, control and inherit the land. However, the implementation of the laws and policies that support women is very poor. As revealed earlier, in South Africa, women own 13% of the agricultural land on the other hand, men own 71% of the land (Moleko, 2018) and such inequality scenarios are well-replicated in most parts of Africa.

Peter, Simelane and Matondo, (2008) state that most of the people who do not have access to the land are those from rural areas and urban poor. This also helps to explain why these groups experience poverty more intensely than other social groups. Moreover, Mishra and Sam (2016) reveal that women face challenges in sustaining their livelihoods due to their lack of access to and ownership of land. The status of women (age, income, social class, marital, power and influence) contribute to their vulnerability to being denied land access and ownership (Mishra and Sam, 2016). A study conducted in Zambia showed that one-third of widows in that country lose access to the land when their husband dies (Kimani, 2008).

The feminist political ecology theory takes the lack of access to land as a natural resource to be severe injustice that exposes its victims to poverty and destitution among other ills (Nelson, 2012; Elmhirst, 2016). Doss et al., (2013) opine that neoliberalist orders that have converted the land into a capital rather than a communal good that can be marketed have worsened the economic plight of women, who without ownership or access to such a commodity are driven into underpaid farm employment. The theory closely links wealth creation and income generation directly with the environment (Nelson, 2012; Elmhirst, 2016) acknowledging the importance of land in neoliberalist societies. Without land as a natural resource, the basis upon which economic and social inequality can be established is taken away. As a result of landlessness women in most manage and control spaces rather than owning them (Sundberg, 2017). According to Altay (2019), women work on and manage resources that are owned by men. This is mostly visible in African rural areas that are governed and controlled by traditional leaders (Sundberg, 2017). Thus gendered land differences have created gender-related economic classes in rural, land-dependent communities. The dominant class is that of men who own land and the lower class consists of women who have no access to land and have to labour on it to make a living. This highlights the extreme division that gendered land issues create in African communities.

3.9.2 The feminist political ecology and land governance

The governance aspect of the land is associated with power systems that create, facilitate or drive land access and ownership inequities between women and men. The feminist political ecology puts political power and governance control at the helm of land access and control (Nelson, 2012). Governance systems wield the power to own, control and distribute land and also the power to deny or allow certain land practices to occur. Governance systems include the formal governments at local and national levels as well as any influential power systems, whether recognised or not that determine the ownership and use of land (Nelson, 2012). Elmhirst, (2016) however sees the FPE as being more focused at the household and community levels of governance than the broader national governmental spheres. Historically, the role of governance systems has been to facilitate gendered differences in land ownership through the promotion of patriarchy (Nelson, 2012).

Governance systems of interest in land redistribution, access and ownership include municipalities, government departments and traditional or tribal authorities. According to

Harahap (2020), patriarchy persists in these systems as men dominate and control governance structures. This domination indirectly or directly leads to women's oppression by the groups in control of land and land management systems (Mnisi and Claassens, 2009; Kiye, 2015).

3.10 Summary

The present study uses the legal pluralism theory to explain the plurality of laws (customary and statutory law) and how it relates to the gendered differences in land access and ownership. There are views that pre-colonial customary law with its focus on communal rather than individual land ownership was severely altered with the dawn of colonialism which brought in colonial laws as part of new statutory law for colonies. In colonial times, customary law is seen as a gender oppression tool courtesy of its interaction with new statutory law regimes. The post-colonial era saw attempts by governments to restore land ownership equality through new statutory laws mostly under the support of constitutions that on paper insisted that women were equal to men in all respects including in the ownership of land. The general atmosphere in the literature is that this attempted reconciliation of cultural law and statutory law does have mostly been prescriptive rather than pragmatic. Thus engendered land differences are a widely notable reality in South Africa and most countries on the African continent. The feminist political ecology was also discussed in the chapter. The feminist political ecology theory discusses women's challenge in accessing land as well as the domination of men in governance. The theory believes that the lack of access to the land among women is a contributory factor in gendered poverty. The next chapter discusses the Nkomazi Local Municipality as the study's setting.

CHAPTER FOUR

PHYSICAL SETTING OF THE STUDY

4.1 Introduction

In the previous chapter, legal pluralism and feminist political ecology theories were discussed in an attempt to explain gendered differences in the Nkomazi Municipality. The present chapter seeks to describe the study setting. It starts with a pre-1994 history of Mpumalanga through a detailed discussion of the former homelands (Gazankulu, Kwandebele and part of Lebowa and Bophuthatswana as well as the KaNgwane). The chapter goes further to discuss the Mpumalanga province in the post-1994. The last section of the chapter is narrowed to the physical and socio-demographic setting of Nkomazi Local Municipality where the study was conducted. It is evident that all the homeland, the process and practices of land distribution was the same. Traditional leaders were the main custodian of the land distribution. There were no proper or a well-documented procedure which show how the land should be equally distributed. However, there were loopholes in the practices and process of land allocation since it mostly benefited males than females. Moreover, the women lack capacity among black women is also revealed.

4.2 Location of the study area

The area of study is Nkomazi Municipality which is located in the Mpumalanga province of South Africa. The National Party's 1948 electoral victory ushered the apartheid era which brought with it the concept of homelands also known as bantustans. According to King (2007), the Self-government Act (Act No.46 of 1959) promoted the separation of the groups like Nguni (Swazi, Zulu, Ndebele, and Xhosa) Sotho (Northern Sothos (Bapedi), Southern Sothos (Bashoeshoe and Batswana), Shangaan-Tsonga, Venda, Indians and Coloureds. As recalled by Munzhelele (2015), the pre-1994 Mpumalanga province had five homelands namely Gazankulu, KwaNdebele, Lebowa and Bophuthatswana as well as the KaNgwane.. In the bantustans, the practices and process of land allocation was determined by the traditional authorities in each homeland. However, the system of land allocation benefitted one gender (males). The challenges faced by women was also recognised by the Rural Women's Movement (RWM) in June 1991. The RWM drafted a constitution in a process facilitated by TRAC. The RWM was mostly concern about the rights of women and to ensure that women get equal share of the land.

4.2.1 Gazankulu homeland

The name Gazankulu comes from Machangana/Vatsonga' s history. The rise of the Gaza empire was led by one of Shaka Zulu's warriors named Soshangana. The Machangana or Vatsonga originated from Mozambique in a place called Gaza eventually moving to the North-Eastern and Eastern Transvaal (Ngomani, 1989). In February 1973, Gazankulu become a self-governing territory in the Republic of South Africa holding its elections on the 17th of October 1973. It had a legislative assembly based on the then South African parliamentary laws (Ngomani, 1989). Gazankulu was amongst the smallest homelands in South Africa covering an area estimated to be 674 564 ha in size. The territory comprised four regions located in the East-Northern part of Northern Province (Mashabane, Wessels and Potgieter, 2001). Gazankulu was dominated by the Vatsonga who spoke Xitsonga or Shangaan. In this homeland, 19% of the population lived in poorly infrastructured rural areas that also lacked basic services. Most people depended on agriculture particularly crop and livestock production for the generation of their livelihood while others resorted to working in urban centres (Mashabane, Wessels and Potgieter, 2001). Gazankulu is estimated to have had only 20 000 ha of arable land (Mashabane, Wessels and Potgieter, 2001). However, the area did not have enough water to support much of the agricultural activities that took place in the territory (Ngomani, 1989). The process of land allocation was given the traditional authorities of the Vatsonga. Although there was not a well-documented procedure of how the land should be allocated but the number of people who benefitted were males is compared with women. In most cases the practice of the land was to inherit, the practices need a permission of the allocators to decide if the land is given to the male or female. The land normally allocated to the male child after the death of the father (Mashabane, Wessels and Potgieter, 2001).

4.2.2 KwaNdebele homeland

KwaNdebele is one of the South African former homelands that was located in the now north-eastern Pretoria between Groblersdal and Bronkhorstpruit (Zenker, 2015). This was the tenth and the last Bantustan under the apartheid government (Mahlangu, 2016). The plan for the creation of the KwaNdebele homeland was released by the apartheid government in 1972 (Zenker, 2015). As a result, the Ndebele regional authority was created and the Ndebele Territorial Authority was installed in 1977. In 1981, the Kwa-Ndebele homeland got a right to self-govern the state based on the Bantu Homelands Constitution Act (Act 21 of 1971). This homeland included an expanding collection of state-owned agricultural activities (Zenker, 2015). Kwa-Ndebele just like the Vatsonga, the Amakhosi were responsible for land allocation.

However, the system didn't encourage women to be the owners of the land. Not having access to the land for the generation of livelihood made the life difficult for women. Moreover, black rural women were not capacitated since education was very scarce and it was not affordable. As a result, the Ndebele people would sell their cows and send a male child to school and leave the girl child at home

4.2.3 Lebowa homeland

The Lebowa homeland was located in the then Northern Transvaal (Donaldson, 2012). The Lebowa territory covered an estimated 2,2 million ha that carried a population of approximately 1 745 300 people (Phaladi, 2008). Lebowa was initially and traditionally a home of the North Sotho, Sepedi, and North Ndebele group (Donaldson, 2012). In the 1980s, these different cultural group represented 89% of the Lebowa population. The majority of the population in this former homelands primarily depended on agriculture for the generation of their livelihood (Phaladi, 2008). The economic challenges faced by the homeland led to a situation where males migrate to urban areas looking for better opportunities (Phaladi, 2008). Just like the Vatsonga and the Ndebele homelands, in the Lebowa homeland, the land was equally controlled or administered by the traditional authorities. Although the homelands may not have had a proper approach but the allocation of land was based on those who are connected to the elites. In terms of gender, women were less recognised unless if connected with the elites in the community. During the existence of the homelands, the number of women who attend school was very low in the Lebowa homeland.

4.2.4 Bophuthatswana homeland

Bophuthatswana was established in 1961 as a homeland for the Tswana speaking people and it was administered by the Tswana Territorial Authority (Karodia, 2007). It was given self-rule in 1971 as a result, elections were held the following year (Karodia, 2007). Bophuthatswana got independence from the Republic of South Africa on the 6th of December 1977 (Karodia, 2007). It was the second homeland to be declared independent by the South African apartheid government after Transkei (Karodia, 2007). However, just like the other homelands, the independent of Bophuthatswana was not recognised by other countries except South Africa.

On the 27th of April 1994, the homeland was reintegrated into South Africa (Manson and Mbenga, 2012). Originally, Bophuthatswana occupied the central plateau of the South African region (Manson and Mbenga, 2012). In 1985, the population of Bophuthatswana was estimated to be 3.2 million. Moreover, the territory of this homeland was distributed between different

South African provinces like Free State, Gauteng and North West. In 1994, when South African was going for its first democratic elections, the president of Bophuthatswana (Lucus Mangope) refused to reintegrate into the new South Africa (Manson and Mbenga, 2012). However, on the 12th March 1994, Lucas Mangope was removed as the president of Bophuthatswana by the South African government. Bophuthatswana stopped to exist and became part of South Africa (Manson and Mbenga, 2012).

4.2.5 KaNgwane homeland

KaNgwane was a Swazi territorial authority that was established in 1975 by the apartheid government (Ally, 2011). It was known to be the second smallest homeland in South Africa (King, 2007). The apartheid government gave KaNgwane self-rule in 1981. The majority of its population were Swazi-speaking people. The homeland covered areas around the former Transvaal, bordering the Kingdom of Eswatini on the south as well as Mozambique on the east (Ally, 2011). It was bordered by Lebowa and Gazankulu on the North (King, 2007). The apartheid government made several attempts to integrate KaNgwane into Eswatini to weaken the ANC since it received a lot of support from the homeland (King, 2007). In 1982, the territorial homeland was suspended when King Sobhuza (from the Kingdom of Eswatini) refused to integrate it into the Kingdom of Eswatini (Ndlovu, 2018). King Sobhuza believed that the people from KaNgwane could turn hostile towards the monarchy in the kingdom. The administration of this homeland did not have any archival legislation because of its defiance to the apartheid system (Ndlovu, 2018). The Chief Minister of the KaNgwane homeland was Mr, Enos Mabuza. The population of KaNgwane was estimated to be one million (King, 2007).

In April 1994, the KaNgwane's administration was dissolved with the coming of the interim constitution (Ally, 2011). As a result, the KaNgwane administration became part of the Mpumalanga province. In 1985, the KaNgwane homeland had an estimated GDP per capita of R1 620. Its economy was strongly agro-based with citizens relying on crop and livestock farming for income and employment. Many development institutions were active during that period (King, 2007). These included the KaNgwane Economic Development Corporation, the KaNgwane Agricultural Corporation as well as the Board of Nature Conservation (King, 2007). These institutions supported the development of rural people. However, livelihoods were in a traditional, gendered and non-industrialised form (King, 2007).

4.3 Post-1994 Mpumalanga province

The word Mpumalanga means “the place of the rising sun”. Mpumalanga covers a total area of 84 598 square kilometres with Mbombela, its capital city situated approximately 450 km east of Johannesburg (Mabuza, 2014). Mpumalanga is one of the South African provinces with large commercial agricultural activity (Mabuza, 2014). It is estimated to have 38700 ha of land which is under irrigation (Mabuza, 2014). The province has 42 % of South Africa’s high potential land as well as 16 % of the country’s medium potential land (Mabuza, 2014). It is estimated that 68% of the province’s land is utilised for agriculture (Munzhelele, 2015). The arable land in the province was not utilised until 1989 (Van-Deventer, 2000). The province focuses more on mining activities and is considered the largest producer of coal in the country contributing to 80% of national coal output (Munzhelele, 2015). Moreover, it has three major Eskom power stations that supply electricity.

There are three agro-ecological zones in the province and these are the Highveld, Midveld and Lowveld (Paterson, 2012). The Highveld produces a lot of grains like sorghum and maize especially in the summer season (Paterson, 2012). The mining activities mostly take place in the Highveld while the Lowveld focuses more on agriculture (Munzhelele, 2015). In the Lowveld, it is mostly warm and dry in summer and cool in winter (Paterson, 2012). The province has three district municipalities namely the Gert Sibande, Nkangala and Ehlanzeni district municipalities and among them 19 local municipalities (Munzhelele, 2015).

Pre-1994, the land administration was a duty of the traditional authorities. The Amakhosi were responsible for allocation for land for business (like farming) for living. As argues above, the system didn’t benefit women, there were very few land what was only owned by men. During that period women were not well equipped to understand the land related issues. As much as the women were dominated by men but the black men were also dominated by white men. Although the traditional authorities will interact with the apartheid government but it cannot be denied that it was not easy for them to reach an agreement as a result some areas were taken by force. Post -1994, the practices and process of manifest through when the democratic government took initiative to abolish the homeland and introduce three pillars of land reform (Land redistribution, restitution and tenure) this has been discussed more in chapter two. Although the outcome of the pillars of land reform has been negative as it was noticed in all part of South Africa. As has been argued in chapter two of this study that the failure to distribute 40 percent of the land by 2014 in the whole country was because of using a market led model

(willing buyer willing seller). The following section focuses on the Ehlanzeni District Municipality.

4.4 Ehlanzeni District Municipality

An estimated 1 688 609 people lived in the Ehlanzeni District municipality in 2011 (Makwakwa, 2017). The table below (Table 2) shows the population distribution across the five municipalities in the district (Mubecua, 2017). The Mbombela Municipality has the largest population of 588 794 people followed by Bushbuckridge with 541 241, Nkomazi - 393 030, Thaba Chweu - 98 387 and lastly, the Umjindi Municipality with 67 157 people (Makwakwa, 2017).

Table 4.1: Ehlanzeni District Demographic Profile

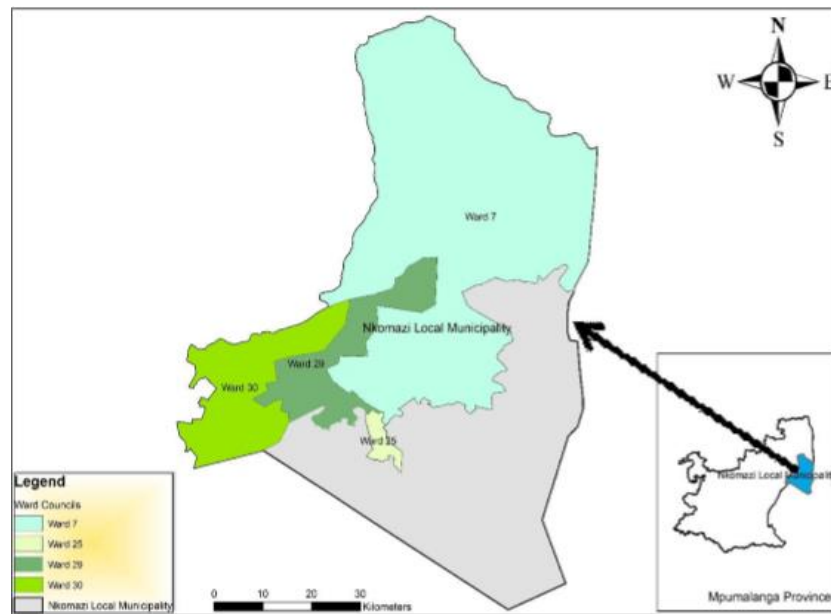
Name	Population	%	Households	%
Mbombela	588 794	35	161 773	36
Bushbuckridge	541 248	32	134 197	30
Nkomazi	393 030	23	96 202	22
Thaba Chweu	98 387	5.8	33 352	7.5
Umjindi	61 156	4.1	19 563	5

Source: (Mubecua, 2017).

4.5 Nkomazi Local Municipality

The Nkomazi Municipality is positioned in the eastern part of the Ehlanzeni District Municipality. The municipality is estimated to be 3240.42 square kilometres in size (Adeola, *et al.*, 2017). The headquarters of the municipality are located in Malelane along the N4 national road, 65 km East of Nelspruit. Malelane is about 70 km South of Komatipoort. Figure 1.2 below shows the location of Nkomazi in relation to the Ehlanzeni District Municipality.

Figure 4.2 Nkomazi Local Municipality map



Source: Mubecua, (2017)

The map below further shows the position of Nkomazi on the South African landscape.

Figure 4.3 Nkomazi Local Municipality geographical position in South Africa



Source: Municipal Demarcation Board (2018)

As shown above, the Nkomazi Municipality is situated in the middle of the route between the northern parts of eSwatini and the eastern parts of Mozambique (Gininda, Antwi and Oladele, 2014). It is connected to the kingdom of eSwatini through two provincial roads. The municipality is also interconnected with Mozambique via a railway line (Gininda et al., 2014) and by the national road (N4) that forms part of the Maputo Corridor (Gininda et al., 2014). In the North, the municipality is bound by the Kruger National Park. There are 33 municipal wards within the municipality. The Nkomazi Local Municipality has eight traditional authorities: Mawewe; Matsamo; Mlambo; Hhoyi; Siboshwa; Kwa-Lugedlane; Mhlaba and the Lomshiyo Tribal Authority (Mashele, 2013).

4.5.1 Population and gender

In the 2001 national census, the municipality's population was estimated to be 334 668 increasing to 390 610 in the 2011 national census (Nkomazi Local Municipality, 2018). In 2016, the Nkomazi population was estimated at 410 907 (Nkomazi Local Municipality, 2018). The Municipal Demarcation Board (2018) considers the Nkomazi Local Municipality to be a densely populated area with an estimated 4887 persons per square kilometre compared to the category B4 municipality average of 3481 persons per square metre. In this population, 25.7% of the people have no formal schooling compared to 19.4% in other category B4 municipalities (MDB, 2018).

In Nkomazi, there is a higher concentration of females than males with 92.4 males for every 100 females (Nkomazi Local Municipality, 2020). As of 2016, 43.7% of households in Nkomazi were female-headed (Nkomazi Local Municipality, 2020). Out of 65 elected councillors, 52.3% were female and the remaining 47.7% were male. Women constituted 15.2% of the municipal workforce (MDB, 2018). The Nkomazi Local Municipality had a larger representation of women in municipal councils than other category B4 municipalities (MDB, 2018).

4.5.2 Employment/unemployment

A growing population versus a slow economy has resulted in high unemployment levels in Nkomazi. The socio-demographic groups most exposed to unemployment are the youth and women at the age of 15-35 (Nkomazi Local Municipality, 2018). According to the Municipal Demarcation Board, as of 2018, Nkomazi had an above-national average annual unemployment rate of 34.2%. This was however lower than the category B4 municipality average of 32.1%

(MDB, 2018). In the municipality, 39.3% of those employed worked in the agricultural sector while 15.6% in community services. In the municipality, the major economic activities are community services, agriculture, and trade. These industries play an important role in attempting to decrease unemployment (Neille, 2013; Nkomazi Local Municipality, 2017).

4.5.3 Income, poverty and inequality

The Municipal Demarcation Board (2018) describes Nkomazi as a municipality that has a very unequal society in terms of income. In 2018 it had a Gini coefficient of 0.62 indicating the existence of high-income inequalities. This was marginally different from the national Gini coefficient of 0.63 (MBD, 2018) suggesting that inequalities experienced in South Africa were well-represented in the Nkomazi society.

In Nkomazi, 42.8% of the households had an average annual income between R1 and R19 000 while 16.9% of the households were classified as having no income at all. In the same municipality, 34.8% earned between R19 000 and R153 000 while 5.6% had an average annual household income above R614 000 (MDB, 2018). This suggests a municipality with a significantly high proportion of low-income earners. A dependency ratio of 66.4% in the same municipality suggests that the few income earners are heavily burdened by dependents. The Nkomazi Local Municipality also admits to the existence of abject poverty which even the current social welfare systems were failing to curtail (Nkomazi Local Municipality, 2020). It also mentions that poverty was most felt by women and unemployed youths.

As part of plans to reduce general gender inequality, the Nkomazi Local Municipality implemented a Gender Equity Plan in 2016. This mainly targeted increasing the number of women holding senior posts in the municipality (Nkomazi Local Municipality, 2020).

4.5.4 Land use and ownership

Of the estimated 3240.42 square kilometres of the land in the municipality (Adeola, *et al.*, 2017), 72.1% is natural land, 15.1% is used for farming, 4.6% is occupied by buildings and other infrastructure, 2.3% is used by commercial plantations and 2. % is occupied by water bodies (MDB, 2018). As of 2018, 556 land claims had been received for dispossessions that occurred in Nkomazi after 1913 (MDB, 2018).

In its Draft Integrated Development Plan (2017-2021) the Nkomazi Local Municipality cites several land-related challenges. These include shortages of developmental and housing land.

In the same report, the municipality indicated that it plans to purchase land on a willing-buyer, willing-seller basis to facilitate development. Farming land was also reported to be in short supply and this had negatively affected the municipality's agro-based local economic development programmes (LED), that dependent on land availability. The municipality also discussed the challenges of informal communities associated with the traditional leaders' distribution of land in urban peripheries outside the municipality's spatial land-use plans (Nkomazi, 2020). The municipality admits that most of these land challenges are associated with the status of traditional leaders as custodians and authorities behind most land (Nkomazi Local Municipality, 2020). The same IDP however does not discuss gendered land differences as a major challenge albeit it admits that women felt the consequences of most challenges in communities more sharply than men.

4.5.5 Traditional authorities

The traditional authorities in the Nkomazi Local Municipality are located in the southern section of the municipal area. Also, the municipality has some urban centres like Malelane, Hectorspruit, KaMaqhekeza, Tonga, Komatipoort, and KaMhlushwa (Mashele, 2013). According to the Municipal Demarcation Board (2018), all wards in the Nkomazi Local Municipality existed in traditional authorities' areas but only 28.8% were under the effective control of these authorities. This coincides with 29.5% of wards that were previously parts of former homelands. Traditional authorities were therefore mainly a phenomenon associated with the former homelands in the municipality.

The municipality strikes one as a locality that has undergone a lot of political, legal structural changes from colonial times to the apartheid and homeland eras and the current plural administrative system under the municipal and traditional authorities. In the municipality, local poverty, high population density, higher female to male ratio, high unemployment and an agro-centric economy point at the critical importance of land as a source of livelihood. In the chapter it has been discussed that there is a simultaneous operation of two different laws (Customary and Statutory law) that govern the land in the Nkomazi Local Municipality. For instance, in traditional councils, the land is controlled by customary laws, which prohibit women to own land. This is different with the statutory law, allow women to inherit, control and own land. It was further revealed in chapter one that the rights of women and customary laws are in most cases opposing each other (Mnisi and Claassens, 2009). In the presence of the bylaws in

Nkomazi, the land is likewise controlled by eight traditional authorities like Mawewe; Matsamo; Mlambo; Hhoyi; Siboshwa; Kwa-Lugedlane; Mhlaba and the Lomshiyo Tribal Authority (Mashele, 2013). Except that, agriculture is the most dominating strategy for economic growth and the generation of livelihood in the municipality (James and Woodhouse, 2017). According to Saidi (2015), not having access to the land is the major factor that contributes to gendered poverty. Now the question is, how do women survive in an economy that is mainly agricultural-based since there are customary laws which limit them to inherit, own and control the land? Moreover, women are poorer than men in the municipality (Nkomazi Local Municipality, 2018). It is on the above background that the present study intends to explore how gendered differences in land ownership affect the lives of Black rural women in Nkomazi.

4.6 Summary

Before 1994, the Mpumalanga province had five former homelands namely Gazankulu, KwaNdebele, Lebowa and Bophuthatswana as well as the KaNgwane. After 1994, the homelands were dissolved to become part of the Mpumalanga province because the traditional leaders as the main custodian was unable to fairly allocate the land as a result women left without land. Moreover, the traditional authorities failed to capacitate black women. There are three district municipalities in it (Gert Sibande, Nkangala and Ehlanzeni) in the province with 19 local municipalities. The Nkomazi Local Municipality is under the Ehlanzeni District Municipality. The Nkomazi Local Municipality is governed as a category B4 municipality and eight traditional authorities: Mawewe; Matsamo; Mlambo; Hhoyi; Siboshwa; Kwa-Lugedlane; Mhlaba and the Lomshiyo Tribal Authority. The municipality has an agro-based economy that has however failed to rein in high unemployment rates, increasing poverty and inequality. The next chapter discusses the research methodology that was used in the empirical study

CHAPTER FIVE

RESEARCH METHODOLOGY

5.1 Introduction

The previous chapter gave the contextual setting of the study. It discussed the pre and post-1994 Mpumalanga as well as the socio-economic and demographics of the Nkomazi Local Municipality. This chapter outlines and discusses the research methodology followed and provides a justification for selecting a qualitative research approach. Research methodology is that study of knowledge development processes in an inquiry (Hennik et al.,2020). A research methodology is guided by the research objectives and questions of the study (Babbie, 2016). The present section discusses the research philosophy, research approach, and design of the study. In summary, the chapter discusses the research philosophy by examining the ontological and epistemological aspects of the study alongside interpretive, positivist and critical theory paradigms. It further discusses the target population, sampling methods, research instruments, as well as data collection and analysis. The chapter goes further to discuss the validity and reliability equivalents of qualitative research and the limitations of the study. The last section of the chapter discusses the research ethics that were adhered to in carrying out the study. The section starts by discussing research philosophy.

5.3 Research philosophy

The present section discusses the research philosophy covering ontology and epistemology as they relate to common research approaches. Saunders et al. (2014:599) define research philosophy as an “Overarching term relating to the development of knowledge and the nature of that knowledge in relation to research.” The above definition implies that empirical knowledge is not acceptable if generated haphazardly and appropriate approaches are therefore needed in extracting acceptable forms of knowledge within a given discipline.

5.3.1 Ontology and Epistemology

Ontology and epistemology are two different strategies of viewing knowledge (Mayan, 2016). Firstly, ontology deals with the nature of reality (Hennink et al.,2020). It attempts to identify, define and classify what society takes to be real as opposed to what is taken as ideal. Generally, reality relates to an existing situation, object or event as observed and experienced by those concerned (Cresswell, 2014). Ontologists query whether all situations, objects and events

constitute a common reality or whether differences exist in the definition of what is real and what is not (Hennink, et al., 2020). In either case, the problem that comes is what standard can be used to define and study reality (Williams, 2016; Brinkmann, 2018). Ontology as a field of study has therefore been shaped by the need to identify, if not to standardise the classification of reality.

