

Customary Land Tenure and Food Production in Seme Sub-County in the Pre-Colonial Period

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DOI: <https://doi.org/10.47772/IJRISS.2026.100600635>

Received: 10 June 2026; Accepted: 15 June 2026; Published: 01 July 2026

ABSTRACT

This paper investigates the historical systems of customary land tenure and food production among the Jo-Seme people of present-day Seme Sub-County, Kisumu County, Kenya, during the pre-colonial period. Drawing on oral traditions recorded from clan elders, women farmers, and fishermen between 2017 and 2024, as well as ethnographic accounts and archival sources (Ogot, 1967; Odhiambo, 1995; Mbiti, 1969), the study examines migration trajectories, settlement challenges, territorial acquisition, land allocation, dispute resolution, ecological adaptation, and gendered divisions of labor in agriculture. Respondents were purposively selected against explicit criteria of age, lineage standing, gender, and occupational knowledge, and oral testimonies were verified through cross-respondent comparison, archival corroboration, and a structured thematic coding procedure. It argues that the pre-colonial Seme land tenure system, anchored in lineage-based rights, communal ownership, and ritual legitimacy, structured access to arable land, supported sustainable agricultural productivity, and fostered resilience to food shortages, while also accommodating recurring internal contestation along lines of gender, generation, and lineage seniority. Environmental resources, crop diversity, and gendered labor specialization collectively underpinned the socio-economic stability of the Jo-Seme prior to colonial incursions, even as access to that stability was unevenly distributed within households and between autochthonous and incorporated lineages. By triangulating oral testimonies with written historical records and subjecting both to thematic analysis, the study demonstrates that customary tenure was not static or uniformly equitable but a continually negotiated order that dynamically adapted to demographic, ecological, and inter-ethnic interactions.

Keywords: customary land tenure, Jo-Seme, pre-colonial agriculture, Luo migration, food security, communal ownership, gendered labor, thematic analysis, power dynamics.

INTRODUCTION

In the pre-colonial period, the Jo-Seme maintained a well-structured system of land tenure and food production that balanced ecological adaptation with socio-cultural obligations. Land was perceived not merely as an economic asset but as an ancestral trust held in stewardship for the living, the dead, and the unborn (Mbiti, 1969). The rights to use and manage land were embedded in kinship and lineage affiliation, with access determined by birth and clan membership rather than purchase. Agriculture formed the backbone of the Seme economy, complemented by fishing along the Winam Gulf and small-scale livestock keeping. The cropping systems were ecologically zoned and socially differentiated: households cultivated both “male” crops such as millet and sorghum valued for their resilience and ceremonial use and “female” crops such as vegetables, cowpeas, and beans, which contributed to dietary balance and were often managed exclusively by women (Ochieng', 1974; Odhiambo, 1995).

An elderly woman farmer from East Seme recalled:

“When the men cleared the bush, they left the planting to us. We knew which seeds to put where. The millet and sorghum, those were for the granary and for the elders’ beer. The beans and vegetables were for the pot and the children.” (KII, Elder, East Seme, 2019)

Customary land administration rested in the hands of family heads and clan elders, who oversaw allocation, mediated disputes, and presided over rituals that legitimized land claims. Land was thus both a social and spiritual resource, with agricultural seasons tied to cultural ceremonies such as *golo kodhi* (planting rites) and *chiemo chong* (harvest feasts). This introduction sets the stage for a deeper exploration of how migration, settlement, and inter-community relations shaped the Jo-Seme's approach to land tenure and food production, drawing on both the lived memories of present-day elders and the historical insights of scholars like Ogot (1967), Were (1967), and Colson (1971).

FIELDWORK METHODOLOGY

This study employed a qualitative historical-ethnographic design, combining archival research with oral history collection. The aim was to reconstruct the evolution of customary land tenure and food production in Seme Sub-County in the pre-colonial period, while also tracing the socio-political changes through the colonial and post-colonial eras.

Respondents for Key Informant Interviews (KII) and Oral Interviews (O.I.) were identified using purposive and snowball sampling, guided by four explicit selection criteria established prior to fieldwork. The first criterion was demonstrable lineage or genealogical authority, restricting the elder category to individuals over 65 years who held recognized standing within a clan council or who were widely acknowledged custodians of clan history. The second was gendered occupational knowledge, ensuring that women farmers with direct experience of household cultivation, the mondo system, and food allocation were interviewed separately from, and in comparable numbers to, male respondents, so that gendered land narratives were not filtered through male informants alone. The third criterion was direct or inherited testimonial access to specific historical events, such as the 1899 Battle of Awach, which required respondents to demonstrate either personal memory transmitted across two generations or a documented family role in the events described. The fourth was institutional vantage point, which guided the inclusion of fishermen and traders familiar with customary resource-sharing rules, and clan leaders or former local administrators with insight into land adjudication. Initial contacts were made through local elders' councils, beach management units, and church committees, whose gatekeeping role is acknowledged as a limitation: because these institutions are themselves male-dominated and lineage-stratified, the snowball chains they generated were deliberately supplemented with independently sought women elders and junior respondents to reduce gatekeeper bias in the sample documented in the annexed interview list. Sampling continued until thematic saturation was reached for each major domain of inquiry, that is, until successive interviews ceased to yield substantively new codes within a given theme.

Semi-structured interviews were guided by a thematic checklist covering migration, settlement, land allocation, dispute resolution, and gendered labor, while allowing open-ended responses to encourage narrative detail and unanticipated themes. Oral history sessions were conducted at respondents' homes, in communal meeting spaces, or at historically significant sites, such as Got Nyatigo and Nyamaruaka Beach, enabling memory recall through location-based prompts. Participant observation at local markets, land dispute mediations, and communal farming activities provided contextual understanding against which verbal testimony could be checked. Archival corroboration involved cross-checking oral accounts against archival sources at the Kenya National Archives, Nairobi, and published historical works (Ogot, 1967; Were, 1967; Hobley, 1910). Each interview was further verified through two internal procedures: first, factual claims bearing on dates, named individuals, and locations were checked against at least one other respondent's account before being treated as established rather than singular testimony; second, where two respondents diverged on a point of fact or interpretation, both versions were retained and reported as competing accounts rather than reconciled into a single narrative. Most interviews were conducted in Dholuo, with occasional code-switching into Kiswahili. Responses were audio-recorded with consent and later transcribed and translated into English, maintaining key Dholuo terms to preserve cultural nuance.

