

**EFFECTS OF LAND TENURE REFORM ON WOMEN'S ACCESS TO AND  
CONTROL OF LAND FOR FOOD PRODUCTION IN MUMBUNI LOCATION OF  
EASTERN KENYA f/**

**By**

**Elizabeth Akinyi Nzioki**



**A THESIS SUBMITTED TO THE INSTITUTE OF AFRICAN STUDIES IN  
FULFILMENT OF THE REQUIREMENT FOR THE DEGREE OF DOCTOR OF  
PHILOSOPHY OF THE UNIVERSITY OF NAIROBI**

**2000**

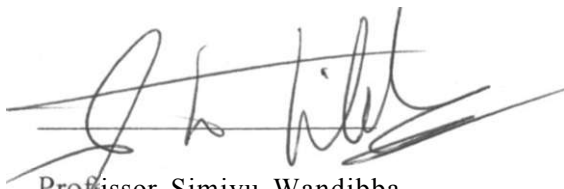
## DECLARATION

This thesis is my original work and has not been presented for a degree in any other university.

Elizabeth Akinyi Nzioki

Date

This thesis has been submitted for examination with my approval as the University supervisor.

A handwritten signature in black ink, appearing to read 'S. Wandibba', is written over a horizontal line.

Professor Simiyu Wandibba  
Institute of African Studies  
University of Nairobi

Date

## **DEDICATION**

**To my father Canon Daniel Ongile Okola for his wisdom and inspiration**

**and**

**To my mother Patricia Akoth for her strength and love**

# TABLE OF CONTENTS

	Page
<b>List of Tables</b>	<b>iv</b>
<b>Acknowledgements</b>	<b>v</b>
<b>Abstract</b>	<b>vi</b>
<b>CHAPTER ONE</b>	
<b>INTRODUCTION</b>	
1.1 Background	1
1.2 Statement of the Problem	9
1.3 Research Questions	11
1.4 Research Objectives	11
1.5 Justification of the Study	12
<b>CHAPTER TWO</b>	
<b>A HISTORICAL BACKGROUND TO LAND TENURE REFORM IN KENYA</b>	
2.1 Introduction	20
2.2 Pre-Colonial System of Land Tenure	21
2.2.1 Historical Concepts and Symbols of Land	21
2.2.2 Patterns of Land Use and Tenure	23
2.2.3 Land Tenure and Gender Relations	28
2.3 Colonial Period and Land Tenure	30
2.3.1 Origins of Land Tenure Reform	30
2.3.2 The Swynnerton Plan and Land Tenure Policy	47
2.4 Post-Colonial Period and Legislation on Land Tenure Reform	5
<b>CHAPTER THREE</b>	
<b>LITERATURE REVIEW</b>	
3.1 Introduction	65
3.2 Literature Review	65
3.2.1 Origins of Land Tenure Reform-Cross Regional Comparison	65
3.2.2 Customary Land Tenure System in Africa	66
3.2.3 Women's Land Rights in the Customary Land Tenure System	71
3.2.4 The Impact of Land Tenure Reform on Women and their Role in Food Production	76
3.2.5 Identifying Gaps and Giving Centrality to Women and Land Rights	78
3.3 Theoretical Framework	82
3.3.1 Gender Relations of Production	83
3.3.2 Sex Gender System and Gender Structuring	89
3.3.3 Explanations for Gender Differences in Relations of Power	91
3.4 Hypotheses	95

3.5 Definition of Terms	95
3.5.1 Dependent Variables	96
3.5.2 Independent Variables	96

## **CHAPTER FOUR**

### **RESEARCH AREA AND ITS PEOPLE**

4.1 Research Site	99
4.2 The People	104
4.2.1 Social Organisation and Political System	104
4.2.2 Land Tenure	108
4.2.3 The Land Rights of Women	110
4.2.4 Land Transactions	111
4.2.4.1 Sale of Land	111
4.2.4.2 Mortgage, Tenancy and Loan	112
4.2.5 Land Inheritance and Succession	113
4.1.6 Public Land	116

## **CHAPTER FIVE**

### **RESEARCH METHODOLOGY**

5.1 Research Design and Methodology	117
5.1.1 Sample Size and Sampling Procedure	117
- 5.1.2 Unit of Analysis	119
5.1.3 Data Collection	121
5.1.3.1 Structured Interviews	121
5.1.3.2 Focused Group Discussions	122
5.1.3.3 Observational	122
5.1.3.4 In-Depth Case Studies	123
5.1.4 Data Analysis	123
5.2 Problems Encountered in the Field	124
5.2.1 Financial Limitation	124
5.2.2 Language Barrier	124
5.2.3 Transport and Weather Conditions	124