Ontology intersects with research interests in that research, among other things, is also viewed as a process of identifying reality. Unfortunately, researchers do not share the same definitions of what reality is or what is not (Williams, 2016; Brinkmann, 2018). These debates reflect the existence of different research paradigms some believing that reality is and should only be singular and objective while others believe it should be plural and subjective and so on (Saunders et al., 2014). One's ontological view is likely to shape one's research paradigm of choice (Hennink et al., 2020). For instance, those who believe that reality should only be objectives are most likely to rely on positivist approaches to research (Williams, 2016). Also, this belief that reality is shaped by individual diversities and is subjective is most likely to depend on more constructivist research paradigms (Brinkmann, 2018). These views will be further expanded in the discussions on interpretivism and positivism in a later section in this chapter.

On the other hand, epistemology deals with the nature of knowledge and the ways of knowing the social reality (Williams, 2016; Blaikie and Priest, 2017). Furthermore, Bryman (2016) shows that the researcher and investigated object are considered to be interconnected with the value of the researcher, as a result, this leads to a situation whereby the researcher is, directly and indirectly, influencing the inquiry (Creswell and Creswell, 2018). Hence, in the present study, the value of the researcher is mediated. The study aimed to explore gender equality in land ownership and its contributions to gendered poverty. The ontology of the study is that women in South Africa do not own land because of the simultaneous operation of two laws (customary and statutory law). Moreover, the lack of land in South Africa have a great influence on the poverty of women. In epistemology, feminist political ecology and pluralism theory helps to understand how the existence of customary and statutory land rights contribute to women's oppression and discrimination which eventually leads to gendered poverty.

5.4 Research paradigm

There are many research paradigm this include but not limited to positivism, constructivism and critical theory. The study uses critical theory to explain gender differences in land ownership and how it contributes to gendered land ownership poverty. Saunders et al. (2014:597) define a paradigm as a “way of examining a social phenomenon from which particular understandings of these phenomena can be gained and explanations attempted”. Research paradigms are important for the standardisation of research approaches acceptable in a given field of study (Blaikie and Priest, 2017). In Kumar’s (2014) view, research paradigms give a rationale why research processes in a particular discipline should be approached in a certain way, this rationale being a result of years of debate and practice among researchers. Thus critical analysis as a paradigm is considered appropriate for use in social research relating to gender and inequality.

5.4.1 Positivism and interpretivism

Two common and traditional research paradigms are the interpretive and the positivist philosophical views of research. These two paradigms are seen as diametrical to each other because of their sharp differences in the ontology, epistemology and methodology of research. Positivism is a paradigm developed over the centuries with the need to appeal to ontology and epistemology associated with the natural sciences. Positivists believe in the objective assessment and measurement of phenomena to arrive at a single reality (Blaikie and Priest, 2017). Strict research protocol must be observed in the data collection, measurement and analysis to scientifically and objectively arrive at this reality (Leavy, 2017). The ontology of positivism is therefore the existence of a unitary reality that answers research questions of interest (Bryman & Bell, 2015). The epistemology of positivism is that knowledge is scientifically acceptable if the processes used to generate it are systematic and scientific enough to generate objective results. Most scholars including Kumar (2014), Babbie (2016) and Creswell and Creswell (2018) take the methodology of positivism to be quantitative. Quantitative studies with their focus on large, representative samples and systematic data collection and analysis yield to the positivists' beliefs.

Interpretivism or the interpretive paradigm arose out of the conviction by some researchers that as social beings, human subjects' views, experiences and emotions cannot always be moulded to bring out a single objective truth (Leavy, 2017). Interpretive researchers classify human being as “social actors” and any research where human views and experiences are assessed as

social research (Blaikie & Priest, 2017). To understand social actors, whose diverse interactions, behaviours, backgrounds, experiences and beliefs vary per individual, more flexible research paradigms that accommodate this diversity were required and this is how interpretivism came about (Cresswell, 2014). From an ontological perspective, interpretivists believe that reality is pluralistic and dynamic (Saunders, et al., 2014). They hold the view that different social actors can experience different realities even on the same phenomenon (Blaikie and Priest, 2017). Epistemologically, knowledge generation is acceptable if it is flexible enough to capture this diversity (Saunders, et al., 2014).

Thus, the core beliefs of interpretivists are that there is no single truth or singly reality that can explain social phenomena; research output is subjective, based on the subjective nature of humans and research methodology must accommodate the highly variant human nature by being both flexible, less structured and natural (Blaikie and Priest, 2017). From a methodological view, interpretivists are aligned to qualitative research as it accommodates their flexibility, naturality and subjectivity concerns (Kumar, 2014; Bryman and Bell, 2015).

Attempts to reconcile the opposing views between positivism and interpretivism has yielded new and different schools of paradigms. Post-positivism is a paradigm that reconciles the ontology, epistemology and methodology between the two groups (Panhwar et al., 2017). Post-positivists believe that reality can be singular or plural, objective or subjective and can lie anywhere in between the extremes. They change the positivist notion that reality is objective to accommodate the interpretive and constructivist approaches on multiple and subjective realities (Panhwar et al., 2017). Pragmatism is another attempt to create a compromise between positivists and interpretivists. According to Kumar (2014), pragmatists believe that whether one adopts an interpretive of the positivist approach is dependent on the research objectives at hand. Under the pragmatist paradigm study can also take a mixed approach where both qualitative and quantitative methodologies are applied in a quest to get research answers to a phenomenon (Kumar, 2014).

The next section discusses critical theory which is the paradigm adopted for this study. As will be discussed, critical theory as a paradigm also accommodates both the interpretive and the positivist schools of thought.

5.4.2 Critical theory

The domination of positivistic and constructive strategy of viewing knowledge has led many researchers to search for newer and stronger paradigms that could shape studies on social injustices (Callaghan, 2016). Critical theory is one of the paradigms that came out of such attempts. According to Asghar (2013), critical theory attempts to liberate humanity from oppressive situations. Historically, the critical theory development is associated with leading theorists of Frankfurt School, Horkheimer, Adorno and Marcuse who attempted to use it to test Marxist views on socio-economic inequalities in liberal economic systems (Asghar, 2013). The paradigm is particularly concerned with the dispute of power relations within the community and communication of race, class, gender, education, economy, religion and other social institutions that contribute to a social system (Callaghan, 2016).

Several differences can be noted between traditional theory paradigms, specifically positivism and interpretivism. Critical theory stands against the traditional theory that confirms the status quo of socio-political and economic relationships and balances (Bowie, 2012). This is in contrast to positivism and interpretivism that simply identify the existence of a certain reality without any pressures to prescribe in any transformational action. Critical theorists are therefore seen as transformists seeking to actively bring about equality-related change (Bowie, 2012; Callaghan, 2016). The first groups of critical theorists were strongly tied to Marxist views of economic inequality as well as possible transformation avenues. With time, critical theorists concern actively widened to include issues relating to race, gender and ethnicity (Asghar, 2016). This gave to specific critical theories such as the critical race and the critical gender theories (Asghar, 2016).

This study relies on the critical theory paradigm in an attempt to explain the power of structures that cause gendered differentiation in land ownership in communities. This study argues that the cause of the gendered differences in land ownership is the existence of the patriarchal system. Unlike in an interpretive or a positivist paradigm, this study had an interest in advocating for gender equality in land access and ownership. This interest inspired a more transformative approach where the researcher identifies a problem, explain, describe and critique it with an already formulate view that underlying inequalities are behind the open and hidden manifestations of the problem (Asghar, 2013). To reiterate, the three features of a critical theory study are the identification of a social wrong (in this case gender inequality in land ownership), the explanation and description of it (associate it with patriarchy and legal

pluralism) and the critique of how the problem can be transformed. The study possessed all three characteristics as discussed by Asghar (2013) and Callaghan (2016) making critical analysis the most appropriate approach rather than interpretivism or positivism.

Critical theory is however not entirely detached from both interpretivism and positivism. Critical theory can take a positivist approach where the focus is placed on explaining social imbalances and finding transformative ways while relying on structured objective data. Asghar (2013) describes this as a critical realist approach. When an interpretive approach is adopted within a critical theory view, this is referred to as a critical humanist approach (Asghar, 2013). Most scholars associated critical theory with interpretivism where there is a view that reality is subjective and pluralistic and therefore demands flexible research methodologies (Saunders et al., 2014). This study leans on the interpretive-oriented critical theory that uses qualitative data to investigate and discuss the phenomenon of interest.

The critical theory dwells much on a dialogic way of gathering data, this philosophy also integrates observation and interviews to ensure conversation. Like in interpretive and constructivist studies, the researcher is directly involved in the data collection processes and is not an external, independent entity (Creswell and Creswell, 2018). This close interaction facilitates the opening up of research candidates enabling them to involve the researcher in their world (Kumar, 2014). It is for this reason that this study conducted interviews in Nkomazi to be able to get the intended data. Thus, the study is grounded in critical theory since the study aims to explore the critical issues of gender and land at Mpumalanga province in the Nkomazi Municipality using qualitative approach.

Research design and strategy

Different researchers define a research design differently. To some, a research design is simply the blueprint of how a study will be carried out from beginning to end (Leavy, 2017). Leavy (2017) therefore comes up with three designs – quantitative, qualitative and mixed research designs. For others, a research design is a guide to the type of inquiry that a researcher will take. Under this approach, Kumar (2014) identifies exploratory, explanatory, descriptive, experimental and quasi-experimental research designs. Saunders et al. (2014) equate research design with research purpose and identify four main purposes: exploratory, explanatory, descriptive and mixed-purpose studies. This study takes Kumar (2014) approach also shared by Creswell and Creswell (2018) and defines this study as an explanatory research design.

An explanatory design focuses on sampling, data collection and analysis procedures that are meant to explain relationships between variables of interest (Kumar, 2014). Thus, in the end, the study is expected to advance explanations to the nature and status of phenomena of interest including their relationships with each other (Leavy, 2017). Saunders et al. (2014) note the explanatory studies can be carried out using both qualitative and quantitative approaches albeit in the past it was restricted to qualitative research. In qualitative research, the researcher focuses on understanding the phenomena in detail and from the research participants' perspectives with the hope of establishing concepts and theoretical views that explain them (the phenomena). It is a valuable design when investigating social matters that are best answered through understanding relationships between phenomena (Saunders et al. 2014). This applied to this study as it sought to understand the relationships and interactions of various phenomena (legal pluralism, patriarchy, culture) on one hand and gendered land ownership and gendered poverty on the other hand.

The study takes a phenomenological strategy. Phenomenology is a study of social phenomenon through the lived experiences of social actors. The phenomena of interest in the study are gendered land ownership and poverty as discussed from the Nkomazi Local Municipality's participants' perspective. Phenomenology fits well in critical theory because it investigates matters of interest from the point of view of groups that are exposed to inequalities by gender, race, income among others (Valge, 2016). It allows researchers to deeply get involved in research participants' daily experiences through interviews, observations, focus groups and other flexible interaction mechanisms (Beck, 2020; Saunders et al., 2014). This facilitates the critical theory agenda of giving a voice to such groups. Using phenomenology, it is possible to explore research phenomena and explain them well making them appeal to exploratory and explanatory research designs (Beck, 2020; Creswell and Creswell, 2018).

5.5 Research approach

In research, three approaches also referred to as methodologies and methods by some scholars stand out. These are qualitative, quantitative and mixed methods (Creswell and Creswell, 2018). The section discusses quantitative research with a focus on highlighting why this

approach was eventually considered less appropriate for the study. It discusses and motivates the use of qualitative approaches within the chosen critical theory paradigm.

5.5.1 Quantitative and mixed research

Before discussing qualitative research methodologies applied in the study, this section discusses the other two common methodological options – quantitative and mixed-method approaches. Quantitative approaches resonate with the positivist interests of extracting singular and objective realities in an attempt to answer research questions (Bryman and Bell, 2015). It uses numerical data to make conclusions on the phenomenon of study (Hair, et al., 2015). While qualitative data may be collected in a quantitative study, this is reduced to a numerical form through closing processes enabling the analysis of relationships and associations between variables of interest (Beaudry and Miller, 2016; Treiman, 2014; Verma and Abdel-Salam, 2019).

Quantitative studies have a set of core characteristics that distinguish them from other approaches. Firstly, quantitative studies make use of large samples that at best must be representative and randomly drawn (Saunders, et al., 2014; Treiman, 2014). This is necessary to facilitate the other characteristic of such studies – generalisability of research outcomes. Researchers can generalise what they find from a sample to a larger population (Verma & Abdel-Salam, 2019). Another aspect of quantitative research is its use of a standardised procedure that facilitates comparative analysis of cases (Kumar, 2014). Also in a quantitative research, the researcher is an impartial, uninvolved entity whose presence should not influence the outcomes of a study (Babbie, 2016). From a critical theory approach, this could be difficult considering that the researcher already believes that a study being undertaken is necessary for correcting an existing injustice. The researcher is therefore already involved and participates in a way s/he believes would advance the removal of the identified inequality or injustice.

Despite its supposedly rigorous and systematic approach, quantitative research has weaknesses in addressing the needs of certain types of studies. Firstly, when used in a social research context (research involving people as subjects), it often lacks the ability to grill deeper into one's sentiments and perceptions (Yin, 2014; Cresswell, 2014). With social research heavily relying on thought and emotion in relation to situations and experiences, quantitative research's treatment of subjects as uniform entities can result in overgeneralised research outcomes that fail to take account of individual uniqueness (Panhwar, et al., 2017). Secondly, a quantitative

approach's emphasis on researcher involvement clashes with the needs of participatory research designs as well as critical theory perspectives (Saunders, et al., 2014). These designs believe that oppressed or underrepresented groups of people's views and stories can only be heard if advocated for and represented by involved researchers. The researcher, therefore, becomes an involved agent of change and therefore a partial force in the study. Putting it in Griffiths (2009:4) words, it "adopts a stance of advocacy does not start from a position of neutrality, but rather is on behalf of a person or group, with the intention of doing justice". The critical theory aspect of this study therefore made quantitative research less appealing as it was envisaged as limiting the researcher's potential representation of an underrepresented group. Also, mixed research approaches were not selected for fear of compromising the advocacy-centred approach of the study. Mixed research methods are briefly discussed below.

Mixed research incorporates both quantitative and qualitative research in an attempt to answer research questions of interest to a study. There are various mixed research formations. It could be mixed in that some research questions will be answered through a qualitative approach and others quantitatively (Leavy, 2017; Creswell and Creswell, 2018). Also, the same questions could be answered by combining qualitative and quantitative approaches (Creswell, 2014). However, it is structured, a mixed research study combines the characteristics of both qualitative and quantitative approaches.

5.5.2 Qualitative research

As highlighted in the above sections, qualitative research is strongly aligned to subjective and pluralist ontologies that are also strongly related to interpretive views. Qualitative research is conducted if the study intends to collect more data from the target population through stories, thoughts as well as experience (Flick, 2018). For that reason, it is stated that the issue of gender inequalities concerning land ownership requires data relating to experiences, explanation, and thoughts, justifying the appropriateness of a qualitative study.

In terms of characteristics, qualitative research collects data from samples often using purposive and convenience sampling methods (Leavy, 2017). Researchers therefore purposefully select their research candidates making studies unrepresentative of the views of the population from which a sample is drawn. This feature of qualitative research resonates with the pluralist reality aspect described earlier (Babbie, 2016). Because human being as research candidates are unique and un-standardised, it is not seen as proper to conclude that

data from one individual can be inferred upon another (Creswell and Creswell, 2018). The second characteristic of qualitative research is the use of small samples (Babbie, 2016; Leavy, 2017). However, it is common for large volumes of data to be collected from such small groups (Babbie, 2016). The third feature of qualitative research is the researcher's involvement as a research participant rather than as an impartial external agent. The researcher's involvement is required to facilitate effective interaction that can make participants open up (Blaikie and Priest, 2017). The researcher does not have to subject all research participants to the same protocol but decides the best approach to use based on the quality of interaction they have with participants (Saunders, et al., 2014). The qualitative approach requires a greater commitment to the study problem as it often requires a lot of time to complete. In qualitative research, the researcher attends the participants in the place where they experience the required knowledge, referred to as the natural setting (Merriam and Grenier, 2019). In a qualitative research approach, data is commonly collected through interviews, observation, focus groups and open-ended questionnaires (Maxwell, 2018). Moreover, if the existing theories are not enough or do not explain what aimed to be explained in the study, that is where the study develops its own theories.

Because of the flexible approaches applied in qualitative research, the use of small samples, and focus on non-random sampling procedures, results from qualitative studies are not encouraged to generalise to a wider population and are at best seen as highlighting the phenomenon as it affects parties involved in the research (Kumar, 2014; Babbie, 2016; Creswell and Creswell, 2018). However, this should not be misconstrued to mean that qualitative research is of limited applicability and therefore value to society. The benefits derived from its flexible approach has helped to generate important theorems in the social research fields. Einbinder (2010) opines that qualitative research has gained widespread acceptability in public policy research. Its participant engagement strengths have helped in broadening an understanding of deep-seated social problems.

5.6 Logical reasoning approaches in the study

Research approaches can also be looked at from a logical reasoning perspective. In this regard, two common logical approaches are deductive and inductive reasoning (Bryman and Bell, 2015). With the deductive approach, researchers start with a theoretical or conceptual view and carry out the research process to test the applicability and validity of an underlying theory or

concept (Babbie, 2016; Beaudry and Miller, 2016). An inductive approach, on the other hand, does the opposite. It starts without any underlying concept or theory but develops one in an attempt to explain findings. Some scholars like Saunders et al. (2014) therefore describe the inductive approach as the theory-building approach and the deductive approach as theory-testing.

In general, qualitative research is associated with inductive reasoning and quantitative research with deductive reasoning (Bryman and Bell, 2015). Qualitative research is therefore done with the view of building foundations for theories rather than testing them (Babbie, 2016). Likewise, this study attempted to build a framework that could be used to address issues of gendered land ownership inequality and gendered poverty. In doing so, it visited two main theories – legal pluralism and feminist political ecology, not necessarily to test them but to assess how they could help to better the understanding of the phenomenon under study.

5.6 Population and sampling

It is important to identify the target population when conducting a scientific study. The target population is the group of people from whom the study intends to get the data from (Flick, 2018). The researcher retrieved the needed data from women, men, municipal officials as well as traditional leaders in the Nkomazi Local Municipality.

5.6.1 Sampling method

Sampling is the process of extracting a part of the population that takes part in a study (Leavy, 2017; Flick, 2018). There are several types of sampling but all of these can be classified under either random or non-random sampling. With random sampling, research participants or candidates are drawn in a manner that guarantees a scientific probability of participating in the study (Kumar, 2014). This probability can also be statistically or mathematically calculated. With non-random sampling, the probability of one being selected as a research participant is not systematic and therefore not statistically determinable. Non-random sampling is associated with qualitative research where there is no need to generalise findings (Kumar, 2014). However, many quantitative studies are also resorting to non-random sampling as a result of various difficulties in drawing a random sample (Saunders et al., 2014). These include the failure to define the population and research participant accessibility challenges (Saunders et al., 2014).

The study used purposive sampling. Purposive sampling is a non-probability sampling method that can be used in a special situation, more especially, if the study is conducted with a particular motive in mind (Creswell et al., 2017). Purposive sampling empowers the researcher to choose research candidates who can effectively contribute towards a better understanding of the research phenomenon. In this study, the researcher purposefully approached participants who were most likely to be willing to participate in the study as long as they were in the identified population groups. For that reason, the researcher was familiar with some participants (women, male and traditional leaders) and used such a relationship to build a purposive sample.

A major weakness of purposive sampling is that it is prone to bias as researchers can end up selecting participants who will tell them what they want to hear (Babbie, 2016). Some scholars, however, believe that this weakness is mostly associated with inexperienced researchers (Asghar, 2013). All the same, to ensure that research bias is minimised, the researcher needs to balance between ease of getting data and data quality (Creswell and Creswell, 2018). The researcher relied on his integrity to ensure that there were no biased interviewing or interview questions. Participants were not led to respond in any particular way and were encouraged to present their true views. The researcher also took a multi-stakeholder sample to ensure that he got the views from different stakeholders

5.6.2 Sample size

Another important aspect associated with sampling is the determination of a sample size that is acceptable and adequate for making research conclusions. In qualitative research, samples do not need to be very large albeit they need to be sufficient to inspire the confidence of research stakeholders (Leavy, 2017). In qualitative studies, sample size can be determined at a data saturation point – a point where subsequent data sources stop bringing in new information (Kumar, 2014). A researcher can either reach a data saturation point in the course of data analysis or depend on general views on sample sizes that are most likely to yield data saturation when using a specific data analysis technique (Braun and Clarke, 2013). This study used the second option that relies on previously set thresholds for data saturation when using thematic analysis as the main data analysis technique. For instance, several researchers including Braun and Clarke (2013) and Fugard and Potts (2014) put a sample of 12 as large enough to facilitate a data analysis process that can effectively answer research questions using thematic analysis.

The researcher chose a targeted sample of 54 with the view that it would efficiently capture the sentiments of the six different stakeholder groups in the sample. For large population groups, (female farmers, non-farmers and male farmers) targets of 15 participants were selected with the view that a least 12 participants from each group will be selected and this would be enough to facilitate an understanding of the research phenomenon from each group's perspective. The table below summarises the total sample that was targeted for the study. As noted by

Table 5.1: Showing breakdown of individuals to be interviewed.

Categories	Number of participants
Female farmers	15
Non- farmers females	15
Males	15
Traditional leaders	3
Municipality officials	3
Department of Land Affairs	3
Total	54

Source: Authors own compilation

As shown above, the total number of women targeted (see table 1) was 30 and among the 30 women, 15 actively used land for farming and another 15 were not active land users. Fifteen (15) men, three traditional leaders and three municipal officials in the Nkomazi Local Municipality were also targeted as participants.

5.7 Data collection techniques

The study used both primary and secondary data. Documents such as the Integrated Development Plan (IDP) and Rural Development and Land Reform statistics formed the basis of the secondary data. These documents helped to understand whether or not there was gender equality in land ownership and how gender equality contributes to gendered poverty. Primary data was collected through semi-structured interviews with the sampled groups. Semi-structured interviews, as a data collection tool, consist of a schedule of guiding questions that a researcher determines before the interview (Beaudry and Miller, 2016). As the interview progresses, the researcher makes follow-ups and probes on the guiding questions enabling a research participant to open up and give detailed information and explanations (Cresswell,

2014). Semi-structured interviews were selected for the study because of their suitability for providing data under the chosen critical theory paradigm (Callaghan, 2016). Firstly, they result in increased personal interaction between the researcher and the participants thus facilitating a participatory and engaged research approach that resonates with the advocacy and transformative aspects of critical theory (Asghar, 2013). Secondly, they facilitate in-depth data collection that can also result in the revelation of critical, previously unknown views (Kumar, 2014; Leavy, 2018). It was because of these two main reasons that semi-structured interviews were used.

The interviews were administered to the targeted participants by the researcher. The prospective interviewees were identified through general enquiries. They were telephonically and physically approached with requests for them to participate in the study. While some agreed to partake in the interviews at the first point of contact, others preferred to make appointments for future dates. The researcher followed up on the appointments and conducted the interviews at the times and places convenient to the interviewees. The interviews lasted an average of 30 minutes each.

5.8 Data analysis

Data were analysed by using the ATLAS. ti software program for analysing qualitative data. ATLAS. ti. assists researchers to uncover and systematically analyse multifaceted phenomena hidden in unstructured data. Two forms of qualitative data analysis were performed. The minor one was qualitative descriptive data analysis. This was simply the description of some qualitative aspects of the data especially demographics. Qualitative descriptive data analysis is of relevance when dealing with structured data within a qualitative context as was the case with demographic data.

The major type of data analysis done was thematic analysis. Thematic analysis is the identification, classification and interpretation of data into themes that answer a given set of research questions (Vaismoradi, et al., 2013; Braun and Clarke, 2014). The crux of thematic analysis is the systematic organisation of data into classes that are referred to as themes and sub-themes (Braun, et al., 2014). The relationships between themes are holistically expected to provide an understanding of the research phenomenon of interest (Nowell, et al., 2017).

According to Braun et al. (2014), thematic analysis has six major stages. These are the familiarisation with the data, the initial coding process, grouping codes into groups, revisiting and reviewing codes and code groups, extraction of final themes and reporting. These steps were followed in the study.

In the analysis, three types of data coding were done as a way of extracting the themes and sub-themes as well as revealing relationships among and across these themes. Open coding is the first form of marking and labelling data of interest from the respondents' transcripts (Vaismoradi, et al., 2013; Nowell, et al., 2017). Open coding was done to mark all statements that had a perceived bearing on the study's research questions. After open coding, all the marked data were then regrouped into fewer, larger classes by the similarity of concerns addressed. The large groups were further reclassified and these yielded the study's theme. Thus data were grouped from code, sub-theme and finally to a theme. Axial coding is the process of connecting sub-themes and themes to reveal relationships across these (Braun and Clarke, 2014). Axial coding, which is mainly diagrammatic in nature was done to show how subthemes in a theme related to each other and in turn contributed towards the making of that theme. The themes were then reported with an emphasis on how each related to the study's research questions.

Thematic analysis was selected because of its various suitability factors and advantages to the study. Firstly, thematic analysis is effective in making sense of voluminous unstructured or semi-structured data. It does this by facilitating the grouping and classification of such data into fewer, related clusters that a researcher can draw meaning from (Vaismoradi, et al., 2013; Braun, et al., 2014). The data collected in the study was voluminous and semi-structured making thematic analysis very appealing to the research. Secondly, thematic analysis can facilitate and elevate the critical theory paradigm. According to Lawles and Chen (2019), critical thematic analysis combines a researcher's critical theory interests with thematic analysis. This malleability of the data analysis process also appealed to the study's need to ensure that the critical theory aspect shaped by gender comes out in the data analysis.

5.9 Reliability and validity

The concepts of reliability and validity are crucial in the determination of research, especially data analysis output quality in quantitative studies. In qualitative studies, the concepts have

been redefined to ensure they resonate with the flexible and less structured nature of studies (Braun & Clarke, 2014). Qualitative researchers use the concepts of credibility, confirmability, transferability and dependability as proxies for reliability and validity (Kumar, 2014). In quantitative studies, reliability relates to a research study's ability to yield consistent results assuming it is conducted again in the same setting (Leavy, 2017). Validity, on the other hand, relates to a study's tool degree of capability to measure the phenomenon they are intended to measure (Saunders et al., 2014; Leavy, 2017).

In qualitative studies and this particular research, dependability can be viewed as the reliability equivalent of a qualitative study. A study is considered dependable if it produces reliable outcomes if redone in the same environment (Kumar, 2014; Bryman and Bell, 2015). This takes into consideration the dynamic nature of social actors who may respond differently to the same study at different times (Bryman and Bell, 2015). In this study, dependability was enhanced by the use of acceptable methodologies in the study as well as the avid documentation of such methodologies to facilitate replicability with more or less similar results.

Transferability relates to the generalisability of findings in different settings (Kumar, 2014; Nowell, et al., 2017). The study was conducted without the need to generalise results to other contexts noting that this fit is a challenge to inflexible qualitative structures. However, given the rigorous methodological follow-ups, the results can be reliable to other contexts outside the studied one.

Confirmability relates to whether the research output can be confirmed as a full or partial representation of the reality in the study setting (Kumar, 2014). Confirmability can be established once the research output is published and the research candidates can assess its conclusions (Bryman and Bell, 2015; Kumar, 2014). Also, credibility is assumed if the results of the study are seen as plausible (Kumar, 2014). Before publication, the use of well-documented research processes and the inclusion of affected research groups as well as interested stakeholders, as was the case in the study, can increase the probability of getting confirmable results. In summary credibility, confirmability, dependability and transferability of findings was ensured through using rigorous, well-documented and well-motivated research methods. Also, a pilot test of the data collection tool and the semi-structured interview process was conducted to ensure that the results collected will be dependable and credible.

