

Justification for access to legal information by rural women: A case study of Malava Sub County, Kenya

Vol. 7 No. 2

December 2022

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Abstract

Rationale of Study – In the constitution of Kenya 2010 and the Access to Information Act 2016, every citizen is accorded the right of access to information required for the exercise or protection of any right or fundamental freedom. No study has been done in Kenya to understand from the social justice context the extent to which legal information impacts their lives. This study examined the socio-economic realities of rural women of Malava intending to investigate how life realities impacted their access to social justice and secondly, understand how they perceived legal information.

Methodology – The study was modelled on the Social Justice Theory and took a case study design where face-to-face interviews were used to gather qualitative data from 85 respondents sampled from all 7 wards of the study area.

Findings – It emerged from the study that owing to the social economic realities faced by the rural women, they were not able to access legal information meaningfully and this limited their chances of accessing social justice.

Implications – It is recommended that the legal department of the County Government of Kakamega spearheads access to information initiatives that will go a long way in enabling rural women to receive information through various mediums such as radio, women groups forums and public awareness programs. This paper also recommends that the Kenya National Library Service in Kakamega promotes public legal education in the rural areas of Kakamega county.

Originality – The study was original research conducted Kakamega County in Kenya.

Keywords

Rural women, social justice, legal information, access to information, legal rights

Citation: Lugasi, E., Otike, J. & Bosire, E. (2022). Justification for access to legal information by rural women: A case study of Malava Sub County, Kenya. *Regional Journal of Information and Knowledge Management*, 7 (2),1-13.



Published by the
**Regional Institute of
Information and Knowledge
Management**

P.O. Box 24358 – 00100 –
Nairobi, Kenya

1 Introduction

Rural women bear the brunt of ignorance and this ignorance can be overwhelming when it relates to legal information. This is because awareness of social services and economic opportunities available to the public; knowledge of legislation enacted by law-making organs, rights, and obligations of individuals is embedded in legal information. This is not to suggest that other members of the public do not suffer the consequences of not having access to legal information rather rural women are usually overwhelmed due to factors such as (i) high illiteracy levels (ii) poverty (iii) limited mobility (iv) heavy domestic and agricultural work (v) negative traditional and cultural beliefs, societal ills meted on them such as Gender Based Violence cases Kongolo (1996), Ayuko and Chopra (2008), Neuman (2016), Wyche and Olson (2018); UNICEF (2018); and United Nations (2011). According to World Bank (2011), these factors are deeply rooted in the rural areas where a majority of the women population reside.

Article 19 of the United Declaration of Human Rights accords everyone the right to information. One may ask what relevance then is access to legal information to a people? Kirby (2011) posits that when citizens have access to legal information, they avoid legal issues. Secondly, they are in a position to handle the issues whenever they occur. Lastly, access to legal information increases legal literacy. Similarly, Steinberg, Were and Ng'weno (2014) enumerate the following as the significance of accessing legal information: (i) it is a critical step in understanding fundamental rights, (ii) it informs advocacy initiatives, (iii) it empowers citizens, (iv) it democratises legal information. Elsewhere, Bangani (2018) avers that access to legal information by the public strengthens a country's democracy and secondly, equality before the law is assured. The significance of legal information has further been underscored by Mitee (2017) in his determination to have access to legal information be declared a fundamental right on the premise of the well-settled legal principle "ignorance of the law is no defence". The benefits associated with access to legal information by the public as advanced by Mitee (2017) in his proposal to the United Nation are (i) access to legal information will promote knowledge of the law, (ii) transnational legal research will be promoted and above all, (iii) will remedy the chronic injustice caused by the Roman principle where everyone is presumed to know the law. This paper argues that rural women are justified to have access to legal information notwithstanding their limitations attributed to socio-economic factors like negative culture.

The objectives of this study were to examine the socio-economic realities of the rural women of Malava Sub County to establish how they impact their access to social justice and understand the perception of legal information by rural women of Malava Sub County.