## **CHAPTER SIX**

### **THE IMPACT OF LAND TENURE REFORM ON WOMEN'S LAND OWNERSHIP AND LAND RIGHTS**

6.1 Introduction	126
6.2 The Status of Land Tenure Reform in Mumbuni Location	128
6.3 Land Ownership by Women	131
6.4 Factors Hindering Women from Owning Land	133
6.5 Women's Rights in Land	135
6.5.1 Rights of Inheritance	135
6.5.2 Use Rights	139

6.5.3 Privatisation of Communal Land	142
6.5.4 Rights of Land Allocation	143
6.5.5 Duration of Land Allocation to Women	144
6.5.6 Women's Rights to Lease, Mortgage, Transfer or Sell	145
6.6 Implications of the Findings	147

## **CHAPTER SEVEN**

### **EFFECTS OF LAND TENURE REFORM ON WOMEN AND FOOD PRODUCTION**

7.1 Introduction	153
7.2 Women's Decision-Making Power Over Agricultural Production	153
7.2.1 Land Use	154
7.2.2 Decision-Making Power and Land Use	156
7.3 Division of Family Labour and Increased Workload for Women	162
7.3.1 Division of Labour by Sex in Food and Cash Crop Production	164
7.3.2 Division of Labour in Reproductive Domestic Activities	169
7.3.3 Valuation of Female Labour	176
7.4 Benefits of Land Tenure Reform	184
7.5 Conclusions	188

## **CHAPTER EIGHT**

### **CASE STUDIES OF WOMEN'S RIGHTS IN LAND**

8.1 Introduction	195
8.2 Cases of Landless Women	196
8.2.1 Cases of Divorced/Separated Women	196
8.2.2 A Case of a Single Woman	208
8.2.3 Cases of Married Women	211
8.3 Cases of Women who Own Land	223
8.3.1 Ownership with Title Deed	224
8.3.2 Ownership without Title Deed	242
8.4 Conclusions	245

## **CHAPTER NINE**

### **SUMMARY, CONCLUSIONS AND RECOMMENDATIONS**

9.1 Summary and Conclusions	250
9.2 Recommendations	262
9.2.1 The Government	264
9.2.2 The Land Reform Commission	264
9.2.3 To Women	265

References	268
------------	-----

Appendices	285
------------	-----

**LIST OF TABLES**

5.1 Population Size and Sample	119
6.1 Status of Land Tenure Reform in Mumbuni Location	129
6.2 Family Members Consulted/Involved in the Land Tenure Reform	130
6.3 Land Ownership by Women	132
6.4 Inheritance Rights of Daughters	136
6.5 Who Inherits Land Title Deed	137
6.6 Daughters/Sons Rights Over Use of Land	141
6.7 Land Use Rights for Women (Wives)	142
6.8 Who Allocates Wife Land with Title Deed	144
6.9 Rights to Dispose of Land by Female/Male	146
6.10 Women's Rights to Lease, Mortgage, Sell, Gift Land	147
7.1 Food Crop Growers by Marital Status	154
7.2 Other Uses of Land	156
7.3 Managers of Family Farms	157
7.4 Size of Land for Food and Cash Crops	158
7.5 Number of Parcels under Food and Coffee Crops	158
7.6 Distances of Food and Cash Crops from Residential Home	160
7.7 Decisions on Soil Fertility, Hectareage, and Distances by Food and Cash Crops	161
7.8 Farm Labour Activities on Food Crops During 1997 Long Rains Season	165
7.9 Farm Labour Activities on Cash Crop (Coffee)	166
7.10 Number of Plots Women Attend to	168
7.11 Division of Labour by Sex in Reproduction Domestic Work	170
7.12 Women's Yearly off- Farm Income	178
7.13 Yearly Amounts Received from Marketed Food Crops	178
7.14 Decisions on the Use of Money from Food Crops by Marital Status	179
7.15 Main Sources of Income for Women and Men	181
7.16 Coffee Payment by Marital Status	182
7.17 Decision Making on Cash Crop Sales by Marital Status	183
7.18 Where Women Get Money for Farm Investment	185
7.19 Who Gets Extension Information	187
<b>MAPS</b>	
4.1 Location of Machakos District in Kenya	100
4.2 Location of Mumbuni Location in Machakos District	101
4.3 Sub-Location of Mumbuni Location	118

## ACKNOWLEDGEMENTS

My first gratitude goes to my supervisor Professor S. Wandibba of the Institute of African Studies, University of Nairobi, who worked with me closely and tirelessly. He read every word I have written over the past three years, including three complete drafts of this study. My intellectual and personal debt to him is unbounded.