5.10 Challenges faced in the study

There were many challenges encountered more especially during data collection. However, the researcher did his best to minimise the effects of these limitations. Firstly, the study was conducted in a rural area (Nkomazi Local Municipality) where it was difficult to find the targeted population candidates who were willing to freely participate. Some expected some form of material benefit to accrue to them as a result of their participation, an idea that was against the study's ethics. Some participants, including government and municipal officials, were also not confident about discussing issues relating to traditional leadership structures and politics fearing that they might be reported to these offices. Government officers were doubtful to partake in the study because they could not get to trust the researcher as they thought that they were being spied on. Because the issue of land is generally a hot topic in the area, some government authorities were adamant to discuss it with the researcher as they could not get to trust the researcher's intentions. Irrespective of documentary proof from the University of Zululand some government officials believed that the researcher might be coming from certain political parties resulting in only one participant from this group agreeing to take part in the study. Lastly, even though the country moved to level one of the lockdowns, the targeted population felt unsafe to be interviewed by the researcher and this left out some respondents whose views could have been important to the study. The limitations that border of benefit and convenience issues were however expected although the level of political suspicion was higher than envisaged. This pointed to the sensitivity of gender-related land conflicts in the Nkomazi society.

5.11 Ethical consideration and safety issues

The study was conducted in full consideration of the fundamental research ethics, specifically informed consent, voluntary participation, confidentiality and protection from harm. These rights are discussed below. The protection of participant's rights in research is critical when dealing with communities considered vulnerable to abuse as a result of social, economic or political inequalities (Kruger et al., 2013). Such societies due to unbalanced power relations between researchers and participants can be exposed to research abuses that include coerced participation, deception, exposure to harm and undignified treatment. As noted in the previous chapter, poverty and illiteracy in the municipality under study are considerably high. Also, a high degree of patriarchy in traditional communities can leave women socially unempowered. Such vulnerabilities can be exploited by uncouth research systems (Kruger et al., 2013; Bryman and Bell, 2015). It was therefore important to ensure that the research participants were

empowered through fully informing them of their rights as well as conducting the study in line with the University's ethical guidelines on research.

5.10.1 Informed consent

There is a strong agreement among scholars that research that is involving human involvement has to be done with the informed consent of participants. Informed consent is crucial if the participants will be exposed to a considerable risk (Frankfort-Nachmias and Nachmias, 2007). The participant's right to informed consent is a commitment that is held by a researcher to let the participants know about all information that is relevant to the study (Mortari and Harcourt, 2012). Informed consent ensures that participants are not exposed to pains, emotional injury, invasion of privacy and physical pressure that participation in the study may deliberately bring without their knowledge (Frankfort-Nachmias and Nachmias, 2007). Fully informing research participants on the nature and purpose of the study also ensures that participants who are forbidden from participating in certain types of studies can refrain from them. For instance, some employees may not be allowed to take part in a study without the consent of their employers. By informing them of the nature of the study, they are able to decide if they are allowed to participate in it reducing any potential legal risks.

Informed consent was obtained through a discussion of the nature and purpose of the study with each participant and outlining before the interview. This was done in the research participant's language of choice. Thus, research participants were informed of the title of the research, the researcher's name and credentials, the uses and benefits of the study and the institution involved.

5.10.2 Voluntary participation

Researchers are expected to respect the research participants' autonomy. Research participants should take part in a study out of free will without any implicit or explicit fears of any consequences for not participating or not participating in a particular way (Saunders, et al., 2014; Mustajoki and Mustajoki, 2017). Participants should not be drawn to study by any rewards as this compromises their autonomy as social actors involved in a study (Bryman and Bell, 2015; Babbie, 2016). Generally, voluntary participation and informed consent are considered to be interdependent as one who has not been fully informed of a study's full nature cannot be assumed to have voluntarily participated in it (Cresswell, 2014; Bennouna, et al., 2017). Also, anyone who has not autonomously consented to a study cannot be considered a

volunteer. Voluntary participation is associated with three characteristics: uncoerced agreement, not being subjected to any penalty for non-participation and having the power to withdraw from the study if one chooses (Babbie, 2016; Leavy, 2017). The above characteristics are reinforced by providing all the necessary information that a research candidate would need to decide to voluntarily take part in a study.

To comply with the voluntary participation ethical aspect, research participants in this study were duly informed that their participation in the study should be by choice. They would not be directly or indirectly compensated or penalised as a result of participating or not participating in the study. Also, they were free to order the researcher to stop the research process if they felt uncomfortable about it or if they changed their minds about participating.

5.10.3 Confidentiality

The right to confidentiality is viewed as a fundamental right that the researcher must protect (Babbie, 2016). In social research, participants must be given the guarantee that the information that they provide for the study will remain confidential. This creates the certainty that the researcher will not publish personnel or sensitive information (Frankfort-Nachmias and Nachmias, 2007). Confidentiality includes avoiding exposing sensitive, private and personal issues that do not need to be shared in public (Kumar, 2014). During the data collection process, a researcher should plainly and accurately notify the research participants about the meaning and the limit of confidentiality (Frankfort-Nachmias and Nachmias, 2007). The right to confidentiality is also closely aligned with the right to anonymity. Anonymity refers to the non-disclosure of a research participant's identity to the public and unauthorised their-parties (Saunders et al., 2014). When research participants request to be anonymous, any information that may directly or indirectly link them to the study should never be disclosed (Mustajoki & Mustajoki, 2017).

5.10.4 Protection from harm

The researcher has an obligation to protect research candidates from physical and psychological harm that could stem directly from their participation in a study (Kumar, 2014; Bryman and Bell, 2015). The right to be protected from harm is closely related to informed consent and voluntary participation. Research participants should be advised of any possible

risks and potential harm that could befall them (Saunders et al., 2014). In this study risks of any form of harm were considered to be very low.

5.11 Summary

This chapter discussed the research philosophies, paradigms, methodologies and approaches that guided the study. The chapter presented a critical theory research paradigm to understand the gender differences in land ownership. A qualitative research approach is discussed to explain the experiences of women in land ownership. A research design that comprises the target population, sampling method, sampling size, data collection and data analysis is also discussed. The chapter goes further to discuss trustworthiness and reliability. The last section of the chapter discusses ethical consideration, which also covers confidentiality and informed consent.

CHAPTER SIX: RESULTS AND INTERPRETATION

6.1 Introduction

This chapter presents data analysis results from data collected from a multi-stakeholder sample that consisted of female and male farmers, traditional leaders, government authorities and non-farming females. This data was collected with the aim to understand gendered differences in land ownership in the Nkomazi Local Municipality in Mpumalanga, South Africa. The study had four research questions:

- What are the practices, processes and outcomes of the current land redistribution activities in the Nkomazi Local Municipality?
- What are the effects of the dual land law system on women's ownership and access to land in the Nkomazi Local Municipality?
- What factors affect women's land-use capacity and how do these relate to the gendered land ownership situation in the Nkomazi Local Municipality?
- What is the state of coordination and communication between traditional leaders and government officials on land redistribution matters?

Thematic analysis was used as the main data analysis method for answering the above research questions. Sample description data was analysed using descriptive qualitative analysis. The chapter starts with the presentation of results on the sample's characteristics and female and male farmer participants' profiles before presenting the themes emerging from the data analysis.

6.2 Sample description

The study's sample consisted of stakeholders directly involved and or affected by land ownership and access issues in the Nkomazi Local Municipality. In total, 47 participants took part in the interviews and these are shown in Table 6.1 below.

Table 6.0.1: Participating groups and participating group codes

Categories	Sample group code	Number of participants
Female farmers	FF	13
Non- farmers female	NFF	14
Males	MF	14
Traditional leaders	TL	3
Municipality officials	MO	2

Department of Land Affairs	LA	1
Total		47

Source: Author's compilation

The sample consisted of municipality officials from the Nkomazi Local Municipality (MO), officials from the Mpumalanga Agriculture, Rural Development, Land and Environmental Affairs (LA), female (FF) and male farmers (MF), female non-farmers (NFF) and traditional leaders (TL) from the municipality.

By gender, females were the most represented group with 27 participants belonging to the female-farmer and non-female farmer groups. This was in line with the critical theory perspective (Asgher, 2013) that the study took in an attempt to widely present the female view on gendered land ownership differences – with females being taken as the less emancipated group.

Another table below shows the land ownership details relating to the 13 female farmers who participated in this study.

Table 6.0.2: Profiles of female farmers interviewed

Participant	Land-use right	Type of farming	Years using land	Marital status	Male representative
FF1	PTO from traditional council (land previously belonged to father-in-law)	Subsistence	10	Widowed	Yes-late husband
FF2	PTO from traditional council (land previously husband's who passed on)	Subsistence	4	Widowed	Yes-father-in-law
FF3	PTO from traditional council (previously father's land, father had no son to inherit land)	Small-scale commercial	5	Not married	None
FF4	PTO from traditional council	Small-scale commercial	4	Not married	None
FF5	No PTO from traditional council - was part of a co-operatives	Small-scale commercial	5	Not married	None
FF6	PTO brother's land from the traditional council	Small-scale commercial	5	Not married	Brother
FF7	None	Small-scale commercial	2	Married	Husband
FF8	Land possession lost - PTO from traditional council revoked	Small-scale commercial	10	Married	Husband

FF9	PTO from traditional council	Small-scale commercial	5	Not married	None
FF10	PTO from traditional council	Small-scale commercial	1	Not married	Chief
FF11	PTO from traditional council	Small-scale commercial	5	status not revealed	Yes, not revealed
FF12	PTO from traditional council	Small-scale commercial	3	Divorced	None
FF13	None - husband has PTO	Small-scale commercial	10	Married	Husband

Source: Author's compilation

In the sample, most female farmers used land under the permission-to-occupy (PTO) mode. This means they were granted the authority to use the land without them owning it. FF5 and FF7 used the land without any permission to use it after failing to get PTO from the traditional council. From the table, PTO was needed even when a woman had to use land that was previously held by a family member as was the case with FF1, FF2, FF3 and FF6. PTOs among the female farmers varied from one year to ten years. In the sample, two female farmers were widowed, three were married, seven were not married and one did not disclose their marital status. Most female farmers interviewed had acquired PTO with the help of a male representative except for FF3, FF4, FF5 and FF9. Thus the women interviewed came from diverse social scenarios and had occupied the land they used for farming for different periods.

As mentioned, some male farmers participated in the study. Below are the profiles of these farmers by land use right, type of farming and years of current land use.

Table 6.3: Profiles of male farmers interviewed

Participant	Land-use right	Type of farming	Years using land
MF1	Full ownership -inherited	small scale commercial - sugar cane	23
MF2	Full ownership - Gov. resettlement	small scale commercial - tobacco and maize	15
MF3	Full ownership -inherited	commercial - sugar cane	10
MF4	Full ownership -inherited	small scale commercial	10
MF5	Owens land- status not revealed	not revealed	-

MF6	Full ownership -inherited	not revealed	30
MF7	Owens land- status not revealed	small scale commercial -sugar cane	12
MF8	Full ownership -inherited	not revealed	49
MF9	Full ownership -inherited	small scale commercial mixed farming	15
MF10	Full ownership - Gov. resettlement	not revealed	16

Source: Author's compilation

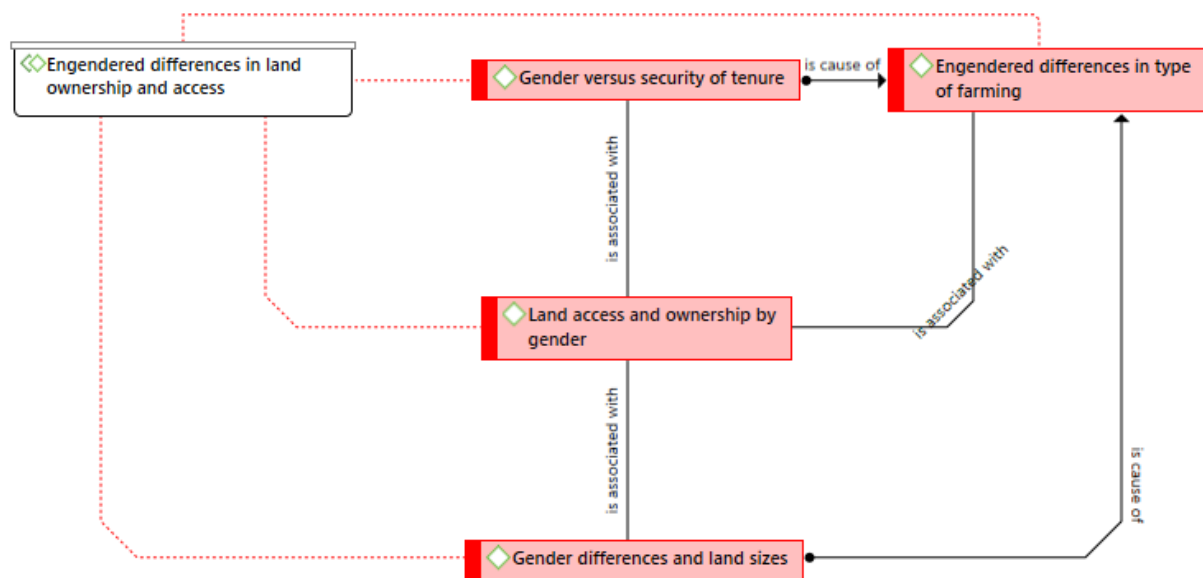
Amongst the interviewed male farmers, MF1, MF3, MF6, MF8 and MF9 had inherited land from their families and had generally owned his land for relatively long periods. For instance, MF6 and MF8 had owned the land for 30 and 49 years respectively while MF9 and MF1 had owned it for 16 and 23 years respectively. MF2 and MF10 had received land from the government land redistribution programme in 2004 and had held it for 15 and 16 years respectively. All male farmers who revealed their activities were small-scale commercial farmers.

Comparatively, the male farmers' sample was dominated by persons who had better land tenure security and had owned land for very long periods. Male-farmers had extensively benefitted from inherited land while two had received land from the government. The next section reveals the themes that emerged from the male farmers and the other sampled groups.

6.3 Theme 1: Gendered differences in land ownership and access

The first theme from the data examined the land access, ownership and use scenarios within the Nkomazi Local Municipality paying special attention to gender differences. It had five subthemes: Land access and ownership by gender; Gender versus security of tenure; Gender differences and land sizes and gendered differences in type of farming. Figure 6.1 below shows the connections between the subthemes under Theme 1.

Figure 6.1: Gendered differences in land ownership and access



Source: Author's compilation

As shown above, gendered differences in the security of tenure were associated with differences in farming type with less secure tenure mostly resulting in subsistence farming. Land size differences appeared to differ by gender also affecting the type of farming practised by male and female farmers. These subthemes are discussed further.

6.3.1 Land access and ownership by gender

Land ownership referred to the state of having land registered in one's name and being available for permanent use. Access referred to the temporary use of land for a determined or undetermined period without necessarily owning to this land. While the female farmers interviewed (Table 6.2) mostly accessed, rather than owned land, there was a belief that women in the municipality also owned the land while others simply accessed it:

The present days are no longer the same as the old days, where women were not allowed to access and own the land. Hence, some women use or own the land. MF6

Land access was granted by the traditional leaders to women usually with the involvement of a male relation. Land access generally meant that the traditional authority owned the land and could take it back anytime (permission to occupy). Women like FF2, FF4 and FF7 had access, rather than ownership to land:

Yes, I got access to the farm from the traditional leaders (Amakhosi) I requested my father-in-law to get the land on our behalf since it would be difficult for me alone to be granted the land. FF2

Yes, in 2015, we went to a chief who is responsible for the distribution of the land in this area to ask permission to farm, and I was fortunate to be granted this land for farming. FF4

Women also had access rather than ownership even in cases involving family land. This is exemplified by FF6's case. She was granted access rather than ownership to the land that belonged to her family:

Yes, I requested the land from my brother, but I had to first get permission from the Induna before I started to use it. FF6

This was also the case with a woman who "inherited" land from a husband. The mere permission to use this land from her husband was not sufficient and she needed further authority to use land already in her family's possession:

Yes, I do have ownership of this land. Back then this land was used by my late husband. However, in 2010, before I started farming, I was warned to get permission from the chief rather than getting into the farm without notifying them (Amakhosi). FF1

The above cases exhibit traditional leaders' excessive power over land including the ability to rule over decisions on family land. As a latent theme, traditional leaders are presented as a very powerful local force while female farmers and women are mostly perceived as a weak group. Landlessness and less favourable land-use terms among women could be viewed as part of this power spectrum with traditional leaders on one hand and women on the other.

To other members of society, there seemed to be little certainty on whether women owned land or simply had access to it like MF1 and MF5 below:

Yes, there are women whom I know who are farmers, though I am not sure whether they own it or they only have access to using the land. MF1

Yes, there are women who own land but am not sure if their farms are registered or not. MF5

There is even scepticism that women did own land in the community. In the sample also, some women seemed to take ownership and access as the same thing suggesting a lack of adequate information being passed on when they got the land. It was evident that most interviewees believed that very few women owned land compared to men. Women who practised farming, as perceived were more likely to have access to land without owning it, unlike men who owned mostly inherited land (Table 6.3).

6.3.2 Gender versus security of tenure

Security of tenure refers to the length of time that one will own or access land as well as the guarantees they have against evictions. In the interviews, the issue of security of tenure emerged from various different questions posed to the participants. One factor that threatened security of tenure was elitism discussed later in the chapter. Persons and groups related to customary leadership, as alleged, wielded power to forcefully evict women from land. This is despite a statement from one of the traditional leaders (TL3), that:

as Amakhosi we don't give tittle deed, but we make sure that there is a security of tenure. TL3

A female farmer insisted on the view that security of tenure, especially for women was very weak under customary land distribution processes:

Yes, the majority of women have access to the land to use but what challenges us is the security of tenure among us women. Security of tenure is important because the chief may provide you with the land that is given or owned by someone else and this creates a lot of problems on our farms. FF11

The customary system was seen as lacking in the capacity to properly manage land access and ownership records as it was prone to allocating the same piece of land to more than one person. An impression that women's tenure to land was comparatively unsafe and less secure emerged. Firstly, men were eligible to inherit land and inherited land generally had secure tenure even under customary law. This, therefore, put male farmers on a long-term ownership advantage that most women did not have.

In this community, the most dominating gender in land ownership is the male gender, you can count women who are interested or who own land... It is for that reason, few females inherit land or property. Even myself when I die my son has to inherit all my property. MF5

From the data also, women were left behind in the 2003/2004 land redistribution process that gave land with more secure tenure under title deeds and this further disadvantaged them compared to males. One female farmer, in response to land redistribution and restitution programmes, commented that:

I don't think is fine because most women have not yet benefitted through land redistribution and restitution. NFF8

The above events and scenarios created situations where women generally talked about land access rather than land ownership with the former not guaranteeing much in terms of security of tenure. Security of tenure is an important factor in agricultural productivity as it encourages long-term investments, supports uninterrupted productivity and also facilitates access to funding. Without it, female farmers were at the risk of operating underinvested, hence lower productivity farms than male farmers, a scenario that facilitates gendered poverty among women.

6.3.3 Gender differences and land sizes

This subtheme focused on perceptions of equality/inequality in land sizes owned and/or accessed by men and women in the Nkomazi Local Municipality. Some interviewees indicated that the sizes of land that men and women had access to was different. There was an impression that women generally owned smaller pieces of land in comparison to men. This was revealed in statements by MF2:

Yes, some women own land, although they don't own large pieces of land compare to men, and some women do farming to feed their families and not for commercial purposes. MF2

A traditional leader also confirmed that women had small pieces of land than man and this often constricted them to small-scale farming. A relationship between commercial farming and land size was therefore confirmed in the below extract:

On the other hand, men use the land for commercial farming, and most of the farms are larger than that of women. TL1

Interestingly, the leader went on to blame this on the effects of apartheid. Evidently, women and some men most blamed this state-of-affairs on the traditional leaders themselves:

And this is the challenge of apartheid inequalities, however, we are doing our best to address these challenges through the equal allocation of the land. TL1

Concerning land sizes, it also emerged that women were more likely to “own” a small family garden as all the land they are entitled to forcing them into subsistence farming:

Long-time ago there were very few women who were partaking in farming but now I know women who own land. These women are farming different things like maize meal. The majority of the women own a small garden just to feed families and sell the remaining in the market. MF8

The “small garden” view appears to have been reinforced by a previous government land redistribution exercise that had excluded women. It might have strengthened men’s views that women had lesser rights to land as supported by the following extract:

In the program, there were no women who benefited - only males. However, some women have a small garden to feed their families. MF10

One participant believed that women owned small pieces of land by preference. They also preferred to engage in fewer and restricted agricultural activities:

Yes, some women love farming, although most of them like crop farming you hardly, find a woman who deals with livestock farming. And the majority of women only prefer a small portion. Even if the women have enough or huge land, they prefer to use the small portion and leave the rest space vacant. MF9

None of the women expressed or shared this view. The view justifies the fact that some male farmers held misconception about women’s needs for land. Women were interested in owning land as large and as productive as males as expressed by almost all female farmers who participated in the study. The subtheme is important as it relates to subsistence farming among women to their limitations in accessing commercial-sized pieces of land like men. This limits

their farming capacity and also promotes gendered poverty. It also highlights gendered misconceptions among men that women were content with getting small pieces of land for subsistence farming.

6.3.4 Gendered differences in type of farming

Closely related to the above subtheme, there were associations between gender and type of farming in the Nkomazi Local Municipality. The community practised commercial farming and subsistence farming with corporate entities that shared the same land also practising large-scale commercial farming. Several women indicated that they practised subsistence farming due to land-related matters. One female who was not engaged in farming stated that:

In this area, most of us women farm to feed our families, not for business and this is because we don't have enough space for farming. I believe that if women can be given enough and secure places for commercial farming they can do better. NFF6

MF8 also asserted that women mostly practised subsistence farming and even among those who practised commercial farming, their land ownership status was uncertain:

The number of women who farm for consumption is many. There are few women who partake in commercial farming. Moreover, I am not sure if the women who partake in commercial farming are the real owners of the land or they used a leased land. MF8

In the same statement, MF8 puts leasing of land as an option available to women in commercial farming. Leasing land could discourage commercial farming because of the additional costs that women farmers will have to incur. MF8 further insisted that women did not easily get land for commercial farming purposes as the traditional leadership held a negative perception that women were not capable commercial farmers (a theme discussed later):

The Amakhosi are hardly providing land to women, more especially, commercial land. The Amakhosi are with the belief that a man should be involved in the farm, not women. MF8

On the contrary, FF6 insisted that women had an interest in commercial farming on both a small and large scale provided they had the land. The land redistribution system however restricted their access to commercial land and this also came with negative economic repercussions for families:

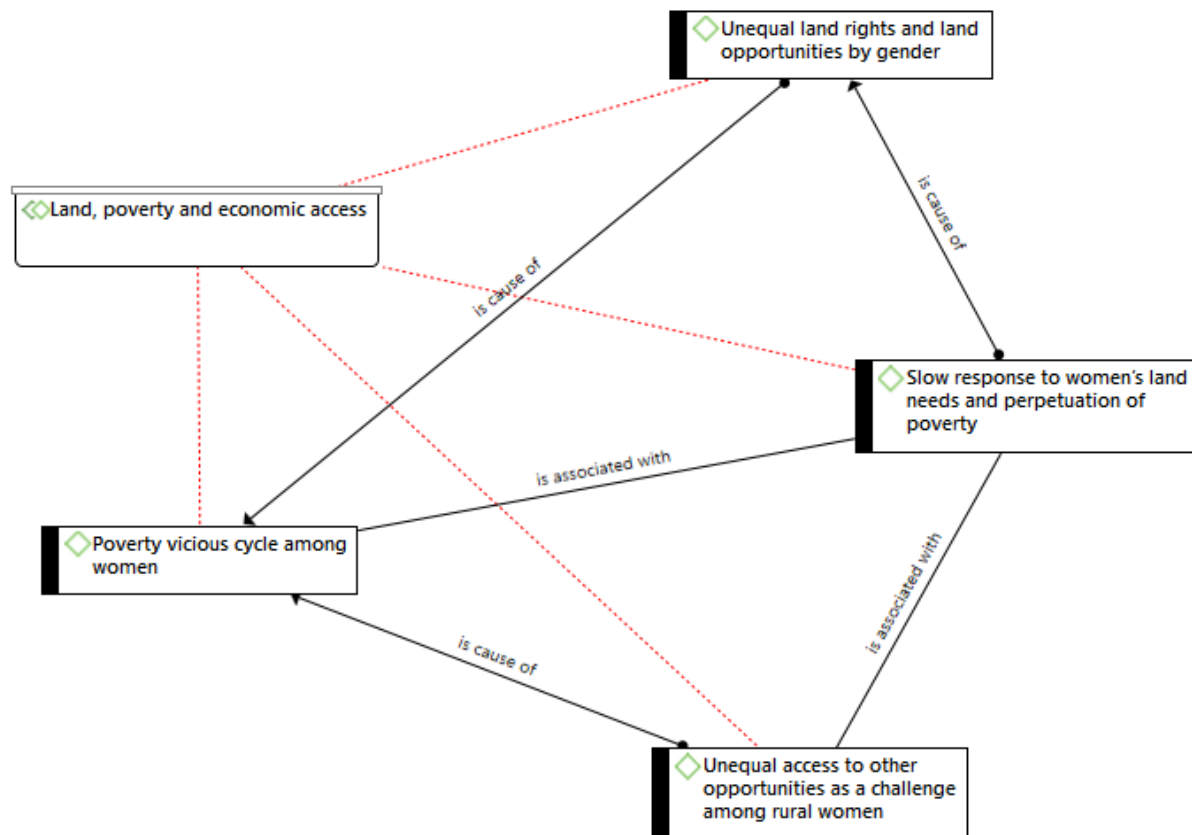
We as women in this area we like farming, whether small scale or commercial, hence, I believe that poor women who don't have access to the land may face challenges of generating their livelihood, and this mostly affects single parents or the husbands who are not working. FF6

The data thus show differences in perceptions of women's interest in commercial farming as well as their access to commercial land. The perceptions and experiences shared under Theme 1 show entrenched inequality and discrimination in land ownership and access between men and women. Such inequalities continue to exist under constitutional prerogatives that call for equality between men and women, including on land-related issues. The excessive powers that traditional authorities seem to exercise outside constitutional expectations are highlighted as a major contributory factor to the discussed inequality situations. The next theme discusses the socio-economic effects of this state-of-affairs on women in the Nkomazi Local Municipality.

6.3 Theme 2: Land, poverty and economic access

This theme connects unequal land access and ownership issues discussed under Theme 1 to broader economic and gendered poverty outcomes in the Nkomazi Local Municipality. It expands on how gendered differences in land ownership status, the security of tenure and land size affects the socio-economic status of the affected groups. As highlighted under Theme 1, land was described as an important source of income, wealth and livelihood. The interviewees revealed three major ways through which their society economically benefitted from the land. The first one was through commercial and subsistence farming. The second one was through leasing land to get rental income, with some of the land being leased to huge corporations like RCL. The third one was through building homesteads that physical structures that embodied wealth but also gave households decent living space.

Figure 6.1: Land, poverty and economic access



Source: Author's compilation

Theme 2 has four subthemes. These are Landlessness as a cause of gendered poverty; Gendered economic opportunities access - a cause for land demand; Poverty vicious cycle among women; Slow response to women's land needs and perpetuation of poverty. As shown in the above diagram generally, the poverty vicious cycle among women subtheme is associated with the slow response to women's land needs and unequal land rights themes as both contribute towards gendered poverty. The slow response to women's land needs is believed to be a cause of unequal land access and is also associated (without causing) with unequal access to other opportunities. Lack of opportunities elsewhere created pressure for land among women and perceptions of slower than expected response by land distribution authorities. These subthemes are presented below.