This study was conducted in the Malava sub-county which lies in the Northern part of Kakamega County and is home to the Kabras Luhya community. The sub-county has 7 wards that are simply its administrative areas. All the areas were purposively chosen due to their vastness a feature that has cut off the majority of rural women from accessing legal information among other services. The presence of an active Community-Based Organization (CBO) by the name of Shimasic was founded to assist rural women who were experiencing legal issues such; as forcible eviction from matrimonial homes after the loss of a husband and gender-based violence (GBV) cases among other issues that were being handled at the family level. The CBO also empowers women economically by creating awareness of how to generate household incomes.

2 Literature Review

The Kakamega County Integrated Development Plan 2018-2022 locates Kakamega as the county with the highest rural population in the Republic of Kenya which reveals that the majority of Kenyans living in the rural areas are in Kakamega. Out of this category women in their largest numbers are found in the rural areas of Kakamega considered largely rural (Ondiba & Matsui, 2017). Neuman (2016) and Kiondo (1998) argued that when rural women in Africa have access to the right information, they can participate in meaningful development issues such as agriculture, civic education, public participation, governance and commerce among others. Conversely, the opposite is also true where the World Bank (2011) has held that the lack of information on part of the women is the third most serious impediment to rural development after poverty and GBV. A worrying situation in the rural areas of Kenya which the World Bank (2011) disclosed is that patriarchal traditions and community justice systems often override national legislation. This feature is dominant in the rural areas of Kakamega where Ondiba and Matsui (2017) reported that the social system is highly patriarchal and has a lot of influence on the women's way of life. Similarly, in the neighbouring county of Vihiga, Maseno and Kilonzo (2010) also observed that the patriarchal system had affected the economic levels in the region yet women were the farm caretakers. It was felt that the foregoing conditions had a way of impeding women's access to economic and social rights and

there was a need to understand the social justice context in which this was happening. Although social justice is both a principle and essential value in our constitution, rural women were still struggling to access social justice which Koome (2021) regretted is far from being achieved owing to a lack of legal awareness on the part of marginalised people. Furthermore, Mehra (2015) has suggested research into social justice status from a Library Information Science perspective be undertaken hence the motivation for this study. From the literature cited it can be seen that there was a need to understand in detail why access to legal information by rural women is paramount even though they are not legal practitioners.

Mitee's (2017) proposal to have public access to legal information as a human right was motivated by the existence of the ancient legal principle that states that ignorance of the law is no defence. His argument further requires that people be exempted from the liability of knowing the law if the law is not accessible. The proposal of Mitee was concerned that legal information is inaccessible to the public in both developed and underdeveloped countries. He went further to present that inadequate public access to legal information had adverse effects on justice, democracy, law reform, legal scholarship, sustainable development, legal practice and the rule of law. Koome (2021) cited a lack of legal awareness as one challenge that hinders the public from accessing social justice. To be legally aware is to be in a position to know the legal implications of the law and other legal dimensions of life generally.

Kenya launched a national agenda that would see the country ascend to being a middle-class country where everyone would enjoy a quality life by the year 2030. The long-term plan is anchored on four pillars and of interest to this study is the political pillar whose success has a bearing on the other pillars (GOK, 2007). This is because the political pillar requires citizens to have access to legal information in form of laws so that they become law-abiding people besides having respect for life. In the same vein, Otike (1995) has argued that when citizens obey laws in developing countries attraction of foreign investment is realized. Finally, the pillar intends to bring about civility on the part of Kenyans which will result in making societies peaceful. Rural women should thus be facilitated with access to legal information. No wonder Neuman (2016) considered that real transformation could take place in the presence of genuine access to information by rural women. Similarly, Koome (2021) affirms that access to legal information creates an informed and empowered citizenry who ultimately can have access to social justice.

An examination of past studies of Tuhumire and Okello-Obura (2010), and Otike (1995) in the area of legal information concentrated on legal practitioners leaving out the general public, in various geographical locations. Otike (1995) observed a worrying trend in Africa when he reported that governments had concentrated their efforts on reaching the rural populations with information on agriculture, health, and the environment amidst other areas leaving out legal information, yet, information on law affects every aspect of people's lives. This study came out to fill the gap where the focus on legal information studies had been targeted at legal practitioners leaving out the general public. Furthermore, Mehra (2015) suggested that social justice research be undertaken from the Library Information Studies approach which this investigation delved into.