Ethical clearance was obtained from the relevant university ethics committee. Informed consent was secured orally and in writing, with respondents free to withdraw at any stage. Sensitive details, especially regarding inter-clan disputes, were anonymized unless respondents explicitly agreed to be identified. In cases where real names were retained, it was to preserve the authenticity of historical testimony, and only with written consent.

Data Triangulation Procedures

Triangulation followed Denzin's (1978) classic distinction between data source triangulation and methodological triangulation, both of which were applied systematically rather than incidentally. Source triangulation required that any claim regarding land allocation rules, dispute outcomes, or historical events be supported by at least two independent respondent lineages wherever possible, so that a single family's account of its own land history could not stand unchallenged as representative of Seme custom generally. Methodological triangulation combined three distinct evidence types: oral testimony, documentary records held at the Kenya National Archives, and the secondary ethnographic and historical literature on Luo and neighboring Bantu-speaking communities (Ogot, 1967; Were, 1967; Hobley, 1910; Odhiambo, 1995). Where oral and archival sources converged, for instance on the broad chronology of the Battle of Awach, this convergence is reported as corroborated fact. Where they diverged or where archival material was silent on locally significant events, this is flagged explicitly in the text rather than resolved by silently privileging one source type over another. A further triangulation step involved comparing testimonies across gender and generational position: women's and men's accounts of the same institutions, such as the mondo system or boundary disputes, were treated as separate analytic threads and compared for points of agreement and divergence, on the grounds that a single-sex respondent pool would have reproduced rather than tested the gendered asymmetries documented in the literature on customary tenure (Whitehead & Tsikata, 2003; Yngstrom, 2002).

Thematic Coding and Analysis

Translated and transcribed interviews were analyzed using Braun and Clarke's (2006) six-phase framework for thematic analysis, which proceeds from familiarization with the data, through generation of initial codes, the collation of codes into candidate themes, review of those themes against the full data set, definition and naming of themes, and finally the production of the analytic narrative. Initial codes were generated inductively, in vivo where possible, so that Dholuo concepts such as piny ok rum gi ohinga, mondo, and ja-moko/ja-yieyo entered the coding frame as categories in their own terms rather than being pre-translated into English equivalents that might obscure local meaning. An initial codebook was developed inductively from the transcripts and refined iteratively as coding proceeded, with code definitions revisited whenever a new transcript appeared to stretch or contradict an existing code. These initial codes were then collated into six analytic themes: land as ancestral trust, lineage-based access and exclusion, gendered division of labor and land use, ritual legitimization of tenure, dispute resolution and compensation, and disruption under colonial and post-colonial rule. A seventh theme, internal contestation and power asymmetry within customary tenure, was added during the review phase specifically to capture material, recurrent across multiple transcripts, on intra-lineage conflict, the exclusion of women and incomers from formal decision-making, and elder or autochthon advantage in land allocation, which had been present in the data from the outset but under-represented in the original six-theme structure. This addition reflects a deliberate analytic correction: an early coding pass had tended to fold contestation narratives into the broader theme of dispute resolution, which risked presenting conflict as a managed exception to an otherwise harmonious system rather than as a structural feature of customary tenure requiring its own analytic category. Themes were checked for internal coherence and external distinctiveness following Braun and Clarke's criteria, and are reported in the historical and analytical sections that follow with illustrative testimony rather than as a separate results section, in keeping with the narrative conventions of historical-ethnographic writing.

Historical Context of Jo-Seme

1.2.1 Origins and Migration

The Jo-Seme traces their ancestry to the broader Southern Luo migration, part of the Western Nilotic movement from the Bahr el Ghazal region of present-day South Sudan into the Lake Victoria Basin between the 15th and 17th centuries (Ogot, 1967; Ochieng', 1974). Like other Luo sub-groups, their migration followed river valleys and lake shores, allowing access to fishing grounds, pasture, and fertile agricultural lands. Oral traditions consistently place the leadership of this migration under Nyikal Wuod Odongo, remembered as a skilled warrior and negotiator. The Jo-Seme first settled in Yimbo (present-day Siaya County) around Got Ramogi, a hill regarded as the spiritual epicenter of Luo identity. Population pressures, combined with disputes over grazing

land and political authority, triggered further dispersals into Alego, Uyoma, Sakwa, Asembo, and eventually Seme between approximately 1480 and 1520 (Ogot, 1967).

An elder from Kit-Mikayi recounted:

“We came from the north, following the water and the grazing. Nyikal Wuod Odongo was our leader. He brought us first to Yimbo, to Got Ramogi. But as our people grew, the land became small, and quarrels arose. That is when we began to scatter, to Alego, Uyoma, Sakwa, Asembo, and here in Seme.” (KII, Elder, Kit-Mikayi, 2024)

The settlement process was neither linear nor peaceful. The Jo-Seme encountered established Bantu-speaking agriculturalists, Abaluhya sub-groups from eastern Uganda and early Gusii migrants, renowned for their iron-smelting, pottery, and banana cultivation (Were, 1967; Wrigley, 1960). These encounters produced a mix of competition and cooperation: while some episodes involved territorial disputes and cattle raids, others fostered trade, intermarriage, and the exchange of agricultural techniques.

A 79-year-old elder from Central Seme remembered:

“When we arrived, there were already people here Abaluhya farmers and Gusii potters. Sometimes we fought, sometimes we married their daughters. We learned from them how to shape the land for crops, and they took from us the skill of fishing and cattle herding.” (KII, Elder, Central Seme, 2024)

These narratives align with archaeological and linguistic evidence that pre-colonial Seme was a frontier zone of cultural interaction, where Luo cattle-based economies integrated elements of Bantu agricultural knowledge (Robertshaw, 1991; Sutton, 1993).

Nyikal’s Leadership and Clan Dispersion

Following the departure from Got Ramogi, Nyikal and his brothers, Okong’o and Rado, initially established themselves in Alego. However, disputes over pasture rights and perceived slights to Nyikal’s authority, such as the symbolic offense of cutting the horn of his prized bull without consent, prompted him to move his people southward to Got Abiero in Sakwa. From there, Nyikal relocated to Kikungu in Nyandwat before settling near Kayundi Beach on the Winam Gulf.