6.3.1 Landlessness as a cause of gendered poverty

Differences in land access, ownership and tenure were discussed as a factor that influenced gendered impoverishment in the Nkomazi Local Municipality. Without access and ownership

to land, women were more likely to succumb to poverty than men as both genders made a living from the land. This was explained by MO1 below:

We are all aware that land is very important for us to make living whether male or female, however, we don't ignore the point that women are mostly affected because they generate their livelihood through farming. Therefore, I say that not having access to the land may cause poverty among women. MO1

To women, the land was a critical factor of production without which it was difficult to sustain a decent lifestyle. Poverty was an immediate and direct result of a lack of land access as highlighted below:

Gendered poverty is also caused by depriving women of owning important resources like land. The worst part is that the people who mostly work the land here are women, hence, not having land may affect these women from making a living. MO2

If you don't have resources like land or property it is then become difficult for us women to generate, since "tsine bafati sincike kakhulu ekulimeni", meaning we women, rely a lot on farming for us to make a living. NFF4

The above extract shows a direct link between land, gender and poverty. MO2 shared a similar sentiment but added that since women had fewer economic opportunities, with the few available opportunities being on the land, landlessness affected them more than man.

6.3.2 Gendered economic opportunities access - a cause for land demand

The data revealed that women also relied more on land than men because of the general economic environment that favoured males with more economic opportunities both within and without Nkomazi Local Municipality. Compared to men, women had fewer economic opportunities. This tended to push some of them towards farming, not as a primary career option but as the only way out as highlighted by NFF11 below:

Absolutely yes, most of us women who are not educated use the land for farming to generate our livelihood. I am saying this because even I grow up in a home where farming was the only option we had for us to survive. NFF11

Female unemployment was comparatively high in the community and this tended to push some women towards land-based activities as stated the below-quoted participants who did not have any land to farm on:

Even now a high number of women are unemployed and they are restricted to benefit from the land ownership program. NFF13

Yes, the lack of land can make women poor because there are no job opportunities now, enhance, most of us rely on farming to survive. NFF3

Yes, most of us women are poor because of not having land to make a living and support our children. And it is worse for us because we cannot go to Gauteng province for better opportunities as men do. NFF7

Having been excluded elsewhere some women found economic opportunities on the land and unfortunately they were also being deprived of land. Men, on the other hand, had better economic opportunities and prospects and therefore relied less on land. The results, therefore, show that there are two facets of land and economic opportunities. The first one related to women's willingness to work on the land for the generation of income and livelihoods. The second related to situations where women were forced to work on the land because gender inequality availed them with comparatively fewer opportunities than men. In both circumstances, they lost out because they did not have adequate access to land.

Thus the generality of women in the sample including NFF1, NNF2, NFF8, NFF9 and NFF10 strongly shared similar sentiments on land and gendered poverty. NFF6 however believed that women did not necessarily need to work on the land citing the existence of many other opportunities that women could pursue outside farming:

There are many ways to survive in this area, like for myself am selling clothes, hence, I am saying women cannot be poor because of not having access to the land. there are many things that women can do to generate income. NFF6

NFF6's views appeal more to women who were forced into farming because they could not find any other opportunities through which they could generate livelihoods. It appeals less to other women who took farming as a career of choice and for which they needed land.

6.3.3 Poverty vicious cycle among women

Poverty added another form of discrimination against women in the Nkomazi Local Municipality. In addition to being discriminated by gender in the allocation of land, poorer women faced another form of segregation based on their economic status. Women of low economic standing had slimmer chances of getting land in comparison to women of “better” socio-economic status. The traditional system was more likely to oppress the former than the latter as highlighted in the statement below:

I am not trying to paint a bad picture of our leaders (Amakhosi) but their operational approach has never been favourable to poor women. MF3

The cost of registering land also appears prohibitive to poor women. TL3 stated that R5000 was required for anyone to access land for commercial farming. A financial burden is therefore added to the already disadvantaged land ownership position of women:

For those who want the land to start the farming or commercial business an amount estimated to R5000. 00 is required for citizens to have full ownership of the land. TL3

From the interviews, traditional leaders seemed to trample on poor women’s land rights because this group was less emancipated to fight for its constitutionally enshrined rights. By some interviewees, customary law authorities were abusing their powers by taking advantage of lowly-emancipated women hence women needed to be equipped with knowledge about their rights to own land.

Poverty also affected women’s ability to afford training and self-education in order to enhance their farming capabilities as stated by NFF12:

There was no training provided to me, in order for me to be trained, I must have money to do a short course. NFF12

In an environment where farming capacity was being used as one of the yardsticks to assess one’s eligibility to land, poverty and the inability to afford training added to women’s land access challenges. To reiterate, a vicious cycle where poor women could not afford to pay for land that is supposed to uplift them from poverty kept them in a poverty vicious cycle. This was exacerbated by the view that without money one could also not afford to get training that could uplift them from impoverishment.

6.3.4 Slow response to women's land needs and perpetuation of poverty

Some respondents shared the view that the formal land redistribution process was too slow to economically benefit women and facilitate their transformation from poverty. NFF13 asserts that the law recognised both men and women. However, the actual redistribution process was generally slow:

Unlike the customary law system which is practised by the traditional leaders of this place, the government through the land redistribution and restitution program considers women is just that the process is too slow. NFF13

No, I don't own land currently but am in the process of getting a place because I want to start a farming business but the process is too slow. NFF7

This slowness negatively affected women's participation in farming activities that could generate an income for them and their families. With the slowness of the process came also the doubt that one will ever get land for farming suggesting that communities were not engaged on the status of their land requests:

I doubt because when we want the land for farming it takes time to get it, and sometimes we don't get it at all, and this is not the case with men. NFF4

Nonetheless, the slowness to address a challenge or an injustice system is also viewed to be a challenge as it perpetuated landlessness among women as suggested by NFF4 below:

I am not sure of what is the procedure which is followed when implementing land redistribution and restitution. But the number of men in this area who participate in the country's economy is higher than that of women. NFF4

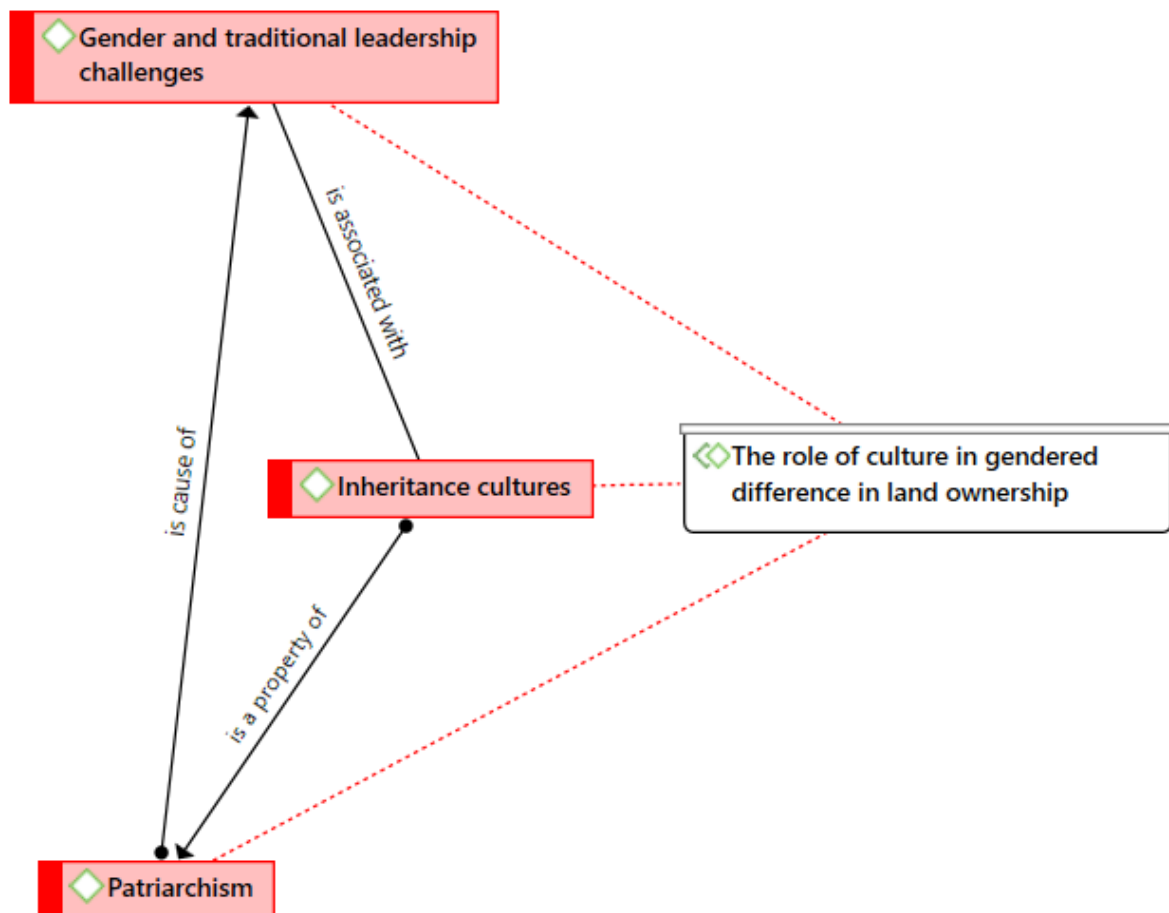
As highlighted, women saw a little more hope of owning land through formal, provincial government-led land redistribution which, despite procedural issues was more aligned to the constitutional prerogative of gender equality. However, bureaucracy seems to be stalking the process and delaying their ownership of land. More still they were views that bureaucratic processes in land distribution were more felt by women than by men judging by the comparative ease with which men got land and by a large number of male landowners compared to female landowners.

6.4 Theme 3: The role of culture in gendered differences in land ownership

Participants from different stakeholder groups mentioned or discussed the role that the Swati culture prevalent in the Nkomazi Local Municipality played in gendered land ownership

differences. From the participants, cultural practices and norms generally disadvantaged women when it came to both land access and ownership. Figure 6.3 below shows the linkages between three subthemes under Theme 3.

Figure 6.4: The role of culture in gendered differences in land ownership



Source: author's creation

The subthemes under Theme 3 are Inheritance cultures: Patriarchism and Gender and traditional leadership. As shown, inheritance cultural practices that deprived women equal ownership of land were part and parcel of patriarchy. Women's challenges when dealing with traditional leaders on land matters were also caused by patriarchy and were also associated with cultural practices that traditional systems venerated, including inheritance cultures. These subthemes are discussed further below.

6.4.1 Inheritance cultures

Under strict cultural practices, women cannot inherit land. While they can make use of family land, they cannot take full possession of this land upon the death of male figures taken to be the landowners. Thus, female farmers report losing ownership and access to land upon the death of a spouse or upon the death of their fathers. Women's restrictions on inheriting land are highlighted by FF6 below:

No, I don't think women lack ownership of the land because of capacity, but I think men don't allow their wives to own or inherit the family land. FF6

Males, on the other hand, could inherit land from their families and also hoped to leave such land in the hands of their oldest surviving sons (and not daughters). Inheritance cultural practices appear to have a significantly strong and multi-generational effect with women failing to own land in the past, the present and the future. Also, inheritance practices appear to be much stronger than any forces of modernity including non-discriminatory laws and the South African Constitution. MF5's view below shows how democracy has failed to effectively weaken discriminatory inheritance practices:

Our culture does not encourage women to own land. Though we are living in a democratic era most of our people still believe that only men are capable of owning property, like land and cattle. It is for that reason, there are few females inheriting land or property. Even myself when I die my son has to inherit all my property. MF5

Thus several male farmers interviewed enjoyed uninterrupted land ownership through inheritance and these include MF1, MF3, MF4, MF6, MF8 and MF9. The generational effect of land inheritance is shown vividly below in MF1's cases where inheritance creates a long-term and secure land tenure:

Yes, I do own land, this land was owned by my late father, he used the land until his death in 1971, I then inherited it in 1997 until now. I use the land for producing sugar-cane. MF1

Even myself I inherited it from my father in 1971, though my father only used a few hectares of land. I then extended the land farm to be 7 hectares. MF8

Both of the above participants have therefore owned land for decades owing to the above-discussed security of tenure associated with male-inherited land.

Only in very rare cases are women allowed to inherit the land. Such cases include situations where there is no male heir in the nucleus family as highlighted in the following extracts:

No there was no male figure since my father is late and my father did not have a son, hence, I inherited it. FF3

A friend of mine who passed away in 2015 his land is now owned by a woman because he didn't have a male child to inherit the land after him. And this woman has been doing very well on the farm. MF5

To confirm the rareness of such cases, almost all female farmers did not get land through inheritance and in turn were mostly talking about land access rather than land ownership. Even in cases where a male landowner dies and leaves no male heir, it is common practice to look for an heir within the deceased male's extended family as shown in NFF6's case:

No, I don't own land, only my late husband had land, after his death in 2008 the land was inherited by his biological bother because my son was still young back then. It is our culture as Swati people that when the husband dies the land is being inherited by his oldest son. NFF6

Inheritance practices that favour a male heir when the family's patriarch dies are part and parcel of a patriarchal system prevalent in most African traditional cultures. The three traditional leaders in the sample as well as municipal and land affair officials did not discuss inheritance

6.4.2 Patriarchism

Male inheritance of land and property is a product of patriarchy. Facio (2013) defines patriarchy as any societal or organisational system or arrangement that gives power to men over women. In the collected data, there is overwhelming evidence of the impact of patriarch on gendered differences in both land ownership and access. This was confirmed by one of the traditional leaders:

The African cultures of distributing land are known for promoting women's oppression through the work done by women in society. However, in terms of distributing land, we are trying, by all means, to give land equally. TL2

FF1 held an almost equally-balanced view that culturally, land distribution and its management was skewed towards males albeit females did benefit from it as well:

Well in gender, the system is always in favour of men compared to us women. Nevertheless, I am not saying that we don't benefit as women because there are women who own property in this area. FF1

The most critiqued patriarchal issue was that land access and ownership applications and requests were male affairs. Females could however make requests for land but with the support and permission of their husband or another male. Women were therefore treated as subordinated parties in land-related requests as shown in the following extracts:

the issue here is that there is no land for women, women-only access land through their husbands. NF7

The traditional authorities prefer to distribute the land among men as they are the head of the household. This makes unmarried and widows women to be vulnerable. FF6

One of the effects of patriarchy was also extending the vulnerability of widows and female-headed households to landlessness as cited by FF6 and also discussed by FF1.

Another traditional leader strongly denied the effects of patriarchy on women's access to land. One traditional leader insisted that both men and women were treated equally and fairly on land redistribution exercises:

Yes, women have access to the land as long as we know the reason for you to request for the land is always fine with us. In this area, both males and females pay an amount which is estimated to R50.00 this letter is called incwadzi yestandi (meaning a letter that grants permission to own the land) for those who want to build their home. TL3

At a governmental level, patriarchy and its unbalanced effects on land access and ownership is acknowledged by LA2 who stated that:

I think the traditional leaders at the local level should be trained on how to deal with the issues of inequalities, more especially, gender inequality, because their structure still has a problem in giving women opportunities, more especially in owning resources like land. LA2

Thus, when it comes to patriarchy and women's access to land, the results show an accusatory versus a defensive stance with female farmers and non-female farmers mostly accusing the traditional leadership of promoting unfair cultural practices. Traditional leaders generally took

a political approach as they acknowledged the problem but played it down as development that was being addressed and whose effects were decreasing.

6.4.3 Gender and traditional leadership

The study found a link between traditional leadership and land ownership. Traditional systems were led by males who in turn put in place pro-male policies that also affect land access. A land affair official (LA1) believed that the exclusion of women from traditional leadership councils in conformity with old cultural norms disadvantaged women representation on land issues:

In most cases, the traditional councils are mostly dominated by men, there are few women who are leading in the traditional councils. While the democratic system promotes equality in the country, the country encourages women to participate in all spheres of government. LA1

The above state-of-affairs are argued to persist against constitutional and democratic change that promotes women representation in all leadership and government spheres. As a recommendation, a male farmer (MF6) stated that:

I think men have access to resources because they are well represented in the traditional council. Hence, women should have their structures that will represent and deal with the lack of land among themselves. MF6

The inclusion of women in traditional leadership was thus perceived as a potential solution towards equalising land access and ownership between men and women. MF6 further saw the need for a women-centric land distribution structure within traditional leadership systems. However, with views that traditional leaders are less inclined to accept change this could be a challenge:

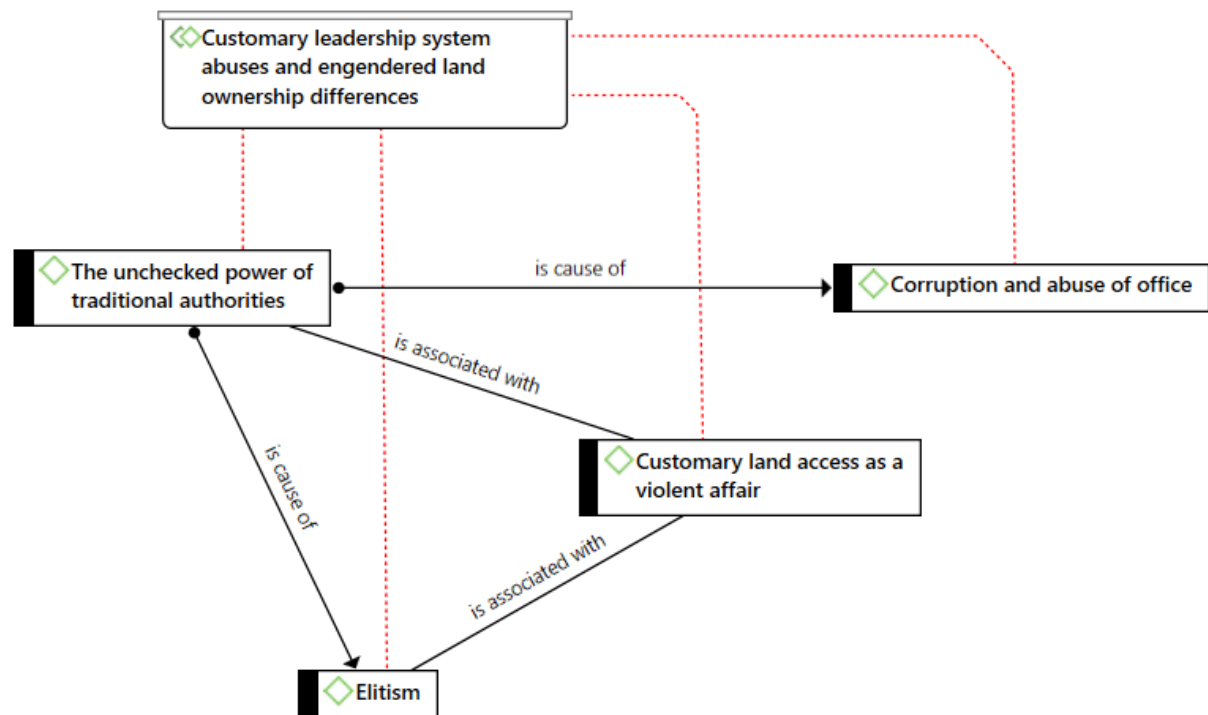
I remember the challenge we had when we had to introduce electricity in some communities like ka Hhoyi. Amakhosi used to resisting change. MF6

Another challenge could also come from the view that traditional leaders are already convinced that they are making positive change in women's access to land. It is also difficult to envisage the traditional system rapidly transforming to facilitate the equal inclusion of women in the traditional councils. This points towards a need for a constitutionally, rather than cultural-led approach in the transformation of land ownership and access by gender in the Nkomazi Local Municipality.

6.5 Theme 4: Customary leadership systems and gendered land ownership differences

Theme 4 focuses on the role of traditional leaders in gendered land ownership differences. It looks at traditional leadership as a system as well as the reported behaviours of some traditional leaders that seem to perpetuate land access injustices in the Nkomazi Local Municipality communities.

Figure 6.1: Customary leadership systems and gendered land ownership differences



Source: Author's own creation

Theme 4 has the following subthemes: The unchecked power of traditional authorities; Elitism; Corruption and abuse of office and Customary land access as a violent affair. In the subthemes, the unchecked power of traditional authorities was associated with corruption, elitism and issues of violence in land ownership, all negatively affecting women's (less than men's) land ownership and access situations. The subthemes are presented in detail below:

6.5.1 The unchecked power of traditional authorities

From the interviews, traditional authorities headed by *izinduna* and *amakhosi* wielded significant power in the control and distribution of land. This power became a problem when it was practised above constitutional provisions on gender equality. As stated in several interviews, while the Constitution made it clear that men and women were equal in all respects, including in the ownership of property, according to some interviewees, traditional norms, as practised by the *amakhosi* and *izinduna* did not respect this. Thus traditional leaders had the

unsanctioned power to override government land redistribution priorities including gender equality. Their power is viewed as a challenge behind land restitution and distribution processes by NFF5 and FF7:

There is no problem with the procedure to distribute land through restitution or redistribution but the problem is with those who govern the land at the local levels (Amakhosi and Induna). NFF5

The government program like the restitution and redistribution program does permit women to own land but the Amakhosi and Induna continue with the Apartheid system of discrimination not against race but gender. FF7

Thus some respondents likened the traditional leadership's approach to a new form of apartheid against women. Apartheid, as a historical force that shaped the current land access and ownership structures, is discussed in a later section.

6.5.2 Elitism

In the interviews, elitism refers to one's closeness to the traditional leadership. It was identified as one of the problems that affected land ownership equality among the Nkomazi municipality communities. Some families and individuals were closely related to the traditional leadership than others and according to some interviewees, these were more likely to get land ownership rights than others. Additionally, they had the power to dispossess women farmers of land they might have been assigned to use as shown in the two cases below:

I am sometimes threatened by some important elites that I may lose this farm and these elites who work hand in hand with the Amakhosi who granted me the opportunity to use the land. FF4

No, I currently not owning the land, because the land I owned was taken away by elites in this community, but now am using this farm. FF8

From the above cases, women did not have the protection of traditional leaders and could easily lose land to those associated with the leadership. This level of vulnerability was mostly experienced by poor, uneducated and unconnected women as discussed by NFF4:

The customary law is not practised to every woman, women who are educated, activist, and those who are close to the elites do not have challenges when they want to access opportunities like the land. NFF3

Thus the traditional leadership was painted in a very negative light in its promotion or at least non-confrontation to elitism whose effects disadvantaged women's rights to own land. At the same time, the traditional leadership system took advantage of women who were less educated or poorly connected as stated by NFF3. Women who had the capacity to speak out or represent their concerns over land distribution abuses were less vulnerable to the systems' elitist effects.

6.5.3 Corruption and abuse of office

According to some participants, land access and ownership issues were affected by unethical behaviours in the distributing offices particularly the traditional leadership function. As stated by NFF2 below, under the guidance of customary law and traditional leaders, land distribution in Nkomazi has been marred by corruption of a nepotistic nature.

The customary law guides the distribution of land, although there is a lot of corruption in the distribution of land. The customary law system mostly benefits those who are close to the Amakhosi. NFF2

Even among the women themselves, those closely associated with the traditional leadership stood better chances of getting land compared to those who were not.

The environment of this place is not conducive for female farmers, the traditions of us as Swati people is encouraging women to access land through men. The women who accessed land are those who are close to the Amakhosi. MF1

Another participant pointed at bribery for land as another form of corruption prevalent under customary land distribution systems headed by traditional leaders:

As it is stated clearly that getting ownership of the land in this area (Mawewe area) is not easy, more especially to us women. Not everyone gets the ownership of the land in

this community except for those who are ready to bribe or those who are close to the Amakhosi. FF11

Corruption, as discussed above disadvantaged women's land ownership. Corruption was viewed as a procedure one could follow and with women being more disadvantaged they were more prone to be victims of corruption in their quest to own land. Corruption as an issue affecting land distribution was not discussed by MOs and LA with one municipal official believing that traditional leaders were working well:

The traditional leaders do the best they can to govern the local communities, although their focus has never been on addressing the issue of a gender difference in land ownership (MO2)

Traditional leaders gave the impression that the land distribution system was driven by the need to create equality between men and women and it exercised fairness and integrity in its dealings in sharp contrast to the corruption allegations by two female participants:

As people who are working hand in hand with the government and our government have been promoting gender equality and equity, same with us as Amakhosi we encourage women to use the land, to generate their livelihood. And we are aware that women have been a disadvantaged group since the apartheid but we are trying to address that in this community. TL1

Another traditional leader even acknowledged the oppressiveness of the current customary land redistribution system and claimed that their system was fair to both genders:

The African cultures of distributing land are known for promoting women's oppression through the work done by women in society. However, in terms of distributing land, we are trying, by all means, to give land equally. TL2

Such differences in perception and experience reflect the degree to which different stakeholders were affected by land redistribution under customary law. Women, as the downtrodden group, recorded negative experiences which are not always shared by the municipality and provincial government officials. At the same time, the above views give an impression that land

redistribution under traditional systems in the Nkomazi Local Municipality bordered on criminality. The activities described above, especially bribery were criminal acts which, as alleged had filtrated the system to the disadvantage of the poor and unconnected.

6.5.3 Customary land access as a violent affair

Women's access to land was described as being affected by the sometimes violent nature of land acquisition and ownership. This subtheme connects with the Theme 1 subtheme of security of tenure differences by gender. From the experiences of one participant, land access and ownership was not as formally sanctioned as publicised. In some cases, one needed to be engaged in physical and violent wrangles to claim and hold on to land. In the words of MF1:

It is not possible for several women who own land can be equal to that of men. I am saying this because the issues of land are complicated and it is accompanied by conflict and violence in this community, hence, women are humble and cannot fight. MF1

The violent nature of land access is also highlighted by FF4 and FF8 who explained that they had to engage with groups that made attempts to dispossess them of their land. Additionally, defying the land rulings of traditional leaders and appealing to the Department of Land Affairs as a higher authority was an option that one could take:

For me I had a challenge where the Amakhosi demanded or claimed that the land belonged to his family and this forced me to fight for it. I wrote a letter to the Department of Land Affairs about the issues and the department responded positively. Hence, I am saying that there are a lot of fight involved which requires a man's power. MF1

Women were less likely to take any of these measures as they appeared too confrontational. Some women were however bold enough to ascertain their rights to land and saw no need to engage traditional leaders in their quest to access land. This is exemplified by FF3's case:

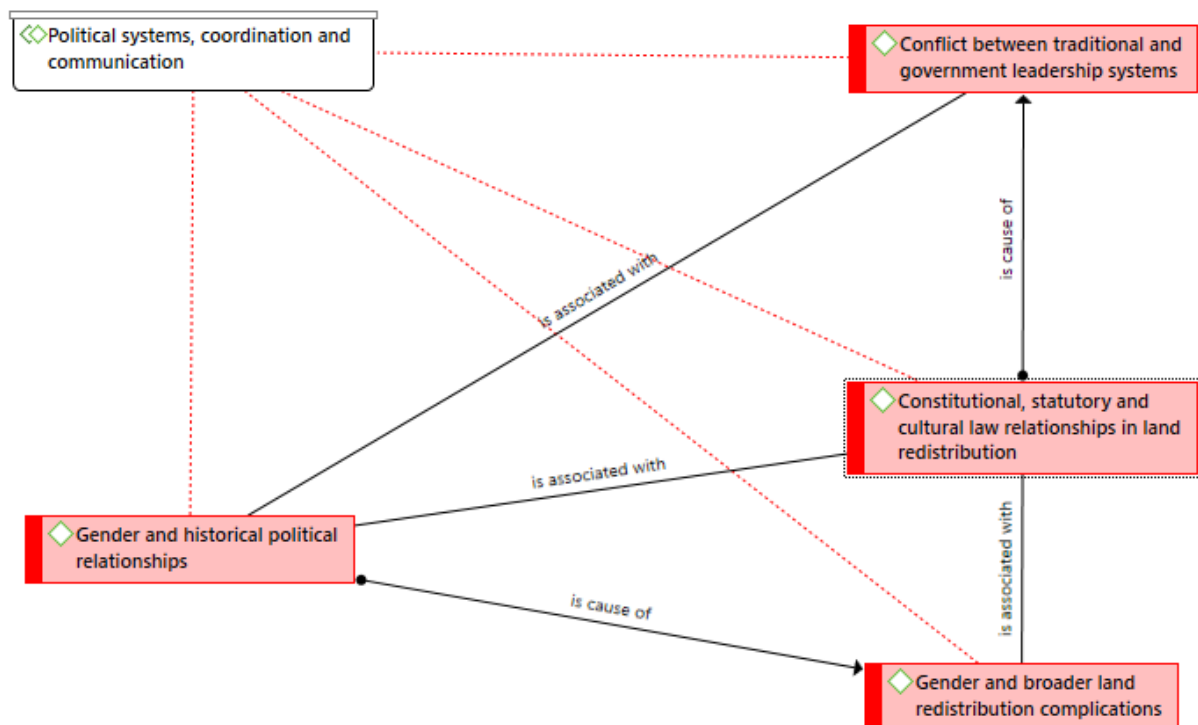
No one gave me permission since this land belonged to my father and I used to work this farm with him when I was still a young girl. My father had five kids which are all females and I am an older daughter, it is for that reason I am having access to this farm. FF3

Cultural systems, as opined above, therefore enhanced the vulnerability of women as citizens and as land users. The use of violence as another means of accessing land, in the views expressed above, disadvantaged women's access to land as an economic resource. It also highlighted the poor administrative capacity of the current traditional systems in managing land ownership and administration issues. Worse still, the traditional authorities were said to be associated with groups perpetrating such violent disposessions on community members of both genders.