3 Theoretical Framework

The social justice theory facilitated the analysis and justification of access to legal information as a legal right and secondly, provided the understanding of the study area, the study population and the aim of the study from a social justice perspective.

This study aimed to investigate access to and use of legal information by rural women and come up with strategies that would improve access to and use of legal information. The aim manifests three key features thus, rural women as the population; rural area as the location; and investigating access and use, as the intention of the study. Such features (population, location an intention) according to Winbberry and Bishop (2021) help describe the social justice context of a study. They further report that there has been a deeper persuasion by Library Information Science scholars to research social justice topics that, address issues of marginalized populations.

4 Methodology

This study adopted a qualitative research approach to understand through interaction with the respondents their perceptions, feelings, and meanings on the object of the study expressed in the research questions. Guided by the constructivist paradigm the researcher hoped to access the social knowledge that respondents attached to the phenomenon under study. This social knowledge was captured as culture, norms, understandings, feelings, attitudes and experiences.

The study sought to further understand the socio-economic realities and information behaviour as experienced, constructed and interpreted by the rural women of the Malava sub-county. A case study design method was adopted for the study to understand in

detail access to legal information by rural women in the context of social justice. The target population of this study comprised rural women aged 18 and above in Malava Sub County. A sample size of 85 rural women drawn from all the 7 wards of the sub-county was selected through convenience and snowball sampling methods. Purposive sampling was utilized to access FGD participants who included community leaders and leaders of Shimasic CBO. Respondents' expressions captured in their own words allowed the researcher to engage in meaning-making together with them and in so doing a deep understanding of their viewpoints was achieved. Data were analysed by thematic analysis technique used for identifying, analysing, and reporting patterns (themes) within the data.

4 Presentation and Discussion of Results

The majority of respondents accounting for 40(47%) in all the seven wards had primary school education followed by 27(32%) of respondents with secondary education suggesting that not all primary school leavers ended up in secondary schools. Regrettably 13(15%) of the respondents had no education at all. Just a handful of the respondents 5 (6%) had post-secondary qualifications which would imply that after attaining post-secondary education women preferred to stay in the urban areas while others would have been married in other regions outside Malava. This finding on education levels is in line with Katebire (2015) who disclosed that people in rural areas had low functional literacy skills. In line with the preamble to the Basic Education act of 2013, the ones who had achieved free primary education attained basic education which was the motive behind passing the act. This is after the government of Kenya noted that millions of children were not able to access basic education owing to financial challenges.

Table 1 Socio-demographic of rural women in Malava Sub County

Characteristics	Frequency	Percentage
Age		
Under 20	1	1
21-30	16	22
31-40	29	34
41-50	15	17
Above 50	25	7
Marital Status		
Single	3	4
Married	65	76
Widowed/Divorced	17	20

Education Level

None	13	15
Primary	40	47
Secondary	27	32
Post-Secondary	5	6

The low levels of education among rural women have serious implications as far as being facilitated by the law is concerned. They are likely to be ignored or taken for granted so that no information reaches them yet Neuman (2016) asserts that they are the most in need of information. The fact that literacy levels are low in rural areas does not exclude them from interacting with legal information because of the legal implications law has for everyone. Katebire (2015) described people with low literacy skills as people who lacked the confidence to look for information and therefore it implies that the respondents remained poor as far as possession of legal information is concerned. On the contrary, because they have inadequate education they need to be enlightened more.

The distribution of rural women on marital status in the table shows that the majority of respondents constituting 65 (76%) were married while 17 (20%) of the respondents were widowed. A paltry 4% representing 3 rural women were found to be single. There were no reported cases of divorcees from the respondents. As was expected most respondents were married owing to the expectations the community attaches to an adult woman. The study of Ondiba and Matsui (2017) on the entrepreneurial behaviour of rural women in Kakamega County recorded a higher percentage of married than single and widowed women. This places a requirement on married women to have an understanding of the basic tenets of marriage like formalizing their marriage under the Marriage Act of Kenya. This fact did not escape a respondent who was concerned that most rural women in her ward could not prove legally that they were in marriage. The concern raised may imply that rural women do not know the significance of proving marriage beyond staying together and having children, a situation that is likely to complicate issues in case of claiming an interest in the family property.