An elder from Kaonje vividly recalled:

“Nyikal was a man who could not be disrespected. When they cut the horn of his bull without asking, it was as if they had cut his own arm. He gathered his people, left the quarrels behind, and built a strong homestead at Winam Kagombe.” (KII, Elder, Kaonje, 2024)

At Winam Kagombe, Nyikal strengthened the Seme community by marrying Mori, a nomadic fisherman, and incorporating orphaned boys Anam and Onyangor rescued from a drifting papyrus island (*Abuoro*). These boys, nicknamed *Kolunje* for their beard-trimming skills, became progenitors of important Seme lineages. The assimilation of fishing groups such as Joka Simori and Wawana expanded the economic base and reinforced Seme’s territorial claim to the lakeshore.

By the mid-18th century, Seme identity had crystallized through a combination of shared language, intermarriage, territorial defense, and the integration of diverse ethnic elements into a coherent socio-political structure. This layered identity remains embedded in present-day clan genealogies and oral histories.

British Incursion into Seme: The Battle of Awach, December 1899

By the late 19th century, the Jo-Seme’s long-standing control over their territory and resources came under direct challenge from British colonial expansion into the Lake Victoria Basin. The British presence in Nyanza was consolidated after the establishment of the British East Africa Protectorate in 1895, and by 1898 Charles William Hobley had been appointed the first Provincial Commissioner for Central Kavirondo (Ogot, 1976). His policy

was one of rapid “pacification” through alliances with compliant local leaders, strategic recruitment of African auxiliaries, and the deployment of modern weaponry such as the Maxim gun.

On 23 December 1899, Seme experienced one of its most traumatic episodes when British forces advanced into their territory along the Awach River. The invading column was composed not only of armed European officers but also of large contingents of African auxiliaries drawn from neighboring communities, including Asembo, Gem, and Kawango (Mumias), many of whom had previously been allies of the Seme in regional defense. These auxiliaries had been recruited, armed, and in some cases coerced into service by the British to subdue resistant groups in the region (Hobley, 1910).

An elder from Central Seme recalled with a mixture of bitterness and sorrow:

“That day the sun rose red. We saw the men from Asembo and Gem, men we had fought beside in other times, walking with the white man. It was a betrayal that burned our hearts. Our Kadipir spearmen lifted their shields, and even the women took up the chase when the fighting began.” (KII, Elder, Central Seme, 2024)

The battle opened with the Kadipir warriors forming a defensive line along the Awach River, armed with traditional *tong*’ (long stabbing spears) and buffalo-hide shields. Their initial counter-attack was fierce, reportedly inflicting significant casualties on the allied forces, forcing some to retreat into the surrounding hills and thickets. Oral accounts emphasize the active participation of women, who not only encouraged the warriors through war songs (*sigalagala*) but also engaged in the pursuit of fleeing auxiliaries.

For nearly two months after the initial confrontation, Seme fighters-maintained guerrilla-style pressure on retreating enemies, ambushing stragglers and cutting off food supplies in the hills. Odhiambo (1995) notes that this prolonged resistance reflected both the Seme’s military discipline and the depth of their territorial commitment. However, the arrival of the British Maxim gun marked a turning point. As Hobley (1910, p. 84) recorded, its “continuous and devastating fire” broke the Seme defensive lines within minutes. The weapon’s rapid rate of fire and the psychological shock it induced, described by one elder as “the gun that spoke like thunder and spat death,” rendered traditional shields and spears obsolete.

An elder from Nyatigo vividly recounted:

“The gun spoke like thunder, and our shields could not stop its teeth. We had never seen such killing. In the night, some of our young men fled to Nyatigo and Nyalaji hills, but the British followed with fire.” (KII, Elder, Nyatigo, 2024)

The defeat opened the way for widespread looting and destruction. British troops and their auxiliaries burned homesteads, destroyed granaries, and slaughtered livestock, cattle, goats, sheep, and poultry, both to punish resistance and to provision their garrison in Kisumu. Crops in the fields, particularly millet and sorghum, were set alight, leaving the community facing immediate food shortages.

A woman elder from Kadipir remembered:

“When the garrison left in the morning, we walked among ashes where our homes had been. The smell of burnt millet stayed in our noses for many moons. They took our cows to Kisumu; they took even the chickens from our doorsteps.” (KII, Woman Elder, Kadipir, 2024)

Ogot (1976) and Were (1967) corroborate these oral testimonies, noting that livestock seized from Seme and other “pacified” communities often ended up either in colonial garrisons or redistributed to allied chiefs as rewards for their service. The Battle of Awach represented more than a military confrontation; it marked the transition from autonomous control over land and resources to the imposition of colonial authority. The destruction of food stores and livestock not only weakened Seme’s capacity for resistance but also disrupted the customary land tenure system, which relied on collective agricultural labor and shared harvests to sustain the community. In the months following the battle, famine and disease spread, eroding the socio-political cohesion that had underpinned Seme’s pre-colonial resilience. This episode also altered inter-community relations. The

memory of betrayal by neighboring auxiliaries deepened mistrust and reinforced the association of land defense with clan identity, a theme that persisted well into the colonial period and shaped later disputes over land allocation and boundary demarcation.

Economic Practices of the Seme People

From the time of Nyikal Odongo's arrival in the Seme homeland from Rarieda, the Jo-Seme developed an economy deeply rooted in the interaction between land, water, and communal labor. Their subsistence strategies were diversified, combining fishing, crop cultivation, and livestock keeping, and were underpinned by the principles of communal land access and lineage-based stewardship.

The Seme's long shoreline along Winam Gulf, stretching from Nyamaruaka to Kaloka, provided abundant fishing grounds. Fish species such as *ngege* (tilapia), *ningu* (*Labeo victorinus*), and *mbuta* (Nile perch, introduced later) formed both a dietary staple and a trade commodity. Fishing was primarily undertaken by men from lakeshore clans such as Joka Simori, Wawana, and Kolunje, who possessed specialized knowledge of seasonal fish movements, net-making, and canoe construction.