6.5.4 Theme 5: Political systems, coordination and communication

The study took an interest in the relationship between South Africa's two political systems, the western-originating democratic principles existing under constitutionalism (constitutional democracy) and traditional political structures and systems. Traditional political systems are less significant but outright notable structures prevalent in rural and tribal communities. The relationships amongst these systems concerning land distribution constituted the fifth theme of the study. This theme had four subthemes whose linkages to the main theme and each other are shown in Figure 6.5 below.

Figure 6.2: Political systems, coordination and communication



Source: Author's own compilation

The four subthemes under this theme are Conflict between traditional and government leadership; Constitutional, statutory and cultural law relationships in land redistribution; Gender, dual legal systems and historical political relationships and Gender and broader land redistribution complications. Gender, dual legal systems and historical political relationships that include colonialism and apartheid were seen as a cause of land redistribution complications affecting gender. The complications were also associated with the plural legal systems which resulted in conflict between traditional and legislative/constitutional authorities. These subthemes are further discussed below.

6.5.5 Conflict between traditional and government leadership

The study generated a subtheme discussing the level of conflict on gendered land issues between traditional leaders operating under customary law and local and provincial government authorities operating under constitutional and legislative systems. Traditional leaders strongly shared a view that there was no current conflict between constitutional and legislative approaches in land redistribution. The entities, as reported were working closely in addressing landlessness in rural communities among other problems as shown by the extracts below:

No, there is no clash between us and the government we work together to address the challenges that our community face, and we Amakhosi we have been working with them to fight land dispossession and apartheid. TL2

TL1 dismissed clashes between the two systems as a long resolved historical challenge. The Traditional Councils (discussed as being male-dominated in an earlier theme) had increased coordination and communication between the two entities:

The two system use to clash long-time ago but this is no more in the present days because we as traditional leaders we now form part of the government through the Traditional Council. TL1

Operational and procedural differences were however noted by TL2 who believed that while there were no clashes between the two systems, they worked on different security of tenure processes. The government system issued title deeds that guarantee ownership while the traditional system did not:

I don't think that there are clashes, however, there are just differences, for instance, the government offers a title deed, and ourselves as Amakhosi we don't give tittle deed, but we make sure that there is a security of tenure. TL3

From the interviews, the traditional system was associated with access rather than long-term tenure by some female participants. The above suggests that government land redistribution could be a more concrete solution towards women's landlessness.

At the same time, further comments from TL2 and TL3 suggest that the relationship between the two entities might not be as well-coordinated as asserted. TL2 believed that more interaction between the two offices was needed to address conflict:

There should be more interaction between us the traditional leaders and the government officials which will help to address any clash among us. TL2

TL3 believed that not much trust was being put in the traditional leadership's capacity to manage and equally redistribute land between man and women:

I think the government should trust the operation of the Amakhosi. TL3

As highlighted the responses on the good relationships between government and traditional leaders appeared to be more diplomatic than factual. This is corroborated by later comments from LA1 below:

It is difficult to address the clash between the government system and system of the traditional leaders except through the eradication of the customary law system. However, this may cause a lot of problems since the traditional leaders have been there before the government system. Moreover, the traditional leaders have played an important role to fight both Apartheid and colonialism so destroying the system will be unfair. LA1

LA1 openly viewed the collaboration between traditional and modern structures as problematic as customary law was strongly resistant to women emancipation on land. However, traditional leaders had to be tolerated mainly due to historic factors, particularly their pre-colonial existence and fight against apartheid. Thus despite the system's negative effect on gender equality, it had to be tolerated rather than accepted.

From a municipal participants' perspectives, MO1 and MO2 acknowledged positive relationships and interactions between the municipality and the traditional leadership:

As a municipality, we do have a relationship with all of Amakhosi in this municipality and we are working together we them.

Yes, the municipality does interact with the traditional leaders, though we may not agree with some of the things but the truth remains that we do communicate. MO1

However, there were views that the stance taken by traditional leaders on women should be changed. The above views suggest that there was conflict between the two systems that appeared to be making efforts to co-exist. This diplomatic approach and the need for peaceful co-existence, unfortunately, affect women's access to land. Additionally, a female farmer opined that while the municipality and the traditional leaders sometimes interacted and worked together, this did mean their interaction promoted constitutionalism and gender equality on land distribution:

I doubt that there is a link between the practice of culture and the country's constitution although the traditional authorities work hand in hand with the municipality in operation the customary law operates lonely, which also makes the constitution to operate lonely. FF12

Thus, the mere interaction and communication between traditional authorities on one hand and provincial and municipal government authorities on the other were not seen as a solution to gender equality in land distribution.

6.5.5 Constitutional, statutory and cultural law relationships in land redistribution

The common view was that in the Nkomazi Local Municipality communities in question, constitutionality and culture were two phenomena that were completely wide apart and therefore unaligned. The Constitution was cross-cultural and gave equal rights on land access and ownership to women and men. Cultural norms, on the other, took women to exist at a lower to that occupied by men. This view persisted even in the distribution of land as illustrated below:

The practice of culture is not promoting the equal distribution of land as the constitution of the country intends. This makes our culture as Swati people to somewhere somehow clash with the constitution of the country. FF10

Although the practices of cultures are not the same, in most cases the cultural practices mostly promote dictatorship and this has affected more women than men. For instance, women are not allowed to own land, on the other hand, the democratic government system (constitution) acknowledge that everyone has a right to own land. FF4

FF13 believed that the misalignment between constitutionality and culture was the fault of traditional leaders who seemed to promote the former because it kept them much more empowered. This also indicates an expectation that the traditional system under the leadership of the traditional councils was supposed to submit to constitutional powers but this has not happened as suggested below:

Somewhere somehow, the traditional leaders fail to align the cultural practice with the aim of the constitution. FF13

The persistence of cultural power over the constitution was interpreted as a source of women oppression:

Although I don't know what the constitution is saying about women and gender equality what I know is that the constitution is against women's oppression. On the other hand, the practice of culture in this area promotes women's oppression. Hence, I don't see a

link between the two systems (cultural practices and western systems of democracy).

FF11

As stated by FF11 cultural practices were therefore linked to the oppression of women by men. Landlessness among women was a product of oppression rather than mere cultural values. On a different perception, a participant believed that while land ownership was marred with inequalities, the current state was an improvement from the past.

Sintu sethu (our culture) although is not aligning but it is now better than before where young girls were not even allowed to be educated or go to work. About land allocation, it is also better than before since women were not allowed to use or own the land. But nowadays some women own and use the land although there are not that many compared to men. FF9

Thus there were strong expressions that cultural law in its distorted form was being applied against constitutional justice. This highlights the view that affected residents understood the limits of customary law and the powers of traditional authority but had no recourse against this. Whilst legal pluralism was a reality, the interviewees did not always appreciate the uncontrolled power that customary law wielded in their community and how it affected land ownership equality by gender.

6.5.6 Gender, dual legal systems and historical political relationships

In the study, historical factors that affected gendered differences in access to and ownership of land and in turn gendered poverty were centred on apartheid. Historical factors were mostly seen as part of the continuing land struggles that are part of the political landscape hence their placing under this theme. These factors affected the efficacy of both the customary and democratic political systems ability to deal with land issues. While in some cases there were suggestions that historical factors were being used as a scapegoat to unfair land access and ownership, they were highlighted by some as contributing to the gendered land ownership differences in the Nkomazi Local Municipality.

Traditional land distribution systems, as opined, existed in a space where they needed to dismantle race and gender-related inequalities. Historically, customary authorities were expected to perpetuate apartheid practices in land inequalities but with democracy, they were

expected to transform towards accepting and facilitating a society that was equal by gender. This was revealed in discussion with TL1 extracted below:

The customary practices of the apartheid period are no-longer the same with the customary practices of the present days. Long-time ago, the systems use to oppress not only women but the whole community although it was more among women. Now it is different, women have rights to education in this community and they can access land anytime they need it. With that being said I mean the present system does encourage women to own land. TL1

With democracy, the customary system was challenged to rapidly transform to facilitate gender equality in line with constitutional practices. This transformation is occurring but probably at a slower pace than expected as opined by another traditional leader:

On the other hand, men use the land for commercial farming, and most of the farms are larger than that of women. And this is the challenge of apartheid inequalities, however, we are doing our best to address these challenges through the equal allocation of the land. TL2

TL1 further stressed that both local government and customary entities shared common concerns on the need for equality but as discussed in an earlier theme, change from the past was slower than expected:

Yes, there is a relationship between us and the municipality, for instance, most of the people in the municipality are the politicians who were available in the fight against apartheid and even in us as Amakhosi there are politicians who understand the struggle against apartheid. TL1

A female farmer however protested that the customary system had failed communities as far as transforming land and resources ownership was concerned. FF11 see the system as a continuation of historical discrimination against women:

I think the customary law system continues where the Apartheid system ended because the customary law system does not encourage black women to have access to resources.

Hence, I don't see the difference between the operation of the Amakhosi with the apartheid system. FF1

Thus, where TL1 and TL2, as traditional leaders see their efforts as leading to slow but evident change, FF1 perceives them as maintaining the apartheid-era status quo. NFF9 also puts the constitutional democracy system as part of the slow transformation process. The land problem, as opined below, was not only a black woman's struggle but a general societal challenge emanating from unaddressed racially-biased land ownership systems. However, as most of the land was still white-owned, that left a very small portion for blacks, including black women:

The government procedure of giving land through land redistribution or restitution program is right and it allows women to own land, but it is important to note that the issue is that most of the land is still owned by white, hence, the majority of black don't own land. So the issue is not on gender land but in racial land. The more the land is distributed to blacks is the more it will be easy for black women to obtain the land. NFF9

The views above importantly show wider perspectives on the challenges faced in Nkomazi with regards to gendered land ownership differences. The perceptions of either slow land ownership transformation or a lack of it resonate with another sub-theme that centred on the slowness of land requests processing.

6.5.7 Gender and broader land redistribution complications

The issue of gendered differences in land ownership was also traced and associated with South Africa's challenging land redistribution environment. As stated by a municipality representative, the national government was facing land redistribution challenges that eventually cascaded into communities. With the government having failed to acquire adequate land, there is high demand for the little available land whose redistribution is then skewed towards the male gender:

South African land is very complicated, even us as a government we have failed for the past years to address the land questions in the country since 1994. MO1

MO1 believes that blaming the traditional leaders alone for gendered land differences might not be an accurate assessment:

With that being said, it is not easy for me to say that the Amakhosi are failing to distribute land to address gender inequality. MO1

While the traditional leaders indeed played a part in skewed land redistribution, the broader governmental systems and policies on land redistribution also affected equality in land ownership. Importantly, the current theme connected gendered land ownership differences to historical and political factors as well as land redistribution complications beyond the boundaries of the Nkomazi Local Municipality. It highlighted that the challenges affecting the Nkomazi Local Municipality communities cannot be wholly divorced from the South African historical and current land redistribution struggles that include attempts to balance pluralistic legal regimes affecting the process.

6.6 Theme 6: Training and skills development and gendered differences in farming

Another theme that emerged in the data was on training and skills development with special attention to how it affected land access and ownership differences between men and women. This theme emanated from noted interests that land as a critical economic resource needed to be passed on to entities who would enhance its productivity for the sake of broader economic progress. This being said, the study did not support views that training access and agricultural capacity differences can be used to justify gender inequality in land access and ownership. The theme has four subthemes. These are The importance of training and skills development in enhancing farming capacity; The general availability/non-availability of training support in Nkomazi; The role of gender in the access to agricultural training and Relationships between access to agricultural training and women's land rights. These are further discussed below:

6.6.1 The importance of training and skills development in enhancing farming capacity

There were various views on women's capacity to engage in commercial farming activities. A traditional leader openly stated that he did not believe that women could rise above subsistence farming. This was used to justify the limited access to commercial land that some women had:

I don't think that women have a good capacity (if any) to own land, because in this community most women they only farm for consumption while males have large space for farming and they farm for profit. TL2

The same traditional leader also believed that men were better candidates for commercial land because they could successfully farm it. Another traditional leader however believed the opposite. To TL3, the fact that women had been producing food for the home and the market for generations was evidence enough that they were capable commercial farmers:

I may not have measured their capacity but through my experience, it makes me conclude that women in this area are capable of farming because they have been producing food for so many years to feed their families and sell to the market. TL1

TL3 also took their dominance in the agricultural sector as a sign of their capability:

I am not sure whether I can say they have enough capability or not but women as I have said they dominate the agricultural sector; therefore, this is a sign of their capability in the sector. TL3

Women with and without land generally believed that they were capable farmers but the land system was letting them down. MF4 however believed that some women lacked interest in commercial farming and could do well in the sector if they took time to develop their farming capabilities:

Women do have skills in farming but the important thing is that women should try and develop an interest in farming, more especially commercial farming. MF4

While traditional leaders above reveal that women also had commercial farming capacities like men, their words appear to hold elements of scepticism. For instance, TL1 stated that they had not measured women's capacity while TL3 was not wholly sure about their capability.

Several female farmers as well as non-farmers discussed the importance of getting formalised agricultural training. Some respondents mostly viewed training as a way of enhancing their capacity to farm commercially. These include FF1, FF2, FF4, FF5, FF7, FF8 among others. The complexities of farming required that women be trained as stated by FF5:

Farming is not an easy thing to do though it is interesting to do it, getting training may help us, women, to produce fresh produce which attracts more customers. If you are not trained it is then challenging because you have to hire someone who has more information about farming and this person has to be paid a lot of money. FF5

Without farming skills, one's productivity as a farmer is likely to be low and comparatively a trained farmer will do better than an untrained one:

The lack of education and skills may affect women not to effectively use the land. It is a fact that a person who is trained to use the land can be more productive than a person who is not trained. NFF3

Failure of farming ventures among women as a result of little training and education was highlighted by MF10. However, MF10 also highlighted that failure due to lack of training was common across both genders

I don't think that women are trained to use the land, not only women but even us men are not trained to use the land. Most of the farms in this community fail because of lack of farming skill. MF10

Further subthemes in relation to training include the availability of training support among female farmers discussed below.

6.6.2 The general availability/non-availability of training support in Nkomazi

One of the commonly discussed issues in relation to women's farming capacity was that of the provision of agricultural training. There were various different views on the availability of training programmes for women farmers as well as on the need for training.

Several respondents among them FF6 indicated that they had never received any farming training from any governmental entity.

No, I did not get training for farming and am not even aware that the farming training is important. FF6

A government representative, LA1 confirmed that the department's focus was the allocation of land and the issue of training was a secondary, less significant issue for their department:

The department mostly focuses on South Africans who don't have land for farming since it aims to address inequality in land ownership. Hence, our focus has never been on providing training but the allocation of land. However, it does not mean that we don't equip them at all, since there are instances where people are given specific training or mentorship. LA1

Thus, women did not receive training from the entity that one would expect to train farmers. Other entities, including the customary leadership and the municipal systems, were also not involved in the provision of training as captured in the statement by one of the traditional leaders:

I don't know of any women who received training on how to use the land. Providing training is not the duty of Amakhosi but the duty of the government who have enough resources to support and train the farmers. TL3

We have not yet initiated a program of training and equipping women to successfully use the land but I think starting it can help many women in this community and this may be a challenge we should have enough source of funding. TL1

TL2 also concurred that not training was being given to women but believed that the traditional leadership could be involved provided there is adequate funding. The subtheme on lack of training relates to an earlier subtheme of women's capacity to fully utilise the land in their ownership. Without much training, women had considerably fewer capacities to conduct commercial farming.

On whether or not this limited or no access to training contributed to gendered poverty, some participants believed that it should not as both men and women in the community were poorly trained. This was explained by TL2 who further blamed the lack of adequate training for the failure of most farming ventures in the Nkomazi municipality:

No both women and men in this community and other nearby communities are not trained on how to govern the land. For example, 80 % of the sugar cane (farm own by men) failed to be sustainable as a result the farms were leased to the RCL food company. The failure of this farm I associate with the lack of training from the beneficiaries. TL2

Other women also succeeded in farming even without much training and this seemed to point out to some that the lack of training alone did not explain gendered poverty and differences in land ownership. For instance, FF3 believed that she was more successful as a farmer despite not being formally trained:

I don't think that not having formal education restricts us, women, from being productive in farming. I have stated before that I have never received any training but my farm is competing with other farms run by men. FF3

Also, FF3 emphasised a view that being academically less educated did not incapacitate women from being successful commercial farmers. In the data, some respondents shared some perceptions that women's farming competences were negatively affected by their lack of adequate formal education.

6.6.3 The role of gender in the access to agricultural training

There were some views that access to agricultural training, like access to land, was a process that was affected by gender inequality. Some respondents stated that women were less likely to get this training and this in some instances affected both their farming capacity and access to land. NFF10 and NFF8 shared the views that gender dynamics affected women's access to training. Women's training was not seen as a priority in Nkomazi according to the words below:

I don't think that women are trained, not because I know that they are not trained but because I know that women are not prioritized in this community. NFF10

The challenges that women face in accessing land and resources spilt over to training as well as reiterated below:

Women are rejected in most of the things in this community, they are rejected not only in the provision of training but also in access to important resources. NFF8

Some women who had farming training acquired it through less formal means like being taught by family members as revealed by FF3:

I only learned to use the land when my father was still alive, every day after school we used to go to the farms. This has helped me to acquire important skills in using the land. But I don't have any qualifications for using the land. Although I don't have any qualification of farming my farm has been productive compared to that of men in the areas. FF3

Thus the same forces that affected women's access to land also affected their access to training hence to increased farming capacity and productivity.

6.6.4 Relationships between access to agricultural training and women's land rights

A major issue under debate in the data is whether access to training and the ability to farm professionally determine a woman's access to land. Various stakeholders associated land access with farming skills although some respondents disputed this. Some respondents held the

view that being a capable farmer was not a prerequisite for one to own land. Respondent FF7 below shared this view:

In this community we are on our own no one cares if you are trained or not trained. I don't think that the Amakhosi can restrict us from accessing the land, and provide training for farming, it is not possible. FF7

Traditional leaders, as opined by FF7 should not restrict land access based on one's agricultural training status especially if they (traditional authorities) do not have the capacity to train farmers.

NFF14 associated land access, agricultural training and constitutionality. Under the Constitution, a woman's rights to land had nothing to do with their ability to farm it. This constitutional position is what NFF14 believes should be followed:

I don't think there is such a thing, for us women to own the land is our rights and it should not be associated with the issues of skills in using the land. NFF14

The use of customary laws including provisions that women get land on condition that they can farm it highlights another difference between customary systems and constitutional positions.

On the same matter, NFF12 also emphasised that in the community, even men do not have agricultural training but somehow they still get huge tracts of land to farm on. The same situation should also apply to women without training – they should get large pieces of land for farming:

Well there are untrained men in this community but they own a huge amount of land, therefore, don't think that women should be restricted to own land just because they are not trained. NFF12

The women of this area have two challenges, first the challenges of not having access to the ownership of the land. Lastly, the challenges of not having proper skills for farming. NFF6

FF6 believed that land should come first and then one can be trained. With this training they become capable of fully utilising the land in their ownership:

Yes, I think it is important so that I can develop my farming to have more hectares of land because I believe that training will put me into a position where I will be capable to farm many hectares of land. FF6

The above position also refutes the use of lack of training as a reason to deny women land. Logically, from FF6's argument, it was challenging to learn to farm without land. With land one's capacity to farm gradually improves until they come to a commercial level.

Another respondent however believed that land access should be determined by farming capacity through training. Women, according to NFF2 and NFF13, therefore needed to be trained to facilitate their access to land:

I think if it is identified that women don't own land because of a lack of skills among women, I think women should be provided with the relevant skills that will make women own land. NFF13

Not having education and skills may affect women to own the land because knowledge is power, not having enough training may make us female farmers not to be effective. NFF2

Generally, as shown above, the belief that land access should not be tied to farming competence was commonly shared by female farmers. Thus farming competence was vehemently disputed as a factor that can justify gendered differences in land access and ownership.

6.6.5 Theme 7: The emancipation of women as a possible solution to women's land challenges

The theme on the emancipation of women developed from general recommendations from the study's participants and latent views (latent theme) based on the critical analysis of some statements from the participants. Evidence in the data shows that in the Nkomazi Local Municipality, rural women were slowly emancipated in terms of land access, land ownership, training and participation in traditional leadership councils. This lack of emancipation was also driven by the state that some women were not aware of their land rights under customary laws. The theme also touched on the need to conscientize the traditional leadership on women's equal land rights. The theme has four subthemes. These are: Addressing knowledge gaps on the powers of customary law, Facilitating rural women's land rights knowledge and Training traditional leaders on women's rights.

6.6.6 Addressing knowledge gaps on the powers of customary law

In the data, the relationship between women and the traditional leadership was openly unbalanced with the latter tending to downplay and look down upon the importance of women, judging from women's experiences. Among the women, lack of, or limited knowledge on the extents and limits of the powers of traditional leaders facilitated this unbalanced relationship. In the interviews, some women tended to state that they did not understand how the traditional leadership system worked when it came to land distribution as exemplified below:

I don't know how the customary law works because the traditional leaders do things which is against us, very few people get genuine help from them. It is not possible to hold the traditional leaders accountable and their system of distributing land is not transparent. NFF6

In the above case, the participant believes that the traditional land distribution systems remain obscured and traditional leaders use his obscurity to their advantage. Another example of limited knowledge is one expressed by NFF1 below:

Although I am not having a lot of information, what I know is that the traditional leaders under Mawewe tribal authority are responsible for land distribution. However, there are weaknesses in this system since it is still ignorant in dealing with issues of gender equality. NFF1

Lack of information on the powers and processes of customary law in relation to and ownership was therefore a challenge that contributed to gendered differences in land ownership. While most women farmers acknowledged the role of customary law and the traditional leadership in land distribution, evidently none among them discussed any knowledge of the laws and regulations that govern this office.

6.6.7 Facilitating rural women's land rights knowledge

Lack of knowledge firstly on one's rights to land and secondly on the limitations of customary leadership power was a factor that acted against communities' attempts to access and own land. NFF6 explains that while both genders were not always fully aware of these rights, lack of knowledge disadvantage women more than men:

The customary law is directed by the Amakhosi to distribute land to the community members, the most challenging part about this system is that community members both males and females don't know their right in the system. This system is mostly oppressing to us rural women. NFF6

It was therefore recommended by some participants that women should be educated about their rights to land ownership. MF1 and MF2 below believed that if women understood their rights, they were less likely to be oppressed:

Secondly, women should be trained so that they may be familiar with their rights and the modern way of farming. MF2

Secondly, rural women must also be equipped with their rights in land ownership. MF1

The above recommendations are important considering that some women in the sample shared a belief that the traditional leadership was the ultimate power behind land and they, therefore, needed to prove their farming abilities for them to be considered by it. MF3, therefore, believed that rights education could also help to rid the view that men should dominate in land ownership.

Teaching women their rights in land ownership is important and also it is important to change the mentality that encourages men to dominate in owning the land. MF3

In MF1's views, the emancipation of women on land-related issues could be further facilitated by the formation of organisations that advocated for women's land rights in rural communities. MF1 suggests that the rural nature of Nkomazi Local Municipality creates distance between women rights advocacy groups and women. Local and closer advocacy groups could therefore be needed:

Thirdly, there must be an organisation for rural women that will advocate and address land-related challenges. MF1

The emancipation of women, as a subtheme resonates with other findings particularly a view that traditional leaders were most likely to trample on the rights of the women they deemed to

be weak. Earlier, NFF4 stated that women activists and educated women were less likely to be unfairly treated in land distribution requests in the Nkomazi municipality, highlighting the need for stronger women self-advocacy.

6.6.8 Training traditional leaders on women's rights

The emancipation of women on land, as stated, could also be facilitated through a change of attitude in the traditional leadership circles. Noting that traditional leaders were placed at the centre of gendered differences in land access LA1 believes that their capacity to understand women's rights and gender equality should be enhanced through training:

I think the traditional leaders at the local level should be trained on how to deal with the issues of inequalities, more especially, gender inequality, because their structure still has a problem in giving women opportunities, more especially in owning resources like land. LA1

MF1 also believed that an attitude change in traditional leaders could be affected through training:

Firstly, there Amakhosi and Induna must be trained on how to govern the land and address the gender differences in land ownership. MF1

MF2 opined that traditional leaders needed to respect women's rights – believing that these leaders are expected to have full knowledge of such rights. In the interviews, it also emerged that traditional leaders were not oblivious of women's rights. This suggests that they were less inclined to put this knowledge into practice as hinted in MF2's statement below:

Firstly, the Amakhosi have to respect women, more especially farmers this will help in ensuring that the land is distributed equally among community members. MF2

Basically, the emancipation of women needed to engage the women themselves and the traditional leadership as a major entity accused of facilitating their discrimination in land matters.

6.7 Themes/ research questions overview

This section relates the study's seven themes to the research questions of the study in the form of a table. To reiterate, the study had four research objectives that generated research questions that needed to be answered using thematic analysis.

Table 6.1: Research questions and themes

Research Questions	Themes	Themes
1.What are the practices and processes of current land redistribution activities in the Nkomazi Local Municipality?	Theme 3: The role of cultural and historical factors in gendered difference in land ownership	Theme 4: Customary leadership system and engendered land ownership differences
	3.1 Inheritance cultures	4.1 The unchecked power of traditional authorities
	3.2 Patriarchism	4.2 Elitism
	3.3 Gender and traditional leadership	4.3 Corruption and abuse of office
		4.4 Customary land access as a violent affair
2.What are the effects of the dual land law system on women's ownership and access to land in the Nkomazi Local Municipality?	Theme 1: Gendered differences in land ownership and access	Theme 2: Land, poverty and economic access
	1.1 Land access and ownership by gender	2.1 Poverty, gender and landlessness
	1.2 Gender versus security of tenure	2.2 Lack of economic opportunities for women
	1.3 Gender differences and land sizes	2.3 Poverty and land access/ownership
	1.4 Engendered differences in types of farming	2.4 Slow response to women's land needs
3.What factors affect women's land-use capacity and how is it affected by the land ownership situation in the Nkomazi Local Municipality?	Theme 6: Training and skills development and engendered differences in farming	Theme 7: The emancipation of women
	6.1 Commercial farming capacity by gender	
	6.2 Skills, training and farming capacity	7.1 Knowledge gaps in the powers of customary law
	6.3 State of training for female farmers	7.2 Facilitating rural women's land rights knowledge
	6.4 Agricultural training and gender	7.3 Training traditional leaders on women's rights
	6.5 Training and land access	
4.How is the coordination and communication between traditional leaders and government officials in land redistribution matters?	Theme 5: Political systems, coordination and communication	
	5.1 Conflict between traditional and government leadership	
	5.2 Constitutional versus cultural law	
	5.3 Constitutionalism versus political implementation	
	5.4 Gender historical political factors	
	5.5 Gender and broader land redistribution complications	

Source: Author's compilation

The first research question was mainly answered through Theme 3 (The role of cultural and historical factors in gendered difference in land ownership) and Theme 4 (Customary

leadership system and engendered land ownership differences). The second research question two was mostly answered by Theme 1 and Theme 2. Theme 6 (Training and skills development and engendered differences in farming) and Theme 7 (The emancipation of women) provided a deeper understanding of the third research question. Finally, the fourth research question was answered by Theme 5 (Political systems, coordination and communication).