Results show that the age category with the highest number of rural women was of 31 to 40 years with 29 respondents representing 34% of the sample. This was followed by 16(22%) respondents who fell between ages 21-30 while the age category of 41-50 stood at 15(17%) respondents. Last but not least, 10(11%) of the respondents belonged to the age bracket of 61 -70 years. Few respondents were aged above 70 years with 5(5%) and 3(3%) respondents belonging to the age group of 71-80 and 81-90 years respectively. The majority of rural women are in their prime age which is a period when they are

productive and therefore ought to remain uninterrupted by issues that have serious legal implications on their lives and that of their families. There was only one rural woman who was under 20 years. Going by the dictates of the age of majority act and the requisite consent age of 18 the respondents qualify to access legal information so that they may live within the confines of the law which is why Mitee (2017) has pushed for the recognition of access to legal information as a fundamental right.

Table 2 Rural women requiring legal information

Rural women requiring		
Legal information	Frequency	Percentage
Yes	70	82
No	14	16
Do not know	1	2
Total	85	100

When respondents were asked to state whether they required legal information that impacted their lives majority of the responses were in the affirmative that it was beneficial to have access to information. 70(82%) respondents expressed that they needed to know about legal information while 14(16%) felt that they did not require legal information and only one respondent was not sure as to whether she had to access legal information.

The finding is in agreement with the conclusion that Otike (1995) established that rural populations in Anglophone countries are also required to know about legal information. The number of respondents who did not wish to know about legal information was low and could be attributed to apathy where Katebire (2015) argued that illiterate persons are not confident enough to ask for information. Kiondo (1998) similarly noted that poverty was one of the barriers that discouraged rural women from looking for information. Be that as it may, the finding buttressed that of Otike (1995) who observed that irrespective of low literacy levels rural populations had they needed to be provided with legal information.

Even though the general public is not heavy consumers of legal information like the legal practitioners' respondents in this study expressed interest and in particular when they were asked to explain why they felt rural women required legal information. The majority of them strongly argued that legal information impacted their lives and that of their

families. Respondents in this study cited the following reasons in justifying their case for access to legal information.

To remain, law-abiding citizens

One respondent who observed that most rural women did not know the laws of the land, elaborated on the impetus of being legally aware by explaining herself in the following manner:

So that rural women remain law-abiding citizens in their jurisdictions, you see here in the villages, rural people are always in conflict over boundary disputes for example and therefore we need to know what each law is all about so that we remain law-abiding Kenyans as we handle our matters.

“Right to know principle”

A seemingly patriotic respondent was emphatic that rural women just like other ordinary Kenyans should be in the know of laws that operate in the country. She boldly quipped:

A rural woman, being a Kenyan, needs to know the laws of the land.

This revelation suggests that women in rural areas are aware that they are obligated, are duty-bound to know the laws that govern their country.

Human rights

It was interesting to learn from the respondents that they were aware of the existence of rights because several of them exclaimed this way:

So that they (rural women) can stand up for their rights.

This statement suggests that rural women feel that they are being denied their rights on account of ignorance.

One of the reasons why the access to information concept has gained recognition is due to the principle of "the need to know" which people are entitled to know. It appears the rural communities desired to know what they feel touches their lives. A respondent appeared to justify the principle of the need to know by saying the following.

To help them not live in ignorance where they don't know their rights.

Legal Awareness

Most rural households are patriarchal where women felt men were domineering and women suffer in silence for fear of being accused of insubordination. A respondent felt it

was time for the women to know matters regarding the law since according to her, women did not understand the law that affected them. She went on to justify by stating:

Because they are always left behind in terms of awareness of the law yet the law affects them too.