An elder fisherman from Kaloka explained:

"Our wealth was in the water. In the mornings, we pulled tilapia, ningu, and mbuta from the gulf. We ate some, we dried some, and we traded the rest for millet or goats." (KII, Elder, Kaloka, 2018)

The preservation of fish through sun-drying and smoking allowed for trade with inland clans and neighboring communities as far as Gem and Lwanda. Ochieng' (1974) notes that fishing communities in the Lake Victoria Basin were part of extensive barter networks, exchanging fish for cereals, livestock, and iron tools. These networks reinforced inter-clan alliances and minimized the risk of food shortages in times of poor harvest.

Inland areas, particularly the hilly highlands near Gem and Lwanda, were prime zones for cereal cultivation. Millet and sorghum, considered "male" crops, were prioritized for their resilience to drought and their cultural significance in brewing millet beer for rituals and communal feasts. "Female" crops such as beans, vegetables, cowpeas, and groundnuts, typically managed by women, were essential for daily nutrition and soil fertility through nitrogen fixation.

A woman elder from East Seme recounted:

"The millet granary was the pride of a homestead. Without it, you could not feed guests or make beer for the elders. But without beans and vegetables, the pot would be empty." (KII, Elder, East Seme, 2019)

Odhiambo (1995) emphasizes that Seme's ecological diversity, combining well-drained uplands and fertile valley soils, allowed for intercropping systems that reduced the risk of crop failure. The lakeshore lowlands favored cassava and sweet potatoes, which served as drought reserves, while valley bottoms supported horticulture such as onions, tomatoes, and traditional vegetables (*osuga*, *apoth*, *mito*).

While less central than fishing and farming, livestock keeping mainly cattle, goats, and sheep was an important complement to the Seme economy. Cattle were valued more for social and ritual purposes (bridewealth, sacrifice, status) than for daily consumption, aligning with broader Luo pastoral traditions (Ogot, 1967). Goats and sheep provided meat for ceremonies and were more readily sold or exchanged in times of need.

A Kadipir elder explained the integration of livestock into the land system:

"The pasture was for all. If your cattle strayed into another man's land, you only had to greet him well and offer beer, no one would chase the cows away." (KII, Elder, Pap Kadundo, 2017)

Grazing rights were communal, with access regulated by clan elders to avoid overuse, especially in the dry season. This flexible system ensured that both fishing and farming clans could keep small herds without disrupting crop production.

Seme's economy extended beyond self-sufficiency into regular trade. Weekly markets (*chiro*) were held at key points like Nyamthoe and Holo, attracting traders from Asembo, Sakwa, and even across the lake from Suba communities. These markets facilitated the exchange of fish, grain, salt, iron tools, pottery, and livestock. Women played a major role as market traders, especially in selling surplus vegetables, legumes, and processed fish. Hebinck & Mango (2008) argue that such localized trade networks in Nyanza were sustained by the stability of the customary land tenure system, which they associate with secure access to land and a more equitable distribution of resources than later commodified regimes, though, as Section 2.4.1 discusses, that distribution was itself structured by gender, generation, and lineage status.

Integration of Economic Practices with Land Tenure

The key to Seme's economic stability was the interdependence between land tenure and economic activity. Communal land allocation ensured that every household, regardless of wealth, had access to fields for subsistence crops, space for livestock grazing, and, if lakeshore-based, fishing grounds. This integration minimized vulnerability to climatic shocks: poor fishing seasons could be offset by crop surpluses, and crop failures could be cushioned by fish or livestock sales. This balanced, multi-resource economy would later be severely disrupted by colonial interventions, particularly the forced land alienation and restrictions on resource access that followed the 1899 British incursion.

Land Use and Adjudication

Territorial patterning and clan mosaics

Pre-colonial Seme was a patchwork of lineage territories rather than a grid of surveyed plots. Kadipir lineages held the southern/western stretches of present-day West Seme, while Kagumba, together with assimilated lineages, Kolunje, Kaila, Wawaria, Kanyimon, and lakeshore groups such as Joka Simori, occupied Central and East Seme and parts of the west. Boundaries were socially "thick": marked by remembered clearings, sacred groves, prominent rocks/hills (*got*), streams like Awach, and monumental trees used for oath taking. These "mnemonic markers" allowed flexible but enforceable limits (cf. Cotula, 2006; Chauveau, 1998). Archival cartography from early colonial reconnaissance further echoes Awach's role as a line of administrative separation (KNA/NRB/PC/NZA/4/1).

"You knew where Kadipir ended because the elders would point to the big fig tree and the bend of the stream. If there was doubt, you called the two councils, poured beer, and walked the land together." (KII, Elder, West Seme, 2018)

Access flowed from membership (birth, adoption, or ritually sanctioned incorporation). The *ruoth* (recognized senior) and a council of elders oversaw first allocations for new homesteads (*dala*), usually on slightly elevated ground with fields radiating into valley bottoms. Primary rights comprised (i) residential sites for a man and his wives; (ii) cultivation strips for each wife's house-granary unit; and (iii) commons for grazing, water, clay, thatching grass, and wood. Operational (use) rights were individualized at the household level, but management and exclusion rights remained corporate at lineage/clan level, classic features of African "customary" tenure (Cotula, 2006; Colson, 1971).

A distinctive Seme institution, the *mondo* (women's special plots), formalized usufruct for a junior or childless wife and could be cultivated collectively in hard times, broadly consistent with Luo gendered land-use norms (Ogot, 1967; Ochieng', 1974).

"My mother's *mondo* was by the stream. No one touched it. When hunger came, that garden saved us." (KII, Woman Elder, East Seme, 2019)

Disputes arose over shifting stream courses, fallow re-entry, or encroachment by affines/“incomers.” Resolution followed a graded pathway: Mediation within the extended family (husband’s brother, lineage senior); Elders’ bench (inter-lineage sitting with beer libation); Oath and ordeal (rare; last resort at a sacred tree or hill); Compensation, typically in livestock, seldom eviction. This procedural escalation parallels broader West/East African patterns where councils “produce” boundaries through public performance rather than solely through written titles (Chauveau, 1998; Bierschenk & Olivier de Sardan, 1998).

“If you ploughed beyond your fathers’ marks, the elders measured with their steps, called the spirits of the land, and you paid a goat. The land was not to be quarrelled into pieces.” (KII, Elder, Central Seme, 2018)

Seme communities frequently gifted land for schools, dispensaries, markets, and landing beaches, collective action that both demonstrated legitimacy of customary authorities and converted private lineage space into community infrastructure (Hebinck & Mango, 2008). Fishing beaches and grazing swales remained regulated commons: closed-season rules for fish breeding grounds and dry-season rotational grazing were enforced by elders and ritual specialists, anticipating modern “co-management” without extinguishing customary authority (Jacob, 2005).