6.8 Chapter summary

In the chapter, qualitative data was analysed using thematic analysis. Seven themes emerged from the analysis and these were: Gendered differences in land ownership and access; Land, poverty and economic access; The role of culture in the gendered difference in land ownership; Customary leadership system and gendered land ownership differences; Political systems, coordination and communication; Training and skills development and gendered differences in farming and The emancipation of women. The main theme had five subthemes and these were: Land access and ownership by gender; Gender versus security of tenure; Gender differences and land sizes; Gendered differences in type of farming and Commercial farming capacity by gender. It emerged from the data analysis that female farmers were disadvantaged than their male counterparts in terms of land access, land ownership, the security of tenure, land size and training support among others. The legally pluralistic nature of land redistribution resulted in a powerful customary law regime that denied women equal opportunities on land. The chapter recommended increase women's education and advocacy as some of the measures that should be implemented to reverse the situation. The next chapter further discusses the themes established above comparing the major findings with other sources from the literature.

CHAPTER SEVEN: DISCUSSION OF RESULTS

7.1 Introduction

This chapter discusses the interpretations and findings made and presented in the previous chapter. In the previous chapter, thematic analysis was used to analyse transcripts from semi-structured interviews conducted with 47 respondents that included female and male farmers, non-farming females, traditional leaders, a government official and Nkomazi Local Municipality officials. This chapter starts with an overview of the findings before a theme-by-theme discussion of the obtained results. It further relates the findings to the two main theories consulted in the study, these being the legal pluralism theory and the feminist political ecology (FPE). The chapter also presents a framework that can be used to guide efforts to resolve gendered land ownership differences in the Nkomazi Local Municipality.

7.2 Findings overview

The study's findings were distributed across seven themes. These themes had at least three subthemes each. Below is a list of these themes:

Theme 1: Gendered differences in land ownership and access

Theme 2: Land, poverty and economic access

Theme 3: The role of culture in gendered differences in land ownership

Theme 4: Customary leadership systems and gendered land ownership differences

Theme 5: Political systems, coordination and communication

Theme 6: Training and skills development and gendered differences in farming

Theme 7: The emancipation of women

Largely, the above themes relate as follows: gendered differences in land ownership (Theme 1) was a cause of gendered poverty (Theme 2). Limited economic opportunities discussed under Theme 2 Increased women's dependence on land – land that they had unfair access to. Theme 3, 4 and 5 are mainly concerned with political and cultural systems behind the unequal land ownership widely discussed in Theme 2 among others. The themes put customary law, traditional cultures and the powers of traditional leaders on one hand, and the statutory law and state land policy challenges on the other, as causative factors of unequal land access and therefore gendered poverty. Theme 6 looks at how the unavailability of agricultural training and or its unbalanced availability among genders as a secondary problem behind gendered poverty. Finally, Theme 7 is motivated by various responses that a major solution of gendered differences in land opportunities and the patriarchal cultural systems that violate women's right

to access land just like men was the emancipation of women. Overall, these themes were expected to unravel gendered differences in land ownership as a phenomenon in the Nkomazi Local Municipality facilitating the answering of the study's research questions. The following sections discuss these themes starting with Theme 1 - Gendered differences in land ownership and access.

7.3 Theme 1: Gendered differences in land ownership and access

The theme on gendered differences in land ownership and access is one of the major themes that strongly relates to all the research questions. The theme was mostly confirmatory of the facts in the data that land access and land ownership in South Africa cannot be divorced from gender relations and gender equity, these being heavily influenced by laws and customs. Below are the discussions relating to its subthemes.

7.3.1 Land access and ownership by gender

In the context of this study, land ownership referred to the state of having land registered in one's name and being available for permanent use while access referred to temporary use. In the empirical study, similar to the views of Sundberg (2017) and Altay (2019), women accessed land while men owned it. Thus land mostly remained a resource for men even in cases where women were given the authority to use it. The Nkomazi situation was therefore much similar to other African indigenous practices that support men as custodians of the land and women as users (Yeboah, 2014). Ironically, in the same system, women produced approximately 80% of agricultural output but owned only 1% of agricultural land (Chimhowu and Woodhouse, 2006). Using the findings from the interviews, this research was able to outline land ownership and access types among women in the Nkomazi Local Municipality. These are presented in Table 7.1 below:

Table 7.1: Types of land access/ownership by women in the Nkomazi Local Municipality

Type of access/ownership by women	Access	Ownership	Tenure
Full ownership through statutory law	yes	Yes	secure
Full ownership through customary law (by allocation)	yes	Yes	secure
Full ownership through customary law (Purchase)	yes	Yes	not secure

Long-term access through permission from a male relative/inheritance	yes	No	not secure
Long-term access through permission from a customary authority	yes	No	not secure
Short-term permission for use	yes	No	not secure
Unauthorised use	yes	No	not secure

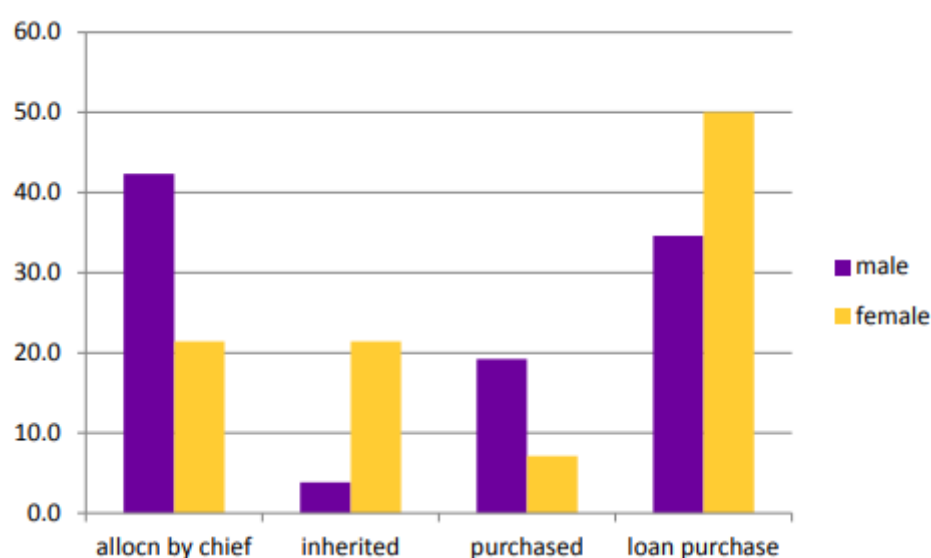
Source: Author's compilation

By preference, the most superior form of land ownership was through land allocated to farmers by the government through the Mpumalanga Department: Agriculture, Rural Development, Land and Environmental Affairs. This ensured full access and ownership through title deeds as confirmed by one traditional leader. Customary law also had the powers to grant permanent access and ownership to women. In this regard, traditional leaders had the power to give rights equal to those given by the government. Ideally, the government's and customary law land allocations were expected to equally respect both genders in the allocation of land. Thus, traditional authorities were also expected to give full ownership and access to land to women. From the data, however, the 2003/2004 land redistribution (as stated by MF6 and MF10) by the government is perceived as having left women behind. At the same time, the customary law system is reported as extensively disadvantaging women's access and ownership to land. Thus women in Nkomazi were in a severe land predicament where statutory law land allocation efforts were minimal and had excluded them while the customary system was less accommodating to women. Women could also buy land from the traditional leadership.

In the Nkomazi Local Municipality, other forms of access included both long-term and short-term permissions from the traditional leadership. Also, women could have long-term access to inherited land provided there was no male heir in their family or provided that the male heir to such land allows them to use it. Under this option too, women farmers required land-use authorisation from the traditional leadership. The most precarious form of land access was unauthorised access where women farmers could defy any land permission requirements as in the case of FF3 who took over land formerly used by her deceased father without further authorisations from the traditional leadership.

In another study on small scale farmers set in the Nkomazi Local Municipality, four main types of land access and ownership modes were discussed (Woodhouse and James, 2017). These, to an extent resonated with this study's findings. Figure 7.2 below summarises their findings on land ownership forms among Nkomazi small-scale sugarcane farmers.

Figure 7.1: Land ownership types in the Nkomazi Local Municipality



Source: (Woodhouse and James, 2017)

Most female commercial farmers (50%) in a sample of 105 participants had acquired land by buying it financed by loans. This number was fewer than men (34%) of whom had also purchased land. More men than women had been allocated commercial land with 42% of male farmers versus 22% of female farmers acquiring land from a traditional leader. In contrast, in Woodhouse and James' (2017) findings more women used inherited land than man. Also, both males and females had not accessed any land through any government departments. Despite these variances, their results also point at men having better access to freely given traditional land than women. Women's tenure appeared to be secured by purchased agreements.

While the data collected in this study was not representative in a quantitative sense, most women in the sample had temporary access and use of land in their possession. This is in comparison to males who appeared to have favourable ownership statuses through allocation by the government, by the traditional leadership and through inheritance. Pena, Maiques and Castillo (2008) believe that full land ownership is a prerequisite for sustainable, economic participation of women through agriculture and other land-based activities. Partial ownership and restricted access with uncertain tenures, as is common in the Nkomazi Local Municipality

made it difficult for women to fully develop the land or even to access funding using land as collateral (Pena et al., 2008).

Collantes et al. (2018) also cite sustainable development goals (SDGs) particularly indicator 5.a.1 that aimed to ensure equality in secured land ownership by gender. Thus, the findings from the data show that in the Nkomazi Local Municipality, the traditional land distribution processes have failed to support the above indicator. Collantes et al., (2018) further state that such scenarios where women do not have full ownership of land are a challenge globally including in Latin America.

7.3.2 Gender versus security of tenure

As discussed above, land ownership determined the security that women and women farmers get over the land. The findings under this subtheme were generally similar to those of other scholars in and outside South Africa. The view by RRI (2017) that globally, access to property rights and land tenure in rural areas is mostly gendered are widely reflected in the data. The situation is comparable to that of Latin American societies where there are different property rights, especially the security of tenure between men and women. This kind of scenario is globally associated with the culture of patriarchy (Zubair Aslam and Khowaja, 2018; Wood, 2019) which is extensively evident and widely discussed in this study.

In the study, traditional leaders had the power to grant permanent ownership of land to women as explained by one such leader. However, evidence of this seems elusive in the study where women's use of land was associated with uncertainty over tenure. The views by Hull, Babalola and Whittal (2019) that customary tenure was generally perceived as less secure and subject to land ownership policy changes as well as changes in traditional leadership are suggested in the study. Some respondents highlighted the preference for a more systematic titling tenure where land is registered in an individual's name in agreement as expressed by Hull et al. (2019). This was associated with land redistribution efforts by the government rather than by traditional authorities.

As discussed by Hjort (2010) under pre-colonial systems in Africa, individual land tenure was rare as the land was believed to belong to the community under the guidance of a chief. The chief could distribute and redistribute it at will. The scenarios where land tenure was not strongly guaranteed could therefore be a remnant of precolonial land ownership traditions being passed on through the customary law system. However, at the same time, land tenure

was a risky affair for both males and females unlike under the current Nkomazi situation where some respondents argue that the land tenure situation was direr for females than males.

7.3.3 Gender differences and land sizes

In the study, in several instances, there were mentions of women owning or accessing smaller pieces of land in comparison to men. This was reported as negatively affecting their venturing into commercial farming. In a study by Khuzwayo et al. (2019) conducted in UMnini in KwaZulu-Natal, a similar pattern where man owned larger pieces of land was identified. Traditional leaders who determined the suitable land size one could get under cultural practices favoured men with large land pieces. Some women in the same community only accessed land by renting it from men with larger pieces. While renting land from men was not discussed in this study, patriarchy in land size determination and its effects of hindering women's transformation from subsistence to commercial farming were similar.

In relation to land sizes, it also emerged that women were more likely to “own” a small family garden as all the land they are entitled to. This strongly correlates with Hjort's (2010) finding that in pre-colonial Africa, women had rights to small pieces of land and such land was considered personal to them and could not be taken away. As Hjort (2010) further discusses, this practice was reversed for married women much like the allocation of land in Nkomazi.

7.3.4 Gendered differences in type of farming

The findings from the data analysis showed gendered differences in types of farming. MF8 asserted that women mostly practised subsistence farming and a few practised commercial farming under uncertain land tenure security. (Moosa, 2019) like MF8 linked land tenure security to type of farming with secured tenure which was less common among women being associated with commercial ventures. Less secure tenure discouraged large investments required in commercial farming.

Under this subtheme, leasing of land was highlighted as an option available to women in commercial farming. In the literature, leasing land from traditional authorities, as a commercial land access option was seen as a dubious affair. Songca (2018) mentions that leasing land to residents of a tribal land violated their rights to full occupation. It worked to the advantage of customary authorities who could substitute farmer's land ownership rights with lease agreements that are bound to expire. Leasing land from a traditional authority was therefore discussed as an unfavourable affair that was often imposed rather than mutually agreed to.

In the study, some male farmers shared the view and belief that women were less interested in commercial farming. In contrast, Sishuba (2016) attests that contrary to this view, women were more interested in commercial farming and took to subsistence farming pressured by land and farming support challenges. Women in South Africa had interests in advanced commercial farming and agribusiness including the processing of output. However, limited land, training and extension support stood as an impediment to their participation in the commercial space (Sishuba, 2016). In agreement with some respondents in the study, some women had even proved to be more capable of commercial farming than men. Thus, there were conflicting perceptions that men in Nkomazi generally made better commercial farmers than women while others believed the opposite to be true. One traditional leader commented on the challenge of making such a comparison. In the study, several women were reported to be performing well and doing better than men in small-scale commercial farming ventures. In contrast, a study by Gwebu and Matthews (2017) found that male farmers had a higher technical efficiency in small-scale, commercial tomato farming in the Nkomazi municipality. They attributed this to their long experience in commercial farming compared to women who did not have such a long experience and advantage owing to among other things, an inequitable land access environment. Thus in some views, men were doing better because they were endowed with more farming advantages than women (Matthews, 2017).

7.4 Theme 2: Land, poverty and economic access

From the data analysis, there was a close association between land ownership, access to economic resources and opportunities and poverty. The land issues could generally not be separated from economic issues and gendered poverty. This is further captured in the discussions below.

7.4.1 Poverty, gender and landlessness

Land access and ownership differences influenced gendered impoverishment in the Nkomazi Municipality. In Nkomazi, there was a strong impression that given the rural and agro-based nature of the local economy, without access to or ownership of adequate land, women were extremely exposed to gendered poverty. This finding is in agreement with the views of Saidi (2015) and James and Woodhouse (2017) that associate lack of access to land with comparatively higher poverty rates among rural women when compared to their male peers. Thus, landlessness as a result of conflicts between statutory and cultural law, among others enhanced gendered poverty.

7.4.2 Lack of economic opportunities for women

The findings from the empirical study showed that in Nkomazi women relied more on land than men because of the general economic environment that favoured males with more economic opportunities. Compared to men, women had fewer economic opportunities resulting in some of them considering farming, not as a primary career option but as the only way out. Others however farmed out of choice. Similar findings were made by Kongolo (2009) who states that in South Africa, women in rural and semi-rural communities had fewer opportunities to engage in developmental activities outside farming. This was a result of generations of oppression and poor government policies that had left most of them less literate than men from similar communities. Additionally, due to cultural expectations, women were still restricted to rural communities and were less free to move into urban communities in search of other opportunities like men. These factors enhanced women's overdependence on land. Allendorf (2007) and Sultana (2010) assert that because of the unfair access to economic opportunities if women do not own land, they find themselves experiencing hunger, poverty and unemployment and this view strongly resonates with the perceptions of several respondents in the study. Allendorf (2007) concludes that for that reason, the ability for women to access and own land was significantly more important to their survival compared to men.

7.4.3 Poverty and land access/ownership

From the interviews, it also emerged that the socio-economic status influenced women's access to land in Nkomazi. As revealed by Kimani (2008), Peter, Simelane and Matondo, (2008) and Mishra and Sam (2016) women poverty added another dimension for discrimination. As found in Zambia, poor, rural women were more likely to be discriminated against and to have comparatively low access to land than those perceived to be of perceived higher socio-economic standing. In Nkomazi, traditional leaders were discussed as having "never been favourable to poor women" seeking land. This creates a vicious circle where poor women who are in desperate need of land cannot get it because they are poor. A similar vicious circle where poor women were excluded from land redistribution and were therefore exposed to even further poverty, as a result, is also discussed by Toro (2017) and Hartnick (2019). These scholars looked at his issues from a Zimbabwean land redistribution perspective. Poor women's rights to land during the redistribution exercise were openly ignored. Poor women's ability and capacity to stand up for themselves is generally reduced in the male-dominated and institutionalised land redistribution processes. In Nkomazi, this becomes more concerning noting that the community is reported to have a significant proportion of poor women.

Another option through which women could own land is through registration – as also discussed in the previous subtheme. An amount of R5000 was required for this process making it out of the reach of rural women. This resonates with the comments by Kingwell et al. (2017) that customary tenure can be abused to the disadvantage of vulnerable groups like the poor and for the benefit of traditional leaders and their administrative teams.

7.5 Theme 3: The role of culture in gendered difference in land ownership

In the study, the role of culture in gendered land ownership differences was strongly associated with customary law as a more definitive communal law in rural Nkomazi. As highlighted, men had significant land access and ownership advantages than women as a result of gender-biased and patriarchal systems that dominated traditional leadership and customary law systems at play in land distribution. Discussions relating to such matters are presented below starting with the inheritance laws and practices affecting gendered land ownership and access.

7.5.1 Inheritance cultures

Like RRI (2017) the empirical study showed that cultural practices such as inheritance played a significant part in gendered differences in land ownership and access. Because patriarchy put males as owners of property, upon death this property had to be transferred to another male. Women were therefore left out as heir to land promoting generational discrimination by gender (Amadiume, 2016). Yesufu and Nkomo (2018) see the disinheritance of women as a common challenge in African traditional systems, a view broadly shared by most women in this empirical study. The possibility of disinheritance reduced women's security of tenure as they could easily lose land at the death of a husband. While in the literature, Mnisi and Claassens, (2009) believe that statutory law empowered women to inherit land, some respondents believe that in the Nkomazi Local Municipality, statutory law had given in to customary law and had therefore failed to protect women against unfair inheritance practices.

According to Khuzwayo et al. (2019), while statutory laws now recognise customary marriages and allow women to fully inherit their husbands' properties, customary systems led by traditional leaders still resisted this. This hints at the extents to which customary law in Nkomazi and other areas is too rigid to accommodate statutory law changes. In a different community, Khuzwayo et al. (2019) however show that unlike in the Nkomazi municipality, women were beginning to own land through inheritance albeit in lower numbers.

7.5.2 Patriarchism

Patriarchy was discussed as a major concept and phenomenon widely influencing land distribution in the Nkomazi municipality. This was not a unique or a new discovery as various scholars have discussed the effects of patriarchy on women's access and ownership to land. Like the respondents in the study, Harahap (2020) opined that patriarchal practices manifested themselves through men believing that they own resources and are responsible for allocating some to women at their discretion.

Of interest was the admission by a traditional leader that patriarchy was rife in the Nkomazi municipality land redistribution system and it contributed to the oppression of women. This admission points at the potential for change in beliefs in the traditional leadership system or at least to the view that patriarchy was not positively perceived by all traditional system stakeholders. Female respondents extensively critiqued the patriarchal system suggesting that they were not necessarily subservient to it. However, unlike in the study where patriarchy was mostly associated with the customary leadership systems Mnisi and Claassens (2009) believed that even statutory law entities like municipalities exhibited many signs of patriarchy in land-related issues. They pointed out that municipal and government land functions were dominated by men who parcelled out small pieces of land to women in a manner that seemed to suggest male superiority.

Women in the Nkomazi Local Municipality could get land through their husbands or they could use family land without owning it. This was also aligned with the patriarchal concept that women-owned land and resources not for themselves but on behalf of men as discussed by Sundberg (2017) and Altay (2019). Men are therefore given power over women and the resources under a woman's access as asserted by Kiye (2015). In Nkomazi, this could also explain why unmarried women were even more disadvantaged when it came to land ownership as they did not have a male figure to govern over them and the land they could own.

7.5.3 Gender and traditional leadership

Under this subthemes, it emerged that male-dominance and male-supremacy in traditional leadership structures have been widely discussed as a major reason behind the oppression of women and children in African traditional societies (Allanana, 2013). In the study, traditional councils were described as a male-only affair despite there being much talk about their need to be inclusive. The view by Allanana (2013) that patriarchy was not always developmental is also highlighted in that it sometimes denied land to those who could effectively use it.

Eniola and Akinola (2019) scrutinised the roles of traditional councils in land redistribution. While such authorities were legally-sanctioned in communities that chose to be under customary leadership, they took a male-centric, non-gender representative approach to community affairs including land ownership (Mnisi and Claassens, 2009). While it is not clear how communities chose to be under customary leadership and therefore have their land affairs ruled by such a council instead of the land administration committee, Eniola and Akinola (2019) suggest that the hereditary nature of customary leadership makes it a challenge to forgo the patriarchy-driven leadership appointment systems to systems that are inclusive of women. This, therefore, point to a closed leadership system that some sections of society, including women, have no chance of being part of unless such succession processes are somehow dismantled. As it were, unless women get a chance to be traditional leaders, the gender-inclusive transformation of customary systems could remain elusive to the disadvantage of females.

7.6 Theme 4: Customary leadership system and gendered land ownership differences

Evidence of traditional chiefs' strong control in the Nkomazi Local Municipality, as discussed by Mashele (2013) is highlighted under this theme. As stated, in the Nkomazi municipality land is controlled by eight traditional authorities: Mawewe; Matsamo; Mlambo; Hhoyi; Siboshwa; Kwa-Lugedlane; Mhlaba and the Lomshiyo tribal authorities (Mashele, 2013). The powers of these authorities are discussed from the perspectives of various stakeholders including the traditional leaders themselves.

7.6.1 The unchecked power of traditional authorities

Under this subtheme, it was revealed that traditional leaders had substantive power over land and in cases, such powers even subordinated constitutional and statutory provision on land distribution and gender equality. Some elements discussed under this theme, particularly the perceptions of elitism, corruption, abuse of office strongly resonates with the view that in any legal system, whether valid or not, the law depends on its sources not its merits (Gebeye, 2017). While obvious demerits are noted in the customary law system, the system is permitted to continue because of its traditional historical nature. A study by Songca (2018) showed that in some cases traditional leaders gave themselves the power to reverse secure tenures. This was the case in KZN where tribal authorities had reversed land-dwellers certificates of occupation with lease agreements. Khuzwayo et al. (2019) also confirmed having made a similar finding in Mninsi, KZN where traditional leaders' actions in land distribution were characterised by unethical actions. Specifically, in the Nkomazi Local Municipality, Agholor and Bongiwe

(2020) also found that some current and prospecting beneficiaries of land reform believed that corruption amongst those entrusted to lead the process disadvantaged the poor's access to land.

7.6.2 Elitism

In the literature, elitism was discussed as a force that exercised unsanctioned but effective control of land use and distribution and included persons of greater economic, social and political influence in rural communities (Lahiff, 2007). In the study, a slight difference was that elites were seen to be persons and households that were closely related and aligned to the traditional leadership. Their association with the traditional leadership placed them above ordinary households in similar communities. They had the ability to influence land decisions including the power to interrupt women's possession of land.

In the literature review, Ayano (2018) associated elitism with statutory law where the privatization and individualisation of land give greater control to elites as well as the well-connected individuals who can pay bribes to get the land (Ayano, 2018). In the study, however, it emerged that elites were also much existent in rural communities under customary land management. In both cases, elites unfavourably influenced land access by some groups favouring others like in the interviews where it occurred that some female farmers had lost their lands to such groups. Females were therefore perceived as a weaker group whose rights to land ownership under customary law were being trampled by connected groups allegedly under the observance of traditional leaders.

7.6.3 Corruption and abuse of office

Corruption was another unethical factor that affected women's access to land in Nkomazi - according to some interviewed participants. Two forms of corruption discussed in the interviews (beside elitism) were bribery and nepotism. Corruption and nepotism disadvantaged poorly connected as well as poor women. Similar to the above, a study by Muduva (2019) also found that corruption in the land sector hindered women from using and owning the land in Namibia. Maduva (2019) adds that in some cases, corruption in land distribution motivated the practice of customary laws. Thus both statutory and customary systems are linked to corrupt practices unlike in the empirical study where this was associated with the customary land distribution systems. A South African study by Khuzwayo et al. (2019) confirms the prevalence of unscrupulous behaviour by traditional leaders in land distribution. This included favouritism, land grabs and unjustified evictions sometimes even for persons with proper land documentation. Also, traditional leaders often change the terms of agreements on sold land without further consultation with buyers and sometimes corruptly made way for commercial

land developers at the expense of their subjects (Khuzwayo et al.,2019). The above ills were felt by both men and women although there is a view that women's rights were considered easier to trample upon than men's. Thus gaps and loopholes created under pluralistic land redistribution processes were being exploited for uncouth, criminally corrupt purposes to the disadvantage of women but still allowed to exist in the Nkomazi Local Municipality.

7.6.4 Customary land access as a violent affair

Land ownership under customary law was associated with poor security of tenure that was compromised by unorthodox acquisitions that included violent means. This was mostly because the land was not immediately registered and could be claimed by another. In agreement, in Hull et al. (2019) the characteristics of customary land tenure which include flexible land boundaries and overlapping rights created potential for disputes in land ownership. Scalise, et al. (2015) discuss how land distribution in Benin was characterised by violent clashes including gender-based violence and how this disempowered female land occupiers in a similar manner with the Nkomazi Local Municipality situation as described by a participant. This scenario was mostly existent under customary tenure until the government introduced a mapping system that identified land pieces and their legal owners (Scalise, et al., 2015). In other studies, the violent nature of customary tenure is discussed by Kuzwayo et al. (2019). Kuzwayo et al. report incidents of land grabs perpetrated by both traditional leaders and men on land that was in the possession of women farmers. Their findings also strongly relate to the view that while both men and women were at risk of unsecured tenure under customary law, women tended to be even more vulnerable.

7.6.5 Slow response to women's land needs

In the study, one advantage that was associated with customary land distribution was its ability to move comparatively faster than statutory land redistribution. Despite its gender bias, it afforded some social groups quicker access to land for domestic and commercial use. In the literature, statutory land systems are described as being marred by bureaucratic processes lengthening their turnaround times. Tsheola and Makhudu, (2019) further state that the focus of statutory land redistribution was to attempt to instil racial equality rather than gender equality. It therefore did not respond swiftly to scenarios involving gender inequalities.

The findings that overall, land redistribution was slow with this slowness affecting farming productivity and the eradication of poverty was discussed by Agholor and Bongiwe (2020).

Like with this study, they noted that land redistribution beneficiaries in Nkomazi perceived the exercises as occurring at an undesirably slow pace.

7.7 Theme 5: Political systems, coordination and communication

The study took an interest in the relationship between South Africa's two legal systems, the western-originating democratic principles existing under statutory law on one hand and customary law systems on the other. In South Africa, as also evidenced in the study, some communities, particularly those in rural areas are governed through democratic principles under the country's constitutional democracy system and customary leadership systems that are part and extension of traditional political structures that were in force before colonialism. The two systems affected gendered access and ownership to land in the Nkomazi Local Municipality. This theme focused on the relationship between these systems in the land redistribution space.