Empowerment

While empowerment has various dimensions, a respondent linked knowing the law to empowerment by generally saying that rural women need to know about the law and its benefits. She went to say:

So that they can be empowered since rural women are always at the mercy of their husbands because of over-dependence on men who sometimes cannot cater for all their needs like accessing business loans.

Another respondent who was requested to give her opinion as to why she thought women have to access legal information that impacts their livelihood indicated strongly that rural women needed to be told that they can buy and acquire property while they are in their homes. She expressed her disappointment at a majority of rural women staying within her locality but avoiding buying property by saying the following,

Since most men in my area have been conditioned to think that whatever is in their matrimonial home belongs to them their women would rather keep whatever they buy with their friends or neighbours and in so doing they remain un-empowered; they can't buy a property and keep it in their homes.

To overcome ignorance

A respondent who seemed to be bothered by the experiences of some families in her area strongly lauded the move to have rural women access legal information which has implications for their lives and households. What disturbed her most was the fact that there was a practice in the rural areas, where women allowed and encouraged their young girls not to go to secondary school but to work as nannies. To her, this was unfortunate because she felt that girls should finish school and acquire job skills. She went on to say the following:

To be able to resist the temptation of subjecting their children and in particular, girls to child labour where they go to Nairobi to work as domestic workers.

6 Conclusion

Going by the socioeconomic live experiences of the rural women of Malava Sub County, it is safe to conclude that they do not have adequate access to social justice which is

attributed to their inability to access legal information. The study established that respondents justified with reasons as to why rural women require legal information. The reasons presented to demonstrate how critical legal information is to the general public at large and in this case, rural women. Even though respondents expressed a strong desire to have access to legal information, they sadly regretted that legal information was not accessible to them. This could suggest that legal information is confined to urban areas and not rural areas. In the absence of legal information, rural women are at pains to fulfil their legal obligations and access their rights all of which flow from legal information. The findings under the second objective yielded reasons for justification for access to legal information by rural women it can be concluded that access to legal information should not be targeted at legal practitioners alone since every citizen needs to be aware of legal information. For instance, one respondent stated that rural women require knowing about legal information so that they could remain law-abiding citizens which is an intent under the political pillar of Vision 2030.

7 Implications and Recommendations

In addressing the first objective which sought to examine the socio-economic realities of rural women to understand how those realities impacted their access to social justice, this study makes an important contribution to the discussion of how day-to-day live experiences influence social justice among the vulnerable sections of the rural population. The findings support the consideration of entrenching social justice among marginalized people in any society. One of the ingredients of promoting social justice is access to legal information and this became the focus of the study where the justification for having rural women access legal information was demonstrated. The studies of Otike(1997) and Tuhumire and Okello(2010) in the legal information area addressed advocates and left out the public considered not to be heavy consumers of legal information. This study has demonstrated that access to legal information by ordinary citizens is paramount. The study findings broaden the understanding of the implication of the Age of the Majority act in Kenya by arguing that legal information should be accessible to all persons falling under the majority age. The findings showed that the majority of the rural women had low literacy skills suggesting that they could not benefit from legal information which supports the observation of Nnoko-Mewanu and Abdi (2020) that due to lack of access to legal information their vulnerability is at stake. This is because their access to legal rights, economic opportunities, and civic responsibilities are premised on awareness of legal information. This was buttressed further by the National Council of Population

Development (2020) on the situation in Kenya that only 29% of Kenyan women could participate equally and effectively in political, economic and cultural life due to information asymmetry.

The current study findings identify access to legal information as an important element in enabling the marginalized sections of the population to understand their legal rights and undertake their obligations as legal citizens. The study fulfils the suggestion of Mehra (2015) and Winberry and Bishop (2021) that LIS studies be undertaken under the social justice context.

This study recommends that the legal department of Kakamega county initiates legal awareness programmes in the Malava sub-county where the majority of the rural population lives in a bid to ensure that access to social justice is achieved. It is also recommended that the Law Society of Kenya -Kakamega North chapter conducts public legal education on regular basis in the Malava sub-county to promote legal awareness. Lastly, the Butali court users committee must entrench legal awareness programs in their court calendar to be carried out regularly within the Malava region where it has supervisory jurisdiction.

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