“We gave land for the school because we wanted our children to read. Land was for all of us, not just one man’s stomach.” (KII, Elder, Pap Kadundo, 2017)

Autochthons (first settlers) retained moral precedence, yet incorporation was common when land was abundant: “strangers” cleared bush after asking permission, offered beer and a small beast, and were placed under the protection of the granting lineage. Initial rights were limited (no alienation; inheritance conditional on continued allegiance), but could thicken across generations via marriage and ritual (Magnant, 1993). This tracks with Jo-Seme narratives of integrating fisher groups like Kolunje and Joka Simori.

Leadership in Pre-Colonial and Colonial Seme

Dual legitimacy: martial–ritual authority

Pre-colonial leadership fused military capacity, adjudicative wisdom, and ritual competence. Odongo Nyikal stands in collective memory as the archetypal *ruoth*: he defended pasture and fishing coves, presided over land sittings, and officiated planting/harvest rites that sacralized tenure. His authority was performative, seen in council orations, battlefield leadership, and custodianship of shrines and sacred hills (Mbiti, 1969; Ogot, 1967).

“Nyikal was not only a warrior; he was the pillar of our land. When he walked into a council, even the wind seemed to stop to listen.” (KII, Elder, West Seme, 2018)

Leadership, however, was not absolutist. Councils of elders, age-set leaders, and senior women (as custodians of seed, granary, and ritual beer) constrained chiefs, ensuring land and labor decisions reflected lineage consensus, an internal check that supported food security through orchestrated planting calendars and communal weeding/harvests (Odhiambo, 1995).

The Nyatogo Hill Massacre and the Battle of Awach (1899) weakened Seme’s autonomous institutions. Provincial Commissioner C. W. Hobley subsequently appointed Wadegu (Kagumba) as the first colonial chief in 1907, inaugurating an administrative shift from consensus-based elder councils to a centralized chieftaincy tied to the colonial state (Hobley, 1910; Ogot, 1976). Chieftaincy then rotated within the Kakelo cluster (Wadegu, Nyawara, Nyangoga, Oguk, Outa, Noi, Nindo), embedding a new politics of office that blended customary legitimacy with statutory coercion (tax, labor calls, fines). Parallel inter-tribunal forums, like the Ramula bench shared with Gem elders, handled inter-location boundary and land-use cases. Such hybrid arenas illustrate how customary jurisprudence was not abolished but re-scaled, producing layered sovereignties where written summons and oath-driven reconciliations coexisted (Bierschenk & Olivier de Sardan, 1998).

Colonial chieftaincy altered incentive structures. Tax and labor demands pulled male labor from farms and fisheries in peak seasons; Chiefs gained leverage over allocation certificates and letters “witnessing” land

sales/loans; Ritual specialists lost primacy in agricultural timing, undermining the ritual calendar that had synchronized planting and weeding (Colson, 1971; Odhiambo, 1995). Yet elders' benches persisted at the homestead and lineage scale, continuing to adjudicate inheritance, wives' usufructs (*mondo*), and access to commons, evidence of institutional resilience within constraint.

"When the government made a chief, the elders did not vanish. People still came to the fireside to settle who plants where and when." (KII, Elder, Central Seme, 2018)

The Nature of Pre-Colonial Customary Land Rights

In pre-colonial Seme, land was understood not as a commodity to be bought and sold, but as a sacred trust belonging simultaneously to the living, the ancestors, and the unborn (Mbiti, 1969). This worldview infused land with moral and spiritual significance, making its use and distribution a matter of collective responsibility rather than individual accumulation. The common saying *piny ok rum gi ohinga* ("the earth is not fenced with a wall") expressed the ethic that land could not be permanently enclosed from rightful members of the lineage.

An elder from East Seme summarized this ethos:

"In our fathers' time, there were no landlords and no homeless people. A man without land could ask his clan and be given a place to dig." (O.I., Onyango Oiro, 2018)

This principle aligns with Colson's (1971) observation that, in much of pre-colonial Africa, land tenure was about belonging to a social unit rather than holding a transferable title. Rights to use the land were embedded in rights to belong.

Pre-colonial customary tenure in Seme can be understood through the "bundle of rights" framework (Cotula, 2006): Operational rights: The right to cultivate, harvest, and benefit from the produce of a given plot, typically exercised at the household level. Management rights: The authority to decide on allocation, land use changes, and dispute settlement, vested in the lineage elders. Exclusion rights: The right to control access, particularly for outsiders or members who had violated communal norms. Households controlled their cultivated plots during the season, but decisions on redistribution, fallowing, or opening new land rested with the lineage council. This arrangement combined individual initiative with collective stewardship, though the council itself was composed overwhelmingly of senior men, so that the corporate authority exercised in the name of the lineage was in practice the authority of a particular, gender- and age-defined subset of it.

Land was inherited through the patrilineal line, passing from father to sons, with each son receiving a portion upon establishing his own homestead (*dala*). The first-born son (*wuod maduong*) typically inherited the father's central homestead site, including the main granary and cattle kraal, while younger sons were allocated land on the peripheries of the lineage territory. This spatial arrangement reinforced seniority and allowed expansion without fragmenting the family core.

Daughters did not inherit land in their natal clans; upon marriage, they accessed land through their husband's lineage. Women thus held usufruct rights, the right to use and benefit from land, conditional on their membership in a marital household.

Mzee Ondijo's oral account captures the patriarchal logic:

"A woman was like the owl, they said she came from outside and would return there. The land must stay with the man's clan." (O.I., Ondijo, 2017)

Women's Land Use Rights and the *Mondo* System

Although excluded from inheritance, women exercised significant control over agricultural production. Each wife was allocated plots near her hut (*ot*) to grow both staple and supplementary crops. In some cases, women, especially junior or childless wives, were granted a special plot (*mondo*), cultivated with the help of co-wives

and children. The produce from *mondo* plots could be used to supplement household food supplies or for small-scale trade in local markets. A widow might retain user rights to her late husband's land, provided she remained within the homestead and maintained ties with his lineage. Otuge (O.I., 2017) explained that this arrangement allowed widows to continue farming for their children's welfare while keeping land within the patriline.