7.7.1 Conflict between traditional and government leadership

In the study, traditional leaders stated that there was no conflict between customary and statutory land distribution efforts. Accordingly, there was also no conflict between these offices. This was attributed to a more effective cooperative governance regime that included traditional leadership in government through traditional councils. At a traditional ceremony in 2018, the Nkomazi Local Municipality Mayor Johan Mkhathshwa also dwelt on how the relationship between traditional leaders and the municipality had improved over the years (Masilela, 2018). Such findings are however not shared by some scholars in the literature. For instance, Baldwin and Raffler (2019) assert that cooperative governance involving traditional leaders was chaotic because the government did not clearly specify the roles and powers of traditional leaders. The (Commission For Gender Equality, 2010) also classify the relationship between government authorities specifically those from the Department of Rural Development and Land Reform and traditional leaders as negative and conflict-ridden. This was attributed to two different approaches that these two systems took. Statutory law systems attempted to infer equal rights to all citizens seeking land while customary law authorities rigidly insisted on traditional practices that violated the democratic rights of women. The views by the CCE are however reflected in the voices of the community that seem to believe that there was not much cooperative governance considering that traditional leaders exercised their powers over land in an unchecked manner and to the great disadvantage of the communities they led.

The reported absence of conflict between the two systems is a worrying factor. As expected, because these two systems represented opposing views on land and gender equality, they should contend with such conflict being resolved only when there is reported gender equality in land distribution. The systems may have therefore decided to tolerate each other's weaknesses at the expense of poor, landless rural women. Additionally, the above scenario runs opposite to what a Parliamentary Monitoring Group (PMG, 2014) report entitled "Roles and functions of traditional leaders: Department of Traditional Affairs briefing" stated. In this report, municipalities and government departments were reported as having no respect and consideration for the views of traditional councils. The same report also noted that poor relationships between these traditional councils and government entities may have been a result of the chaotic reshuffling of roles between the two. Initially, traditional leaders had no role to play in land redistribution until such roles were taken from the land affairs department (PMG, 2014).

While there were views of limited conflict, there were perspectives that the two political structures were not well-coordinated in their land redistribution and restitution efforts. For instance, it was only the statutory law system that gave residents secure tenure through title deeds. Also, traditional leaders felt that they were excluded from government-led land redistribution. As one respondent put it, the two systems could never be coordinated even if their stakeholders, the traditional leaders and government officials worked civilly with each other as was the case in the Nkomazi Local Municipality.

7.7.2 Statutory versus cultural law

The conflicts between statutory law, constitutional law and customary law were evident in the Nkomazi Local Municipality. As elucidated by Bennett (2009), the South African Constitution in section 112 (3) states that courts shall "apply customary law, when that law is applicable, subject to the constitution and any legislation that specifically deals with customary law." In the above scenarios, discriminative practices are also against the Bill of Rights and are therefore unconstitutional. Nonetheless, they remain in force in the distribution of land. As opined by Eniola and Akinola, (2019) while constitutional and statutory law may empower women's access to land, customary law, if unchecked or unhindered may neutralise this as is evident in the Nkomazi Local Municipality. The state of conflict is further shown by the fact that not all participants oppose the unconstitutional nature of customary law practices associated with land ownership. The beliefs that customary laws stood in the way of women's land access and the success of statutory law-based land management system were evident under this subtheme.

Like Odemy (2013) some respondents saw customary law as a powerful impediment to statutory land distribution. This was despite some traditional leaders insisting that their systems were aligned to the Constitution.

7.7.3 Statutory law-based land policies versus political implementation

As found, there were reported variances in the implementation of land redistribution practices even under statutory constitutional and legislative systems. According to Eniola and Akinola, (2019), the South African government formulated various programmes, legislation and policies to ensure that women have access to the land. These included the Growth, Employment and Redistribution (GEAR) strategy, and the Communal Land Rights Act. Eniola and Akinola (2019) mention that the programs, legislation and policies main criticism was their slowness in addressing gendered differences in land ownership. Poor policy implementation and enforcement remain an impediment that negatively affects women's access to land in Nkomazi. The views by Eniola and Akinola (2019) strongly resemble the situation in the Nkomazi municipality where regulation and policies have failed to enhance women's access to land.

7.7.4 Gender, land and historical political relationships

Under this subtheme, the relationships between colonialism, apartheid and past and current women's land opportunities were discussed. Women's unequal treatment on land, as discussed grew within the contexts of oppression and dispossession under colonialism and apartheid (Schneider, 2018; Rijpma et al.,2019). The current problem that women were facing was therefore generational in nature. Benda-Bbeckmann and Turner, (2019) discussed that some customary law practices strongly mimicked those under the apartheid system because colonial systems in Africa empowered customary law to effect discrimination and separation. With freedom and independence, not all of these were dismantled or deinstitutionalised and their presence continues to promote inequalities. Under this subtheme, one traditional leader disputed similarities between the apartheid era and the post-apartheid era customary law. While the latter supported inequality by race and gender, the former did not. Despite this assertion, however, there were convictions that the current system mimicked apartheid with one respondent stating that traditional leadership systems "continue with the Apartheid system of discrimination not against race but gender". Under both colonialism and apartheid, women were expected to play a subservient role to men (Breines, 2006). Thus, the patriarchy as a function of colonialism and apartheid appears evident in how customary law land distribution treats women.

7.7.5 Gender and broader land redistribution complications

The land challenges faced by the Nkomazi municipality women in accessing land were perceived to be directly related to South Africa's complex and therefore slow and highly critiqued land redistribution exercise. Women farmers without land or with inadequate land were victims of a wider national problem. As opined, traditional leaders could only distribute land that was available for distribution with the acquisition of such land being the role of the government. In a society where gender inequality is rife, land challenges were more likely to be felt more by women than by men albeit all genders needed land. Cousins (2016) and Mbatha and Machara (2015) share a similar view that legal complications and delays in land redistribution affected all land-user albeit in different intensities. This theme is important and realistic in that it recognises wider land distribution and gender inequality challenges that eventually reflect in smaller communities.

7.8 Theme 6: Training and skills development and gendered differences in farming

The data analysis process revealed the significance that agricultural training and education was perceived to play in gendered land ownership and farming practices differences. Issues relating to gender, training and farming capacity are discussed under this section.

7.8.1 Skills, training and farming capacity

According to the World Bank (2017), it was imperative to provide women with adequate training to enable them to farm more productively and to get better returns from their efforts. Respondents in the study generally agreed with this view citing that with adequate training, women can rise above subsistence farming and become even more competent commercial farmers. Like in Oladele and Mudhara (2016), the study also found that the ability to succeed in farming was strongly tied to the possession of adequate agricultural skills. They discussed the need for general agribusiness skills that include market knowledge as part of the solution towards the emancipation of women and the reduction of gendered poverty that mostly affects rural women.

7.8.2 The state of training for female farmers

A report by Hart and Aliber (2012) states that the South African government has been criticised for shifting its focus from poor farmers and farming communities towards economically-viable commercial black farmers. While support was available for black farmers, it was not widely available to those in rural and marginalised communities (Hart and Aliber, 2012). This view is highlighted in the findings of this study. From the study, there was very little or no training

support available to farmers in the Nkomazi Local Municipality despite their need for it. This was further associated with high risks of farming failures in the community resulting in land being leased to third parties including RCL. A study carried out by Woodhouse and James (2017) on the efficiency of tomato farmers in the Nkomazi Local Municipality found that education, including agricultural training, positively influenced the technical efficiency of small-scale commercial farmers in this municipality. Trained and educated farmers were more efficient in production in comparison to those who were not. Another study conducted in Nkomazi by Agholor and Bongani (2020) showed that land reform beneficiaries identified the lack of skills as a major hindrance to their farming productivity. Additionally, they pointed at the lack of any training support after one has received the land.

7.8.3 Agricultural training and gender

In the empirical study, much like in the literature, gender influenced the level and access to farming knowledge as a function of agricultural training as well as formal education. In terms of formal education, several scholars agree with the findings that women in South Africa were disadvantaged. According to Rothman (2016) and Western (2018), fewer women than men received formal education. In Cornwall and Rivas, (2015) view, this reduced their abilities to effectively execute their full economic capacity.

Additionally, women's access to agricultural training was also low compared to that of men. In the study, the main reason behind this was because the patriarchal systems embedded in customary law and traditional leadership structures did not facilitate the training of women. However, some also indicated that even government departments did not consider them for training. While Zamxaka (2015) asserts that the government introduced various training and educational schemes for rural women, this was not mentioned by any of the respondents. In fact, a land affair officials mentioned that allocating land was their main agenda and not training. Also, in contrast to the views by Naidoo, Muthukrishna and Nkabinde (2019) that women were more likely to be dropouts than men, the interviews broadly suggested that the main reason that was brought up for women's low training status was the unavailability of training programmes. One participant also hinted at the effects of poverty on training access. Poor women could not afford to privately train themselves as a result of high educational costs. Sishuba (2016) discussed such scenarios as causing cyclical poverty among women and added that training and supporting women farmers could help to break such cycles.

At the same time, a view by Omolewa, 2007 that women without formal education or training can be effective and productive farmers also came out in the empirical study. Some female

farmers believed that they performed exceptionally well and even much better than their male counterparts even if they did not receive any formal training. This was attributed to learning through experience and knowledge being informally passed on from generation to generation.

On a different note, a study by Phil and Paul (2017) carried out in the same Nkomazi Local Municipality but using small-scale sugar cane farmers as a sample indicated that in some cases, women received more agricultural training than men. In their randomly selected sample, 79% of 44 women had been trained compared to 61% of the 61 interviewed males. All the same, like in this study, men had a higher level of formal educational access than women and this was perceived as contributing to differences in farming knowledge. It must be noted that these statistics were drawn from registered sugar cane growers whose demographic characteristics might differ from the general farming groups in this study.

7.8.4 Training and land access

The empirical study revealed the existence of views that attempted to tie women's access to land to their farming training and skills and therefore capacity to productively farm it. Strong perceptions were that land ownership should not be tied to farming skills and a woman's right to land should be respected regardless of their training access. In the literature, the relationship between skills and land access is less discussed albeit there is much concern about developing farming skills among women landowners. Some respondents further associated the demand for skills and training as a prerequisite to land access as an additional burden unfairly placed upon women by the traditional leadership.

7.9 Theme 7: The emancipation of women

In a study by Khuzwayo et al. (2019), women's land-related woes were associated with their not being full emancipated under both statutory and customary systems. Under customary systems, women did not have the authority to voice their concerns while under statutory systems, they lacked the capacity to fully advocate for their rights and the resources to approach legal systems for recourse. Emancipated women, as opined, could have the capacity to benefit from the land under either system. In the empirical study, there was also a perception that customary systems often trampled upon the rights of women known to be defenceless. Thus the need for the emancipation of women was discussed as a solution to gendered differences in land ownership as well as gendered poverty.

Relating the findings to other countries, in Latin America, one of the forces that have helped in reducing gender gaps and the oppression of women are women's organisations. These took

various forms from fighting for human and economic rights through mobilisations and advocacy to training and engaging women towards greater productivity. The World Bank (2017) and the OECD (2020) both report that there has been progress towards the emancipation of women in many Latin American countries including Bolivia, Guatemala, Brazil, Chile, Colombia, Honduras, Haiti, Uruguay and Venezuela. Thus, the suggestions by some respondents that advocacy on women's rights could work as a solution for resolving gendered differences in land ownership have proven to have worked in other countries.

7.9.1 Knowledge gaps in the powers of customary law and facilitating women's rights knowledge

This empirical study revealed various cases in which both male and female respondents confessed their ignorance of what customary law was or was not. This is despite the fact that it governed their use of land in the Nkomazi municipality. A study by Makonese (2016) showed that such a lack of knowledge of customary law was not uncommon. Studies in Botswana, Lesotho and South Africa showed that it is often the rural and poor women who have the least knowledge of customary law. This scenario was also evident in this study. As such, they may take the infringements of their rights under this law as normal. In the same study, more economically empowered, educated women showed higher knowledge of customary law and its limitations.

Makonese (2016) also states that such women groups were more likely to confront customary systems through formal courts whenever they felt that they had been unfairly treated by such systems. Mashalaba (2012) also presents findings that resonate with the Nkomazi situation on women's knowledge firstly of customary law and secondly of their rights under customary, statutory and constitutional laws. Mashalaba asserts that limited access to information on legislative and policy changes kept rural women behind on the new rights they continue to acquire. Mashalaba (2012) recommends strengthening information and advocacy bodies that teach women about their rights as part of the solution to this challenge. In the study municipal officers saw this as one sure way through which women's rights will be respected by customary law authorities.

7.9.2 Training traditional leaders on women's rights

There was a view that women's land ordeals could be resolved through changing traditional leaders' perspectives on gender equality and women's rights including rights to land

ownership. This view emanated from the belief that the strongest force against women's fair treatment on land matters was the patriarchal nature of customary law as led by traditional leaders. Changing the traditional leaders' view through training and engagement could therefore result in the reduction of patriarchal attitudes. The Voices4Change (2017) also came to a similar conclusion albeit in a different setting. The organisation opines that training can be a powerful force in conscientising traditional leaders on the equal role that women play in society as well as their rights. The Voices4Change (2017) believes that changed traditional leaders can easily pass on new beliefs and knowledge to other members of their communities creating more gender-sensitive societies. Given that cultural practices take a long time to die, training traditional leaders to understand, appreciate and apply women's land rights could also be a long-term and possibly a generational solution. At the same time, because gender inequalities in land access and ownership are generational issues, long-term targeted interventions may not seem to work in the current present but may take effect as new gender-sensitive knowledge is passed onto future traditional leaders.

7.9.3 Study findings versus theoretical frameworks

In the study, two theories were consulted. These were legal pluralism which theorises on the application of more than two legal systems in a state, in this case, customary and statutory law in the Nkomazi Local Municipality. The second theory was the feminist political ecology (FPE) that was adopted in an attempt to appreciate gendered land ownership as a phenomenon and to explain how the gendered differences in land ownership contribute to gendered poverty as well as how the governance of land by men affect rural women.

7.9.3.1 Legal pluralism

In the study, there was no doubt of the existence of plural legal systems that governed land affairs in Nkomazi. As alluded to earlier, these were customary law, propagated by traditional leaders and statutory law as applied under the operations of local government officials and departments. The Constitution was classified under statutory laws. In the Nkomazi Local Municipality, customary law authorities, specifically traditional councils had the legal power to distribute land. This power was not necessarily informal as it was embedded in national laws. The challenge came when in the process of exercising these powers traditional leaders firstly stuck to old customary principles that now clashed with statutory and constitutional principles, specifically respecting the rights of women as citizens who had equal land rights. Under such scenarios, informal and unwritten customary law principles directly conflicted with the

statutory position. Kokal (2019) states that such deviations, while perceived as a break from the statutory law could be considered acceptable under the cultural precepts upon which customary law was founded. Despite the state granting traditional leaders formal powers on land distribution, their discriminatory activities reflect Gebeye's (2017) that in pluralist systems customary law is neither approved nor sanctioned by the state. Thus the state's granting of powers to traditional leaders might be a mere formality.

Judging from the case study, Nkomazi has a strong rather than a weak type of legal pluralism. Strong legal pluralism refers to a scenario where two co-existing sources of law have different authorities (Mutloane, 2015). In the study, statutory law has its basis in the Constitution and customary law has its basis in historically handed-over traditions. While statutory laws such as Traditional-Leadership-and-Governance-Framework Act No 41 of 2003 that regulate the activities of traditional leaders were put in place, and while such laws also point to the Constitution as a supreme source of law, the customary systems continue to distribute land outside constitutional parameters indicating a strong insistence of traditional customary laws. This suggests the existence of a formal weak legal pluralism but an informal strong legal pluralism. From Swenson's (2018) classifications, legal pluralism in Nkomazi exists in the complimentary form rather than in the combative or competitive forms. The complimentary form involves the acceptance that state law is hierarchically superior albeit customary laws have power and authority over certain aspects of life in communities.

Under the informal, strong legal pluralism, on paper customary law is not recognised as having a different authority from statutory law as it is expected to be reined in by the Constitution. In reality, as shown by many participants, it is not reigned by such. At the same time, the data encourage further debate on whether the acts of traditional leaders are a display of strong legal pluralism or deviance and abuse of office. This is because some participants pointed at the absolute abuse of power by traditional leaders to the disadvantage of women. Thus, two broad views emerged in the form of pluralism in Nkomazi. The first view is that there is a weak legal pluralism in which customary law, under the custodianship of traditional leaders and Acts of Parliament, was firmly under the South Africa Constitution just like statutory law. Under this weak form of pluralism, traditional leaders abused their powers just like politicians did under statutory laws. The second view was that constitutional violations under customary law were evidence that customary law had not been reigned under the Constitution indicating a deep or strong form of legal pluralism.

7.9.3.2 Feminist political ecology

The findings of this study also resonate strongly with the feminist political ecology theory. This was the second theory consulted in Chapter four. These findings can be repackaged into four important elements that described gendered differences in land access and ownership as well as gendered poverty. These are:

- Gender and resources allocation
- Gender and governance
- Gender and culture/tradition
- Gender, privilege and the access to knowledge

Patriarchal governance systems of the dominant customary law regimes in the Nkomazi municipality create classes in which women have less access to resources, privilege and knowledge. The above facets finally resulted in the oppression of women including economic oppression. Gender was discussed to be a major determinant of socio-political and economic standing, a view that is widely shared under the FPE.

The view that the FPE cannot be divorced or viewed in isolation from the political ecology theory is widely evident in the findings. As noted, especially under the sub-themes *Gender, land and historical political relationships* and *Gender and broader land redistribution complications*. For instance, while apartheid as a political system was repressive based on race, gender was an included discriminatory facet in it. Thus, the dismantling of Apartheid was associated with the prospects of gender relations change by some respondents in the study. Also, some traditional leaders associated gender inequalities of the past with a wider political system that was firstly repressive to black people and secondly to women. This is corroborated by a view that during apartheid, white women were also oppressed by the same system albeit they were better-off than black women. The strong suggestions and recommendations that women should mobilise into pro-feminist, anti-customary-law and anti-gender oppression advocacy groups (Paulson *et al.*, 2020) also hint at the applicability of the female-centric advocacy views of the FPE in the municipality. The next subsection relates the legal pluralism and FPE theories within a Nkomazi Local Municipality context.

7.9.3.3 Relating legal pluralism to feminist political ecology

This section relates the two theories (legal pluralism and feminist political ecology) based on the general findings from the study. Both theories, in part, explain gendered differences in land ownership and poverty in the Nkomazi Local Municipality. Secondly, both theories put political forces, both customary and statutory, at the centre of resources ownership inequality. For instance, the FPE theory puts gender dominance in natural resources ownership to be a direct result of patriarchal, customary political systems. Under such a system, women have constrained access to resources, support and information (Rocheleau, 2008; Paulson et al., 2020). Similarly, under the legal pluralism theory, the dominance of patriarchal customary law systems over the statutory law system yields the same gendered differences in land ownership. The two theories therefore strongly complement each other and both help to enhance an understanding of the gendered land challenges in the Nkomazi Local Municipality.

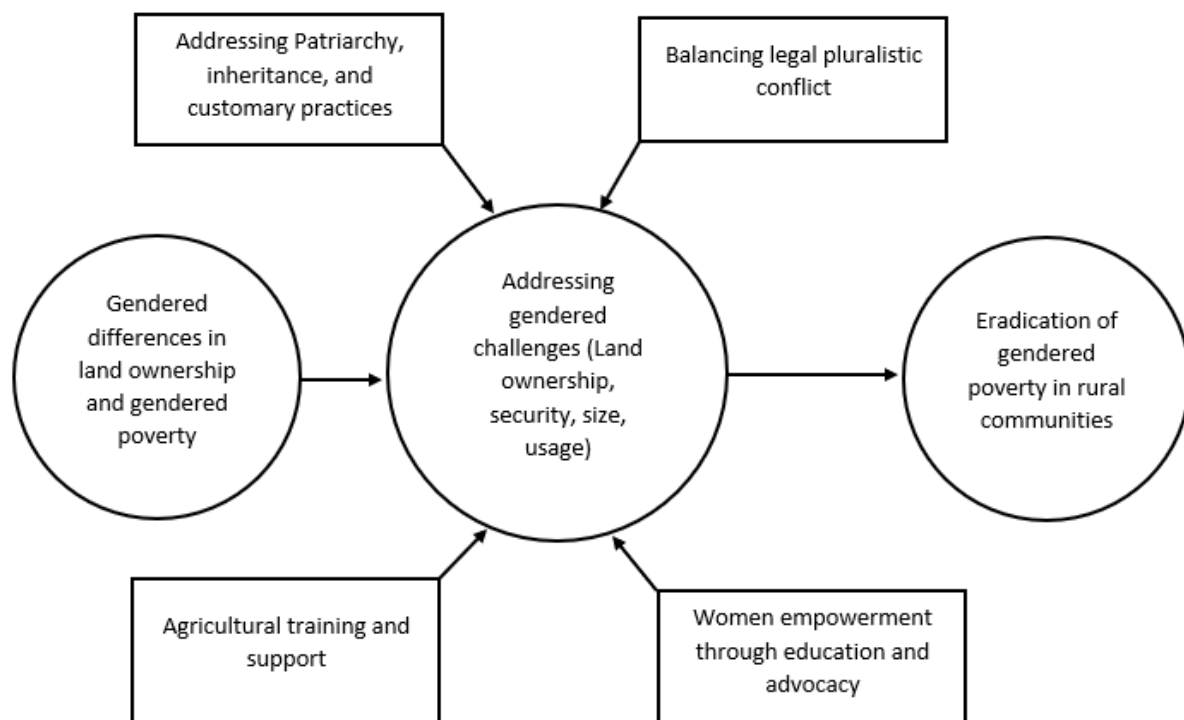
Legal pluralism puts natural resources including land under the control of either the state or another form of power, in this case, customary law. These two forces have allocative power of land resources. This allocation is determined by governing principles with the state basing its allocation on statutory while traditional system basing theirs on customary law. Theoretically, under the two systems, the issue of gender was dealt with differently with the state preferring equality by gender in land distribution and customary law. The above scenario presents a conflict between the legal systems and gender. From the study, it appears that in Nkomazi, women were losing in this conflict and the intervention of the state, and therefore a challenge to the pluralist order is what is required. Nonetheless, as argued, in pluralism, customary law systems can exist even outside the sanction of the state (Mutloane, 2015). The encouragement of feminist-based governance and the emancipation of women, as discussed under Theme 7 is perceived as a force that could neutralise the unbalanced power between males and females. The inclusion of females in traditional governance as discussed under another theme also had the potential to act as a neutralising power in gendered land ownership challenges in the Nkomazi municipality.

7.9.4 Framework for addressing gendered land ownership differences

As explained in Chapter One, this study also intended to provide a framework for addressing gendered land ownership differences in the Nkomazi Local Municipality. A framework is defined as a basic structure guiding relationships between research aspects of interest (Pollastri et al., 2020). Implementation frameworks guide the implementation of findings and

recommendations into practice making them a popular aspect in policy-related fields (Pollastri et al., 2020). Below is the framework that relates gendered land ownership as a phenomenon and the possible areas of action needed for its eradication.

Figure 7.1: Framework for addressing gendered land ownership differences



Source: Researcher's own compilation

The above framework, based on the empirical findings of this study takes a phenomenological approach where gendered land ownership differences in the Nkomazi Local Municipality is the phenomenon of interest. Gendered land ownership differences are a problem whose symptoms include differences in ownership status, land sizes, security of tenure and farming typologies as highlighted under Theme 1 (Gendered differences in land ownership and access). The general result of the problem is gendered poverty as women have restricted economic beneficiation from the same land, as discussed under Theme 2 (Land, poverty and economic access).

The framework identifies four forces behind gendered land ownership and its consequences on the female gender. The first force is patriarchy and its consequential cultural effects including inheritance laws that deprive women equal access to family land. This force is mainly captured under Theme 4 of the study's data analysis (The role of cultural and historical factors in gendered difference in land ownership). Patriarchy is also discussed in the modern sense where land ownership processes, including those under non-customary systems, are led by men. The second force is legal pluralism. As noted in the study, while there were adequate constitutional and statutory provisions that empowered government and municipal authorities to insist on the equitable and non-discriminatory distribution of land by gender, the overarching strength of customary law in the Nkomazi Local Municipality diluted the powers of statutory law resulting in the continuation of gendered land ownership differences post 1994. Legal pluralism has also resulted in poorly coordinated land redistribution government and traditional council-led land redistribution programmes (Theme 5: Political systems, coordination and communication). Also, the unchecked powers of traditional councils under the pluralistic arrangements has been associated with corrupt, elitist and unethical practices in the distribution of land, all this weighing heavily against women's ownership of this resource (Theme 4: Customary leadership system and engendered land ownership differences).

The third force that stood against gendered equality in land ownership in the Nkomazi Local Municipality was the access to training and agricultural support. There were assertions of unequal access to training support by gender. Also comparatively low level of education as a result of unfavourable cultural and social factors disadvantages women's farming capacities facilitating gendered poverty. Also, there were views that land ownership was associated with farming capacity with women believed to be incapable of farmers being denied land. While training and support should be provided to ensure that women can fully utilise land, it should not be used as a point of discrimination when allocating land given that women in the Nkomazi Local Municipality are disadvantaged when it comes to training and educational access as revealed under Theme 6 - Training and skills development and engendered differences in farming. Finally, the emancipation of women through advocacy, rights education and mobilisation was believed and seen as an urgently needed tool in the eradication of gendered land differences. Emancipated women are in a better position to know and fight for their constitutional rights and to stand up against patriarchy and unfair cultural practices.

Thus, the above framework takes the dismantling of gendered land ownership in the Nkomazi Local Municipality as a multi-faceted process requiring the efforts of the government, traditional systems, gender advocacy groups and women themselves. The framework is also underpinned by the fact that statutory and constitutional laws in South Africa have already been crafted to promote gender equality in land issues but what is needed is the urgent implementation of such laws alongside offering support to women.

7.10 Chapter summary

This chapter further discussed the findings from the previous data analysis chapter. The discussions were done by theme. Some findings from the study were not different from both the views and results from previous studies. The discussions pointed at patriarchy under customary law as a major force impeding women's access to land. Both the legal pluralism and the female political ecology theories were significant in explaining the gendered differences in land ownership in Nkomazi. Finally, the chapter presented a framework that can be used in resolving gendered land ownership differences in the municipality. The framework proposes addressing patriarchy, balancing legal pluralism, providing training and support to women farmers and promoting the emancipation of women. The next chapter concludes on this study and gives appropriate recommendations on the way forward.

CHAPTER 8: CONCLUSIONS AND RECOMMENDATIONS

8.1 Introduction

This chapter concludes the study and gives recommendations for consideration by governmental bodies especially those in the cooperative governance, agriculture and land distribution and women and gender affairs circles. To recap, the study was designed as a qualitative study. Its problem statement was that despite attaining democracy in 1994, land redistribution remains an unresolved issue. While the government introduced different policies and programmes that aimed to promote equal land distribution among South Africans, land ownership inequalities significantly linger in communities. Unequal access to land by gender is a prominent challenge in communities under pluralist communities – those governed by both customary and statutory leadership structures. Women in need of land for farming and other purposes were reported to face more challenges in accessing this land than men. It is on the above background that the present study explored how gendered differences in land ownership affect the lives of Black rural women in the Nkomazi Local Municipality. The chapter starts by summarising the study's report before summing up the findings made.

8.2 Summary of chapters

This section summarises the contents of the study's chapters from chapter one to chapter seven.

8.2.1 Chapter One: Introduction

The first chapter introduced the focus of the study as the plural land property rights system consisting of statutory and communal laws and its effects on land ownership among Black women and its associations with engendered differences in land ownership. The statutory laws are underpinned by the democratic constitution that supports equal rights for both women and men while communal law is grounded in the patriarchal system, where land and property are allocated to the male as the head of the household (Mnisi and Claassens, 2009). The communal law was discussed as limiting women from owning the land. This was taken to be a serious challenge especially considering that rural Black women heavily depended on land as a source of livelihood and as an economic factor of production. The chapter also introduced gender oppression as an area of study interest. Land inequalities and the roles of traditional leadership systems in perpetuating such inequalities were highlighted in the chapter. The chapter posed important questions that guided the study.

One such question was whether women know the difference between the recorded and unrecorded customary laws? Also, what were women's daily experiences of women of the

unrecorded customary laws on land ownership? The chapter also established that the rate of women who live below the poverty line was higher than that of men (Ngomane, 2016) justifying the aim to explore how a gendered difference in land ownership affects women, through examining the realities and daily experiences of women in Nkomazi.