Because land was abundant in the pre-colonial period, disputes were relatively rare and typically arose from: Encroachment into a neighbor's cultivated strip; Ambiguity after natural boundary shifts (e.g., when streams changed course); Tensions over access for in-laws or newcomers. Disputes were resolved through compensation in livestock, usually a goat or sheep, rather than eviction. Eviction was considered socially disruptive and spiritually dangerous, as it could invoke ancestral displeasure. Orero (O.I., 2018) emphasized that elders actively reallocated idle land to needy clan members to prevent grievances from escalating.

"If a man's land stayed untilled for many seasons, the elders would give it to someone else to farm. Leaving the earth idle was like insulting the ancestors." (KII, Elder, Central Seme, 2018)

Rituals were integral to legitimizing land rights. Before opening new land, elders poured libations to the earth spirits and invoked ancestral blessings. Harvest festivals (*chiemo chong*) celebrated the first grain and reaffirmed the collective nature of agricultural bounty. These rituals bound land tenure to the spiritual well-being of the community, making the alienation of land outside the lineage both socially unacceptable and ritually taboo. In its own normative terms, this customary system aimed at broad access, social cohesion, and food security by discouraging landlessness, maintaining fertility through communal fallow rotation, and integrating agriculture with social and ritual life, even though, as the following section shows, access to these goods was neither automatic nor equally distributed among all members of the community. It also laid the foundation for the economic resilience

Internal Variation, Conflict, and Power Dynamics in Customary Tenure

The preceding sections describe customary tenure largely through its own normative vocabulary, that of trust, belonging, and collective stewardship, which is how the institution represented and justified itself to its members. Read against the seventh thematic code identified during analysis, internal contestation and power asymmetry, the same body of testimony also discloses a system in which access was structured by hierarchies of gender, generation, and settlement priority, and in which harmony was an achievement of ongoing negotiation rather than a default condition. Treating these two readings as complementary rather than contradictory, this section foregrounds the asymmetries that earlier sections necessarily compress in the course of describing institutional norms.

Gendered exclusion from formal authority over land is the clearest and most consistently reported asymmetry. Women cultivated, managed seed stocks, and, through the *mondo* system, controlled discrete plots, yet management and exclusion rights, the authority to allocate, reallocate, or exclude, remained vested in male lineage elders throughout the period under study. Mzee Ondijo's characterization of a woman as belonging permanently to her natal clan only in a diminished sense, "like the owl, that came from outside and would return there" (O.I., Ondijo, 2017), is not an incidental turn of phrase but a concise statement of the structural logic that denied women inheritance regardless of their labor contribution or local knowledge. This asymmetry produced concrete vulnerability: a widow's continued cultivation of her late husband's land was conditional on her remaining within the homestead and maintaining ties with his lineage (O.I., Otuge, 2017), meaning that her security rested on the goodwill of in-laws rather than on an independent claim. Female respondents themselves periodically registered this asymmetry as a grievance rather than as an accepted fact of life. The senior woman from Kadipir who observed that land was "for all who lived and worked on it" before people began to assert exclusive claims (KII, Elder, Kadipir, 2018) was describing change over time in command of resources that she did not, in the formal sense, ever fully command.

A second axis of asymmetry ran between autochthons and incorporated lineages. Although first settlers and later arrivals are described in the literature reviewed here as eventually integrated through marriage and ritual incorporation (Magnant, 1993), the terms of that incorporation were unequal at the outset and only thickened

over generations rather than beginning on equal footing. Newcomers cleared bush after seeking permission, offered beer and livestock as tribute, and accepted restricted initial rights, including a bar on alienation and inheritance conditional on continued allegiance to the granting lineage. This is, in substance, a relationship of dependency rather than the egalitarian membership implied by the metaphor of land as a trust held for all. The later emergence of a sharper distinction between ja-moko, originals, and ja-yieyo, settlers, in which younger indigenous residents questioned the legitimacy of migrant settlers' claims decades after the fact, indicates that autochthon precedence functioned as a durable resource for political mobilization rather than a historical detail of merely antiquarian interest.

A third axis concerned generational seniority within lineages. Primogeniture concentrated the most secure and centrally located holdings, the homestead site, granary, and cattle kraal, in the hands of the first-born son, while younger sons received peripheral land. Although this arrangement was presented by respondents as preserving family cohesion rather than as a hierarchy of entitlement, it nonetheless distributed the most valuable assets unevenly among brothers by birth order, a form of internal stratification that the trust framework of land as ancestral inheritance tends to obscure. Disputes over shifting stream courses, fallow re-entry, and encroachment by affines or incomers were resolved through a graded procedure of mediation, elders' benches, and, rarely, oath and ordeal, with compensation typically rendered in livestock. That this procedure existed and was regularly invoked is itself evidence that competing claims to land were a recurrent feature of pre-colonial Seme life rather than an aberration; the elders' bench was not a vestigial institution but an actively used mechanism for managing conflict generated by the tenure system's own internal pressures, including population growth, lineage seniority, and the periodic incorporation of newcomers.

None of this displaces the finding, well supported by the testimony gathered for this study, that pre-colonial Seme tenure prevented the kind of absolute landlessness familiar from later, more commodified land regimes, and that lineage elders did act, as Orero recalled (O.I., 2018), to reallocate idle land to needy clan members. The point of attending to internal variation is not to dismiss these features of the system but to specify more precisely who benefited from them, on what terms, and at whose discretion. Read this way, customary tenure in Seme appears less as a uniformly equitable order and more as a negotiated settlement among unequally positioned actors, one whose normative claim to fairness was real and consequential, in that it constrained how power could be exercised and gave the dispossessed grounds for grievance and appeal, but was not self-enforcing and did not eliminate hierarchy. This reframing is consistent with broader scholarship cautioning against romanticized readings of African customary tenure as inherently egalitarian (Berry, 1993; Whitehead & Tsikata, 2003; Yngstrom, 2002), and it is this reframing that informs the discussion of colonial disruption in the sections that follow, where the loss of customary authority is treated as the loss of a contested but locally legitimate order rather than the loss of an unblemished one.

Changes in Customary Land Management in Seme Sub-County

Historically, cultural norms in Seme determined who could use land, water, and other environmental resources. The first settlers (*jokama nyaka* or "people of the footprints") were recognized as autochthons, with spiritual and political authority to regulate access. These leaders lineage heads, age-set leaders, and ritual specialists were responsible for allocating plots, settling disputes, and organizing collective tasks such as bush clearing or riverbank reinforcement.

"In the old days, the man who had the first footprints on the land had the voice. If you wanted to live here, you asked him. If the earth spirits agreed, you stayed." (KII, Elder, West Seme, 2018)

In this system, the "voice" of the earth spirits was mediated through ritual offerings and symbolic acts, such as planting a spear in the ground or burying beads, to confirm a newcomer's right to settle. This blend of political recognition and magico-religious sanction is consistent with Magnant's (1993) findings on the spiritual legitimization of land tenure across West and East Africa.

Each clan maintained its own land management system. Some combined political and land administration functions in the same leadership structure, while others separated them, allowing ritual elders to manage land

while war leaders handled defense. In certain cases, “paramount chiefs” emerged, senior leaders overseeing several sub-clan heads, particularly in matters of inter-clan boundary disputes. This hierarchy became more formalized during colonial rule but existed in flexible form in the pre-colonial period. Pre-colonial Seme also maintained rules for rotational access to scarce resources, such as seasonal fishing grounds, clay pits, and dry-season grazing zones. Elders closed certain fishing coves during breeding seasons, echoing sustainable-use practices noted by Jacob (2005) in West Africa. Ecologically sensitive areas, like sacred groves (*nyadhi got*), were protected from clearing, serving as both spiritual sites and biodiversity reserves.

Over time, natural population increase and the integration of newcomers created more competition for prime land. While in the pre-colonial period abundance made disputes rare, by the late 19th century denser settlement in fertile valleys began to limit expansion. Oral traditions describe how in earlier times a young man could move his hut to claim new ground, but by the early colonial period this required negotiation with multiple elders.

“Even now, you cannot just go and buy land like maize in the market. You must talk to the elders, and they will ask whose son you are.” (KII, Farmer, East Seme, 2019)

Colonial penetration brought Seme into wider commodity chains. Cash crops like cotton were promoted, and fishing gained a market beyond local barter as dried fish reached Kisumu and even Nairobi. While this increased income opportunities, it also began to commodify land, especially near roads, markets, and lakeshore landing sites, leading to the first cases of outright land sales to outsiders.

Breusers (1999) notes that in such transitions, customary systems adapt rather than vanish, by developing stricter rules for non-members and monetizing certain rights (e.g., charging “entry fees” to non-lineage fishers).

The British administration alternated between reinforcing and undermining customary land institutions. Chiefs appointed by the colonial government, such as Wadegu, were used to extract taxes, mobilize labor, and certify land transactions, thus centralizing functions that had previously been dispersed among elders. Village Land Management Committees introduced later in the colonial era formalized some allocation processes but also overlapped with customary structures, leading to disputes over jurisdiction. Hebinck & Mango (2008) highlight similar tensions in other parts of Nyanza, where statutory reforms coexisted uneasily with lineage authority.

Public interventions also reshaped land access. The gazettement of Ndere Island National Park and Got Nyatigo as protected areas restricted traditional fishing and grazing rights. These policies redefined formerly communal resources as state property, often without adequate consultation.

“When the park came, they told us the fish there now belonged to the government. But our fathers had fished those waters before the word ‘government’ was even known.” (KII, Fisherman, Nyamaruaka, 2017)

After 1963, Kenya’s independent government retained many colonial-era land policies, encouraging individual title deeds under the Swynnerton Plan logic. While in some areas this enhanced tenure security, in Seme it often clashed with the communal ethic, especially when titles allowed sale of land outside the lineage.

The spread of Christianity reduced the role of ritual specialists in legitimizing land rights, replacing libations and ancestral oaths with church-based blessings. This weakened the moral sanction behind some customary decisions. Labor migration, especially to urban centers like Kisumu, Nairobi, and Mombasa, introduced new actors into land politics. Returning migrants with cash could buy land or influence allocations, sometimes bypassing elders and relying instead on chiefs or local government officials.

Where the state sponsored settlement of migrants, younger indigenous residents sometimes questioned the legitimacy of their claim’s decades later, calling for a “retraditionalization” of land allocation. This led to sharper distinctions between *ja-moko* (“originals”) and *ja-yieyo* (“settlers”), altering patterns of intermarriage and resource sharing.

A senior woman from Kadipir observed:

“Before, land was for all who lived and worked on it. Now, people say ‘this is ours’ and ‘that is theirs.’ It was not like this when I was a girl.” (KII, Elder, Kadipir, 2018)

The increased use of written agreements for land sales or leases shifted the role of chiefs from mediators to certifiers of legal documents. This created a dual authority system in which customary legitimacy and statutory legality often conflicted, especially when politically influential individuals used state structures to override lineage decisions

CONCLUSION

The history of customary land tenure and food production in pre-colonial Seme reveals a dynamic interplay between ecology, social organization, and cultural values, conducted through methods designed to surface variation as much as consensus: purposively sampled testimony, cross-checked through source and methodological triangulation, and analyzed through an explicit thematic coding procedure. From their migration under Nyikal Wuod Odongo in the late 15th and early 16th centuries, the Jo-Seme established a territorial system anchored in lineage-based rights, communal ownership, and ritual legitimacy. This system gave every member of the community a claim, by virtue of belonging, to land for cultivation, grazing, and fishing, but the strength and terms of that claim varied with gender, birth order, and settlement priority, and was upheld through the continual, sometimes contested, exercise of elders’ authority rather than guaranteed automatically. Land was not merely a productive resource; it was an ancestral trust, spiritually sanctified and socially regulated, and also, as the analysis in Section 2.4.1 shows, a resource whose management was a site of recurring negotiation among unequally positioned kin.

The ecological diversity of Seme, fertile valleys, well-drained uplands, and rich lakeshore fisheries, allowed the development of a multi-resource economy integrating fishing, livestock keeping, and crop farming. Crops were zoned according to environmental suitability, with “male” grains like millet and sorghum providing both food security and ritual value, and “female” crops like beans, vegetables, and groundnuts sustaining everyday nutrition and trade. Commons management, whether for grazing swales, fishing coves, or sacred groves, was enforced by elders and guided by seasonal rhythms, ensuring resource sustainability for those whose access to the commons was recognized, while regulating, and at times restricting, access for incomers and junior members.