In this regard, the study aimed to answer the following research questions:

- What are the present practices of customary laws in land distribution in the Nkomazi Local Municipality?
- How do dual land laws affect women in the Nkomazi Local Municipality?
- How does the lack of capacity affect women in land ownership in the Nkomazi Local Municipality?
- Is there communication between traditional leaders and government officials about land distribution?

In the same chapter, the study's intended contribution was outlined. It was expected to contribute towards the understanding of the question of how gender differences in land ownership contributes to gendered poverty in the Nkomazi Local Municipality. Theoretically, the study also aimed to generate knowledge that might promote gender equality in land ownership, through the establishment of a model called Gender Equality in Land Ownership. The study was also expected to contribute to increasing knowledge of pluralism in explaining the dual nature of land ownership in South Africa and how such contradictions could be addressed.

8.2.2 Chapter Two: Literature Review

The chapter focused on land ownership by race and gender, international and regional land ownership situations, South Africa's land redistribution policies, the roles and relationships between customary and statutory laws and factors that affected women's land ownership. The literature review revealed that the land audit shows that in South Africa, Whites own 72% of the total farmland, Coloureds own 15 %, while Africans own 5% of the land (Land Audit Report, 2017). As revealed, the land ownership inequalities were not only a race issue in South Africa but also a gender issue as men of all races owned more land than women.

Gendered differences in land ownership in Latin America, China and selected African countries were also reviewed. Land ownership inequalities were significantly high in Guatemala, Peru, El Salvador and Nicaragua (Bose, 2017). It came out that in China, Communism was expected

to resolve engendered differences in land ownership. However, gender differences in land ownership remain protracted in the country (Song and Dong (2017; Zhang, 2019). Elsewhere in Africa, the cases of governments failing to implement land ownership equalities were also widely discussed (Antonio-Ledesma, 2015; Akinola, 2018; Honma, 2019). The chapter gave an impression that the gender inequality in land ownership was a global concern.

The chapter also reviewed South Africa's policies and attempts towards establishing more equitable land ownership. These included the Land redistribution policy, the Land restitution policy, the Land tenure policy and the Communal Land Policy (CLTP). It also dwelt on the concept of land expropriation without compensation, constitutional, customary and statutory law in the South African context. The chapter also focused on the capacity of women through discussions on women and education, lack of access to complementary inputs and services and financial constraints. It further discussed their lack of access to complementary inputs and services, the effects of financial constraints on women's farming capacities and the role of gender blind legislation and policies in perpetuating the status quo.

8.2.3 Chapter Three: Theoretical Frameworks

The study adopted two theories, firstly is legal pluralism which explains the reality of the two land laws (customary and statutory law) in the Nkomazi Local Municipality and feminist political ecology which was adopted to explain how the gendered differences in land ownership contribute to gendered poverty. The theory further explains how the governance of land by men affect rural women.

The legal pluralism theory emerges in the 20th century in reaction to the view that only a state is a source of law (Wilson, 2000). One of the definitions used to define pluralism was that by Tamanaha (2011) that says that legal pluralism is "a context in which multiple legal forms coexist". In Africa, legal pluralism has been seen by the existence of customary law in the same environment where state laws exist. The daily practice of the customary law by the indigenous people is not determined by the availability or unavailability of the state to approve their practice. Moreover, sociologists and social scientists argue that the state as one of the sources of law does not consider the existence of the indigenous people who are guided by their customary law (Gebeye, 2017). The legal pluralism theory tends to oppose the legal positivism

theory, this theory believes that a state is the only source of law is called legal positivism and legal centralism.

The concept of feminist political ecology (FPE) arose as a subfield of political ecology and the development of this theory is traced to the 1990s (Mollett and Faria, 2013). Rocheleau (2008) argues that researchers have extended the focus of the political ecology theory to analyse gender. The theory gained interest in the mid-1990s as a strategy to reclaim feminist politics more especially in environmental engagements. It aims to bring feminist theories to the practices of political ecology (Elmhirst, 2016). Political ecology seeks to explain the nature and the causes of environmental changes as well as the impact of human beings on natural resources. The theory also aims to understand the interaction between class, ethnicity, and gender (Resurrección, 2017). Hence, the study is grounded not on the political ecology but strictly on FPE as stated above. The FPE is considered to be the perception of feminist on political ecology.

8.2.4 Chapter Four: Physical Setting of the Study

The area of the study was identified as Nkomazi Local Municipality which is located in the Mpumalanga province (South Africa) (Van-Deventer, 2000). The chapter discussed the origins and locations of homelands, specifically the Gazankulu, KwaNdebele, Lebowa, Bophuthatswana homeland and KaNgwane homelands. Mpumalanga was discussed as the provincial setting and the Ehlanzeni District Municipality as the district under which Nkomazi was situated. Nkomazi held 23% of the total population in the district and this totalled 92 202 households.

The Nkomazi Local Municipality is governed by eight traditional authorities: Mawewe; Matsamo; Mlambo; Hhoyi; Siboshwa; Kwa-Lugedlane; Mhlaba and the Lomshiyo Tribal Authority (Mashele, 2013). The traditional leaders are located in the southern section of the municipal area. Notwithstanding the traditional leaders, the municipality also covers urban areas like Malelane, Hectorspruit, KaMaqhekeza, Tonga, Komatipoort, and KaMhlushwa (Mashele, 2013).

8.2.5 Chapter Five: Research Methodology

The fifth chapter presented the detailed research methodology that guided the study. The study was conducted as a qualitative research strongly guided by the critical analysis theory's need

to investigate the state of affairs and provide remedial recommendations among repressed groups. The study targeted a sample of 59 participants from among female farmers, female non-farmers, male farmers, traditional leaders, municipality and government officials from the Nkomazi Local Municipality using purposive sampling. Data were collected using structured interviews and was analysed using thematic analysis on the Atlas. ti software. The study considered the participants' fundamental rights to informed consent, voluntary participation, confidentiality and protection from harm.

8.2.6 Chapter Six: Data Analysis and Interpretation

In this chapter, data were analysed using thematic analysis. Seven themes emerged from the data. These themes were: Engendered differences in land ownership and access, Land, poverty and economic access, The role of culture in gendered differences in land ownership, Customary leadership system and engendered land ownership differences, Political systems, coordination and communication, Training and skills development and engendered differences in farming and The emancipation of women. The main theme of the study was Theme 1 (Engendered differences in land ownership and access, Land, poverty and economic access). It had several subthemes specifically: Land access and ownership by gender, Gender versus security of tenure, Gender differences and land sizes, Engendered differences in types of farming and Commercial farming capacity by gender. Overall the themes formed a pattern that helped to answer the study's four research questions.

8.2.7 Chapter Seven: Discussion of Results

In this chapter, the themes identified in the previous chapter were further discussed comparing and contrasting their content with previous studies and views from other sources. The themes showed similarities with several findings on the roles of patriarchy and legal pluralism in fermenting gender inequalities in land ownership in the Nkomazi Local Municipality. In the chapter, it also emerged that the findings from the data analysis resonated with the legal pluralism theory while women's disadvantaged access to land was mostly explainable using the feminist political ecology theory.

8.3 Findings on the study's research questions

As alluded the study had four research questions. This section provides summary responses to these questions. To recap, seven themes emerged for answering the below research questions:

8.3.1 Research question one

What are the practices and processes of current land redistribution activities in the Nkomazi Local Municipality?

The first research question of the study was mostly answered by Theme 3: The role of cultural and historical factors in gendered difference in land ownership and Theme 4: Customary leadership system and engendered land ownership differences. It emerged that in the Nkomazi Local Municipality, patriarchy played a major role in gendered land ownership. It manifested itself through hereditary practices that restricted women's equal ownership to land and reflected itself through male-led and male-dominated traditional leadership systems that were less likely to prioritise women's land issue. Under Theme 4, it emerged that the abuse of customary law and traditional leadership authority was a practice that also disadvantaged women in land ownership. It emerged that the unchecked power of traditional authorities, leading to abuse and elitism disadvantaged poor rural women's land ownership opportunities favouring those who seem to be connected to traditional systems and those with better economic standing. The above practices occurred under customary land redistribution as statutory land redistribution efforts appeared to be scarce.

8.3.2 Research question two

What are the effects of the dual land law system on women's ownership and access to land in the Nkomazi Local Municipality?

Dual land laws on land redistribution negatively affected women's access and ownership of land. This occurred in a situation where despite having constitutional rights to equally own land, the powerful operation of customary laws subordinated these rights. Women were likely to own smaller pieces of land compared to men and were also more likely to have insecure tenure. This negatively affected their participation in commercial farming ventures leading to many of them to use the little land they had for subsistence farming purposes. Dual land laws created poverty cycles by gender. Women, who ordinarily have fewer economic opportunities than men, were pushed into further poverty due to landlessness. They were turned into a very vulnerable economic group that lacked the land that served as a major economic asset and source of livelihood to them. The slowness of land ownership transformation by gender means that more women remain landless than men and fewer of them actively participate in farming as an economic activity that could eradicate poverty and create wealth.

8.3.3 Research question three

What factors affect women's land-use capacity and how is it affected by the land ownership situation in the Nkomazi Local Municipality?

The main themes that contributed to the understanding of research question three were: Theme 6-Training and skills development and engendered differences in farming and Theme 7-The emancipation of women. Patriarchal systems created an environment where training and knowledge creation efforts were mainly directed at men. Women reported that though both genders suffered from a lack of adequate training support, women felt the effects of this challenge than men as they were more likely to be discriminated against in training efforts. Women were also affected by decades of oppression that saw many of them having little or no access to formal education and this affected their capacity as farmers. Nonetheless, there were views that some women performed exceptionally well in farming despite limited or no access to training. The study also uncovered views that women's agricultural capacity challenges were used to justify the infringements of their equal rights to land ownership by some quarters. Lack of emancipation among women when it came to land ownership, knowledge of their rights including under customary law negatively affected their access to land as well as their productivity to it.

8.3.4 Research question four

How is the coordination and communication between traditional leaders and government officials in land redistribution matters?

It emerged that the relationships between traditional leaders and government officials embodied the relationships and interactions between customary and statutory laws. On a personal level, the relationship between these offices was mostly discussed as positive with both parties stating that they respected each other and did communicate on land issues. However, deep-seated divisions and conflict were evident between the offices though a compromise was used to pacify the two. It also emerged that both offices acknowledged the supremacy of the Constitution and the need to emancipate women albeit their actions, as reflected in the views of other respondents contrasted their words. Statutory law was rendered less powerful in land distribution while the constitutional rights of women were also ignored. It also emerged that customary law sometimes took over because of poor implementation of

statutorily mandated land redistribution processes. While the two offices allegedly communicated and coordinated well, they had both failed to eradicate engendered differences in land ownership as a community problem in the Nkomazi Local Municipality. This also led to views that both systems may not be effective in fully addressing land problems, including gendered differences in ownership unless the national and broader historical land ownership imbalances by race have been addressed.

8.4 Conclusion

Based on the findings from the sample participants, the study, therefore, concludes that gendered land ownership differences are a reality in the Nkomazi Local Municipality. They manifest through differences in ease of land ownership between men and women, differences in land sizes, security of tenure and access to training and support. Gendered land ownership differences result in gendered poverty and worsen the economic plight of women who rely more on the land than men. The study concludes that patriarchal traditional systems as institutionalised in customary law systems are the main force behind unequal access to land between men and women. While statutory laws and a gender-sensitive constitution have been crafted, the excessively overt application of customary law continues to deny women the rights to equality on land issues.

Recommendations

This section presents the study's recommendations on how the land ownership challenges in the Nkomazi Local Municipality can be addressed. In the previous chapter, the study provided an implementation framework that can be used to address the problem of gendered land ownership differences in the municipality. The recommendations below are aligned with this framework. Thus the full implementation of the framework would ensure that the recommendations below are also made part of the solution. Most of the recommendations are addressed to the relevant government departments.

Addressing legal pluralism negativities

The government need to address the conflicts between customary and statutory laws as this hinders women's equal ownership of land. Addressing pluralism is a challenge as it requires confronting entrenched cultural systems and reigning these to ensure that the Constitutional position on gender equity concerning land ownership is respected. Customary law should be subordinated under the Constitution and any land rulings that the former may make outside constitutional provisions should be rendered ineffective. Addressing legal pluralism in South

Africa challenges the implementation of existing laws rather than the formulation of new ones. The Traditional Leadership and Governance Framework act 41 of 2003 exists under constitutional provisions that acknowledge the necessity of customary law in some communities. However, where such customary laws go against the Constitution, constitutional democracy must prevail.

Use new land distribution opportunities to address land ownership inequalities

The currently discussed expropriation of land without compensation should be implemented with due consideration of women's land rights in mind. Assuming expropriated land is distributed to traditional leaders for further redistribution to their subjects, in Nkomazi and possibly in many other rural parts of South Africa, the land ownership gap between men and women will widen to the disadvantage of women. New land redistribution exercises in Nkomazi must take note of the current inequalities caused by the subordination of both statutory and constitutional law by customary law. Thus, it is imperative to reduce any further reallocations of land to traditional authorities as a way of ensuring gender equality.

Introduce gender equality implementation plans at the national and community levels

In addition to legislation and policies that advocate for gender equality in the access and ownership of land, the government needs to implement gender equality plans. These plans could be localised to meet the unique characteristics of different communities. Gender equality plans are more detailed and specific to local situations and set tangible goals that should be aligned to policies and legislation. Gender equality plans have been adopted in several Latin American countries where gendered differences in land ownership are reported on a decline (Bárcena et al.,2017).

Enforce gender quotas on traditional councils

The absence of women in traditional councils was noted as one of the reasons why women's land requests were often treated unfavourably by traditional authorities. Statutory laws that regularise traditional authorities should also dictate the composition of traditional council structures by gender. Women should be represented in the councils through a quota system to ensure that their voice on land and other issues is heard.

Codification of customary law

Customs that govern women's access to land, as well as other pertinent traditional laws, should be codified and made publicly available to communities. This will limit the discretionary application of so-called customary principles that discriminate land-users by gender. Codified customary law should be made available to communities in vernacular languages to ensure that it is understood by all

Educate communities on the appeal process in customary law land decisions

The Nkomazi Local Municipality community seem to take decisions made by traditional leaders as final. The government should ensure that citizens are educated about their rights to appeal against unfair and unconstitutional decisions by traditional authorities. It is also important to ensure that courts of appeal and other appeal offices are popularised and are geographically accessible to communities.

Encourage and facilitate the formation of women's organisations and rights associations

The Department of Social Development, non-profit organisations and civic groups must facilitate and support the formation of women land rights groups in the Nkomazi Local Municipality. These groups should focus on educating women on their land ownership rights and advocating for equitable distribution of land by gender. As highlighted in the literature review these organisations have helped to women's ownership of land even in some very culturally conservative Latin America countries.

Educate traditional leaders on women equal rights on land

The Department of Co-operative Governance and Traditional Affairs (COGTA) department must set-up training and workshops to educate traditional leaders on women's land rights. These workshops could also be used to engage women groups, women farmers with traditional leadership as a way of building a common understanding of women's land challenges in the Nkomazi Local Municipality.

Agricultural training and support

The Department of Agriculture, Land Reform and Rural Development (DALRRD) should offer more agricultural training programmes for Nkomazi Local Municipality farmers and should ensure that women are well-represented in all training programmes. Further agricultural

support, include funding and extension services should also be made available to women in the municipality.

Land distribution equality as municipality goals

The Nkomazi Local Municipality as a government sphere should prioritise gender equality in land opportunities as well as in other economic programmes under its control. The municipality's integrated development plans should therefore measure gender equality as a social development indicator. This will encourage municipality officials to approach gender matters more extensively.

Limitations of the study

While due care was taken to ensure that the study met its quality measures of trustworthiness, credibility, confirmability and transferability, a few limitations and weaknesses can be identified. These are briefly outlined below:

- The study took a qualitative research approach. While this approach was notably advantageous in enabling research participants to fully express their thoughts, experiences and emotions, it lacked the power of representativeness. The views from the participants could not be assumed to represent the views of all women in the Nkomazi Local Municipality, at least in equal proportions.
- The research efforts collected data at one point in time. It was thus a challenge to effectively assess whether the views and perceptions of the sample could have changed with time. i.e. whether the land inequality issues discussed represented a change for the better or the worst.
- Some important groups did not participate in targeted numbers because of various challenges among them the COVID-19 situation that was prevalent at the time of data collection. The DALRRD was represented by one official and the Municipality by two. It is possible that data saturation from these stakeholder groups might not have been reached. The researcher however also relied on secondary sources from these departments in an attempt to reduce the effects of this situation.

The study also makes various recommendations for further research. These are presented in the next section.

Recommendations for further research

The following further research recommendations are made:

- A quantitative study that applies the constructs that were obtained in this empirical study to get representative views on gendered differences in land ownership in the Nkomazi Local Municipality. The seven themes obtained in the study can be used as constructs whose extent of occurrence in the municipality could be quantified.
- A study that examines the roles, effects and extents of feminist activism in the fight for land equality in Nkomazi Local Municipality is also recommended. This comes after noting that not much was said about the roles of gender activism as a force in land inequality issues.
- Studies that test the applicability of the empirical research's framework on reducing gendered differences in land ownership in the Nkomazi Local Municipality and beyond. This study should also take a quantitative approach that enables it to test models using a tool like structural equation modelling (SEM).
- Studies that investigate the feasibilities of completely dismantling customary leadership systems or at least reducing their powers systems as solution to patriarchy and gendered land ownership differences.

The above studies will advance the polity's society's and the academia's understanding of the gendered land ownership differences, not only in the Nkomazi Local Municipality but other parts of South Africa as well.

The study's major contribution to the body of knowledge

The study made a significant contribution to academic and policy-related bodies of knowledge. It made findings that not only add to the theoretical understanding of gendered differences in

land ownership but also practical recommendations that could positively impact the Nkomazi Local Municipality communities as well as other South Africa communities facing similar challenges and circumstances.

Its major contribution is a framework that guides the processes of harmonising conflict laws while incorporating other land ownership challenges that impede women's land-use productivity. The framework takes the challenges of women as intertwined and therefore requiring an integrated, multi-stakeholder approach that accommodates women and women's groups, government units, municipalities and the traditional leadership as key stakeholders. This framework provides a strong basis for future quantitative studies to examine and investigate gendered differences in land ownership in customary law communities both in South Africa and beyond.

Among its interesting findings, good relationships, communication and coordination between traditional leaders and government authorities do not imply that they work together towards addressing gendered land differences. As noted, these stakeholder groups can coordinate in the wrong direction. This happens when they both facilitate policies and actions that deprive women of their land-use rights including land ownership. Positive relationships between traditional leaders and government officials can result in both groups tolerating each other's mistakes and inconsistencies on land redistribution. The above finding points at the healthiness of conflict in so far as it forces one or both groups to concede and give land ownership to women. Just like the three levels of government need to put each other in check, traditional leaders and government officials needed to hold each other to account for land redistribution even if this resulted in conflict between them.

The study also made several other confirmations to previous research on gendered land differences done in and outside South Africa. It showed that some findings, including the role of patriarchy and the power of pluralism in gender inequality, also applied to the situation in the Nkomazi Local Municipality. Thus, while there were unique factors that contributed to land ownership inequalities, some previously acknowledged common issues also applied to this locality.

The study makes a daring conclusion that the government must eventually choose what it prioritises more between gender equality and keeping traditional leaders appeased. While

recommendations to change how customary law and traditional systems operate in relation to land redistribution, such change, as noted, could take decades or even fail to take place. Noting that traditional authorities are not democratic entities as they are not voted into power, it must eventually be asked whether their existence is more important than gender equality in land ownership.

Chapter summary

This chapter summarised the contents of this research report before recapping the research for main questions. The chapter made recommendations mostly directed towards government departments including the DSD, DARRLD and COGTA while some were directed towards the Nkomazi Local Municipality. The limitations of the research were also discussed before recommendations for further studies were discussed. The major recommendations of the study included the use of new land distribution opportunities to address land ownership inequalities, the need to educate traditional leaders on women equal rights on land, the codification of customary law, the need to encourage and facilitate the formation of women's organisations and rights associations, among others. The chapter ended by outlining the study's distinct findings and views. Overall, the chapter effectively answered the study's four research questions leading to the conclusion that the study successfully met its four objectives.

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University of Zululand
Department of Development Studies

Women famers questions

A case study of gendered difference in land ownership in Nkomazi, Mpumalanga, South Africa

Researcher : Mandla Abednico Mubecua
Supervisor : Dr I.S Nojiyeza
University : University of Zululand

Note to participants:

- Although I would like you to help me, you do not have to take part in this research. What you say in this interview will remain private and confidential.
- You have a right not to answer a question which you are not comfortable with

How to respond?

- Please answer the questions as truthfully as you can.
- If you do not feel comfortable answering a question, you can indicate that you do not want to answer. For those questions that you answer, your responses will be kept confidential.

Do you know how the customary law work in this area in terms of land distribution, please explain?

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Do you think the customary law system encourages gender equality in land distribution, please explain?

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Do you presently own land, please explain?

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How long have you been owning this land, please explain?

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Who gave you a permission to own this land, please explain?

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Were there challenges in getting the ownership of this land under the customary law system, please explain?

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Was a male figure required the time you requested the ownership of the land, please explain?

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Do you think that the cultural practices in this area aligns with the constitution of the country, which promote gender equality, please explain?

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If yes, how do you think this affect you as female farmers, please explain?

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Do you think the majority of women have access to land ownership, please explain?

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Have you received any training on how to use the land effectively, please explain?

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If yes, who provided you with the training, please explain?

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If no, do you think the lack of training affect you to successfully use the land, please explain?

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Do you think women do not own the land because of not having the capacity, please explain?

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What is your view about the land or land ownership and the increasing poverty of women in this areas, please explain?

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Thanks for your participation



University of Zululand
Department of Development Studies

Land affairs questions

A case study of gendered difference in land ownership in Nkomazi, Mpumalanga, South Africa

Researcher : Mandla Abednico Mubecua
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- You have a right not to answer a question which you are not comfortable with

How to respond?

- Please answer the questions as truthfully as you can.
- If you do not feel comfortable answering a question, you can indicate that you do not want to answer. For those questions that you answer, your responses will be kept confidential.

Are you familiar with the way in which the traditional leaders in Nkomazi, distribute land, please explain?

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Do you think the western democratic system of governing land and the way in which the traditional leaders govern land affect women, please explain?

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In your own view, what do you think should be done to address the clashing between the two system of governing the land, please explain?

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Do you normally provide skills to the women who get land from the land restitution or land redistribution, please explain?

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How is your relationship in the traditional leaders in land distributing, please explain?

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What do you think should be done to strengthen the relationship between the government and the traditional leaders, please explain?

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Thanks for your participation



University of Zululand
Department of Development Studies

Male farmers' questions

A case study of gendered difference in land ownership in Nkomazi, Mpumalanga, South Africa

Researcher : Mandla Abednico Mubecua
Supervisor : Dr I.S Nojiyeza
University : University of Zululand

Note to participants:

- Although I would like you to help me, you do not have to take part in this research. What you say in this interview will remain private and confidential.

How to respond?

- Please answer the questions as truthfully as you can.
- If you do not feel comfortable answering a question, you can indicate that you do not want to answer. For those questions that you answer, your responses will be kept confidential.

Do you think the customary law of this place allow women to own land, please explain?

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Are the number of women who own land equal to those of men in this place, please explain?

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Are the norms and traditions of this place encourage women to own land?

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Do you think that women are restricted to own land, please explain?

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Do you think the bylaws allow women to own land?

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Do you think there is a clash between the bylaws and customary law?

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If yes, do you think this clash makes women not to own land, please explain?

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Do you think the majority of women have access to land ownership, please explain?

Do you think women have enough skills to use the land, please explain?

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Do you think not having enough skills or education can make women not to own land, please explain?

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Do you think the municipality and the traditional leaders are working together to address gender differences in land ownership, please explain?

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Do you think the municipality and traditional leaders communicate about gender differences in land ownership?

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Thanks for your participation



University of Zululand
Department of Development Studies

Nkomazi Municipality questions

A case study of gendered difference in land ownership in Nkomazi, Mpumalanga, South Africa

Researcher : Mandla Abednico Mubecua
Supervisor : Dr I.S Nojiyeza
University : University of Zululand

Note to participants:

- Although I would like you to help me, you do not have to take part in this research. What you say in this interview will remain private and confidential.

How to respond?

- Please answer the questions as truthfully as you can.
- If you do not feel comfortable answering a question, you can indicate that you do not want to answer. For those questions that you answer, your responses will be kept confidential.

Do you think the customary law encourages gender equality in land ownership?

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Do you think a male figure is needed in order for women to own land?

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Do you think the practices of culture in land distribution relate with the South African constitution which support equal distribution of land, please explain?

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If yes, how do you think this affect women in this area, please explain?

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Do you think women have enough capacity to own land, please explain?

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Do women receive a training?

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If yes, who provided you with the training, please explain?

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What is your view about the land ownership and the increasing of gendered poverty in this municipality, please explain?

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Is there a relationship between the municipality and traditional leaders, please explain?

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Do you think traditional leaders are equally distributing land in both gender, please explain?

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How do you ensure that the customary practices are not clashing with your bylaws as the municipality, please explain?

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In your own view, do you think the municipality and traditional leaders are interacting very well to address the challenges of gender inequality in land ownership, please explain?

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Thanks for your participation



University of Zululand
Department of Development Studies

Non- Farmers Females questions

A case study of gendered difference in land ownership in Nkomazi, Mpumalanga, South Africa

Researcher : Mandla Abednico Mubecua
Supervisor : Dr I.S Nojiyeza
University : University of Zululand

Note to participants:

- Although I would like you to help me, you do not have to take part in this research. What you say in this interview will remain private and confidential.
- You have a right not to answer a question which you are not comfortable with

How to respond?

- Please answer the questions as truthfully as you can.
- If you do not feel comfortable answering a question, you can indicate that you do not want to answer. For those questions that you answer, your responses will be kept confidential.

How do you do to generate income or livelihood, please explain?

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Do you have interest in farming, please explain?

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Do you know how the customary law works when it comes to the distribution of land by traditional communities, please explain?

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Do you think that the customary law system encourages gender equality in land distribution to those who were previously dispossessed?

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Do you own land in this area, please explain?

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Do you think that for women to own land it is compulsory to be associated with a male figure, please explain?

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Do you think the bylaws and procedure followed in land redistribution and restitution programmes allow women to own land?

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Do you think female headed household benefitted equally with the male headed household, please narrate?

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Do you think the lack of land ownership in you women make you poor, please explain?

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Do you think women are trained to use land?

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If Yes, who provide the training, please explain?

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If No, do you think women do not own the land because of not have proper training or capacity, please explain?

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Thanks for your participation



University of Zululand
Department of Development Studies

Traditional leaders' questions

A case study of gendered difference in land ownership in Nkomazi, Mpumalanga, South Africa

Researcher : Mandla Abednico Mubecua
Supervisor : Dr I.S Nojiyeza
University : University of Zululand

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- You have a right not to answer a question which you are not comfortable with

How to respond?

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How do you distribute land in this area, please explain?

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Do women get access to land ownership, please explain?

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Do you think that the customary law encourages gender equality in land ownership?

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Do you need a male figure for women to own land?

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Do you think that women should own land in the same manner as men?

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Are you also familiar with the manner in which the Department of Land Affairs allocate land to those who were previously dispossessed? If that is the case are the projects of redistributing land part of restitution and are ensuring that even women have the security of tenure?

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Do you think there is no clash between the bylaws and your system of distributing land?

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Do you think both bylaws and customary laws are working together to address gender equality, please explain?

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Do you think women have enough capacity to own land, please explain?

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Do women receive training when they are allocated land?

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If yes, who provided them with the training, please explain?

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What is your view about the gender differences in land ownership and the increasing levels of gendered poverty, please explain?

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Is there a relationship between you and the municipality as a member of the House of Traditional Leaders, please explain?

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What do you think can be done to avoid the clash between the customary practices and the current western democratic system that is used in the country, please explain?

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Thanks for your participation