Customary tenure was inherently adaptive, but adaptation occurred within, rather than outside, its internal hierarchies. It incorporated newcomers through negotiated access that began from a position of dependency rather than parity, mediated disputes through restorative compensation precisely because competing claims were a recurring feature of the system rather than its absence, and adjusted land use patterns in response to demographic pressures that intensified competition over prime sites. Women's usufruct rights, especially through the *mondo* system, secured their active role in agricultural production, but that role was exercised within, and remained subordinate to, a patrilineal inheritance framework that excluded them from the management and exclusion rights that defined formal authority over land.

The arrival of British colonial power in the late 19th century, symbolized by the Battle of Awach in December 1899, marked a turning point. Military defeat, the looting of livestock and crops, and the imposition of a centralized chieftaincy undermined the autonomy of lineage councils. Colonial policies introduced statutory structures that overlapped and sometimes conflicted with customary systems, particularly in land allocation, market integration, and resource conservation. The gazettement of protected areas such as Ndere Island curtailed access to traditional fishing and grazing grounds, while the push toward individual land titling under the Swynnerton Plan weakened communal tenure principles.

Post-independence Kenya retained many colonial frameworks, intensifying land commodification and politicization. Migration, religious conversion, and remittance economies reshaped local power dynamics, while ethnicized land claims sharpened distinctions, such as that between ja-moko and ja-yieyo, that had already been present, if less politically charged, in the pre-colonial period. Yet, despite these pressures, customary institutions have persisted: village elders still mediate intra-family land disputes, oversee planting and harvesting rituals, and

maintain moral authority in many communities, even as the gendered and generational asymmetries documented in this study continue to shape who exercises that authority.

The Seme case thus offers a broader lesson in African historical land studies: customary tenure systems are neither static relics nor easily displaced by statutory regimes, nor are they internally undifferentiated structures in which every member held an equal stake. Instead, they evolve through negotiation, hybridization, and selective retention of norms, adapting to ecological realities and socio-political change, while also carrying forward, and sometimes hardening, internal inequalities of gender, generation, and settlement history. Understanding both this resilience and these internal asymmetries, and the cultural logic that sustains both, is essential for designing land governance policies in Kenya and beyond that are genuinely equitable rather than ones that simply assume customary systems already were.

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Annex: Oral Interviews and Key Informant Interviews (KII)

1. KII, Elder, Kit-Mikayi, 2024 – Key Informant Interview conducted at Kit-Mikayi, Seme Sub-County, March 14, 2024. Male elder, approximately 78 years old. Topic: Migration history of Jo-Seme and leadership of Nyikal Wuod Odongo.
2. KII, Elder, Central Seme, 2024 – Key Informant Interview conducted at Central Seme, April 3, 2024. Male elder, 79 years old. Topic: Encounters between Jo-Seme and Bantu-speaking communities.
3. KII, Elder, Kaonje, 2024 – Key Informant Interview conducted at Kaonje, March 20, 2024. Male elder, approximately 81 years old. Topic: Leadership qualities of Nyikal and reasons for clan movements.
4. KII, Farmer, Nyamaruaka, 2024 – Key Informant Interview conducted at Nyamaruaka, February 11, 2024. Male farmer, 64 years old. Topic: Agricultural patterns and rainfall cycles in Seme.
5. KII, Elder, Central Seme, 2024 – Key Informant Interview conducted at Central Seme, December 15, 2024. Male elder, 76 years old. Topic: Betrayal by neighboring auxiliaries during the Battle of Awach.
6. KII, Elder, Nyatigo, 2024 – Key Informant Interview conducted at Nyatigo, December 22, 2024. Male elder, approximately 80 years old. Topic: Impact of the Maxim gun and military defeat in 1899.
7. KII, Woman Elder, Kadipir, 2024 – Key Informant Interview conducted at Kadipir, December 27, 2024. Female elder, estimated 85 years old. Topic: Aftermath of the Battle of Awach and looting of food stocks.
8. KII, Elder, Kaloka, 2018 – Key Informant Interview conducted at Kaloka Beach, July 5, 2018. Male elder, 70 years old. Topic: Fishing practices and trade systems.
9. KII, Elder, East Seme, 2019 – Key Informant Interview conducted at East Seme, May 13, 2019. Female elder, 73 years old. Topic: Division of “male” and “female” crops in household farming.
10. KII, Elder, Pap Kadundo, 2017 – Key Informant Interview conducted at Pap Kadundo, April 7, 2017. Male elder, 75 years old. Topic: Public land gifting and communal values.
11. KII, Elder, West Seme, 2018 – Key Informant Interview conducted at West Seme, June 18, 2018. Male elder, 77 years old. Topic: Boundary marking and dispute resolution practices.
12. KII, Woman Elder, East Seme, 2019 – Key Informant Interview conducted at East Seme, July 21, 2019. Female elder, 72 years old. Topic: Role of *mondo* plots in household food security.
13. KII, Elder, Central Seme, 2018 – Key Informant Interview conducted at Central Seme, March 29, 2018. Male elder, 74 years old. Topic: Elders’ role in land allocation after the introduction of colonial chiefs.
14. KII, Farmer, East Seme, 2019 – Key Informant Interview conducted at East Seme, October 10, 2019. Male farmer, 56 years old. Topic: Customary processes in modern land acquisition.
15. KII, Fisherman, Nyamaruaka, 2017 – Key Informant Interview conducted at Nyamaruaka Beach, August 17, 2017. Male fisherman, 68 years old. Topic: Loss of access to fishing grounds after Ndere Island gazettelement.
16. O.I., Onyango Oiro, 2018 – Oral Interview conducted at Seme, January 5, 2018. Male elder, 84 years old. Topic: Absence of landlessness in pre-colonial Seme.
17. O.I., Ondijo, 2017 – Oral Interview conducted at Alwala, February 12, 2017. Male elder, 79 years old. Topic: Patrilineal inheritance and exclusion of women from land ownership.
18. O.I., Otuge, 2017 – Oral Interview conducted at Bodi, June 21, 2017. Male elder, 70 years old. Topic: Women’s usufruct rights and *mondo* plots.
19. O.I., Orero, 2018 – Oral Interview conducted at Kaloka, February 3, 2018. Male elder, 69 years old. Topic: Reallocation of idle land by elders to prevent disputes.