I wish to express my very great appreciation to the women of Mumbuni Location for their warm hospitality, and for sparing time from their extremely busy daily chores to sit long hours with me discussing issues of their land rights. I am also grateful to the Institute of African Studies, its fellows, staff and Director who provided an atmosphere conducive for reflection and writing. Comments and discussions held by several IAS academic staff provided essential feedback as my study progressed. In addition, I want to acknowledge the intellectual contributions I have received from Professors D.A. Obara, Kivutha Kibwana, H.W.O. Okoth-Ogendo and C.O. Okidi.

I am indebted to my research assistants and interpreters, Philip Munyoki Mengi, Carol Mwaka, Mumbua Mbole and George Kasina Musunza who walked with me long distances, most of the time on foot, during my field work. I owe a great debt specifically to Philip Mengi who has supported me throughout the four years of this study. To him I would like to say *Ani muvea muno. Ngai akuathime.*

Special word of thanks must be given to my sisters, especially Dorothy Achieng; who assisted me in identifying secondary data through the internet, Dr. Grace Atieno Ongile, Dr. Maria Adhiambo Ongile and Mary Akinyi Ngon'ga for being very sisterly. I am grateful to Dr. Jenifer Riria, Dr. Ank Linden and Professor G. Linden who were always interested in the progress of my work and for their constant moral support throughout this study. I am very grateful to Anne Munyiva Kyalo Ngugi for her kindness and friendship, which I have enjoyed over the years. My special thanks to my main supporter Philip Mbatha. Many other people have helped me in one way or another. It is, however, not possible to name them all but I would like to thank them.

I would like to express my love and gratitude for the unfailing encouragement of my dearest friends from the ridges without whom this study would have stopped half-way. They perfectly know what I owe them.

My husband, Nicky M. Nzioki, and the children Emmanuel Nzioki and Linda Mbatha, probably suffered the most of my moods and of my long days during the week and the weekends I spent behind the computer. I am grateful that they were there when I needed them, although I hardly paid enough attention to them during the last four years of field work and writing of this thesis. Their enduring support cannot be expressed in words. One thing is obvious, they are happy that this study is finished.



## ABSTRACT

This is a study on effects of land tenure reform on women's access to and control of land for food production. The study was conducted among women smallholder farmers in Mumbuni Location of Machakos District. The main objective of the study was to find out whether land tenure reform has had a positive or negative effect on land ownership by women. The study also wanted to assess benefits women have reaped from the reform and the effects this has had on household food production. Specifically the study wanted to find out the following:

The effects of land tenure reform on women's decision-making power as regards agricultural production.

The impact of land tenure reform on the division of labour taking into consideration monetary and subsistence production at the household level.

Field work was done between April 1997 and March 1998. Data were collected through a structured questionnaire together with focused group discussions and in-depth case studies. The questionnaire has been desegregated, analysed quantitatively and presented in the form of tables. On the other hand, data from focused group discussions and individual case studies were subjected to qualitative and descriptive analysis.

The study arrived at the following four main findings:

Registration of titles to land is being done in the names of the 'heads of the family'<sup>1</sup> and family land is being transferred almost exclusively to male individuals. Land titles are registered either in the name of husband, son, father or grandfather.

Women remain disadvantaged as regards freedom to manage and use family land. The introduction of cash crops, especially coffee, has brought about changes in land use in the way land is controlled and how decisions are made. This is now based on the supremacy of the male head of the household.

Land tenure reform has increased women's workload substantially. The majority of women have to work first in their husbands coffee farms before proceeding to their food farms. Women combine agricultural work with reproductive domestic labour and off-farm activities, which are fundamental to the survival of farming households. They have few alternatives to generate incomes outside farming as a result of the workload they experience in providing family labour. Food produced is generally consumed by household members while cash earned from coffee is generally controlled and distributed by men. In this new mode of production, women find themselves both subordinated to the household income and marginalised.

Land tenure reform has biased all agricultural incentives, credit, cooperative membership and extension services in favour of cash crop production and the men who are land owners. Women have generally not benefited from the objectives of land tenure reform since they have not acquired the rights, which would enable them to raise productivity and increase their incomes.

In light of the above findings, this study recommends that the government should have a land policy, which effectively empowers women through legal means and provides security in their rights in land. In this respect there should be a land bill, which attends to gender inequity in land tenure. The initial efforts must be undertaken by women's organisations to make the issue of women's land rights visible, challenge the patriarchal status quo and provide educational information regarding women's rights to family property.

>

# CHAPTER ONE

## INTRODUCTION

### 1.1 Background

Africa's central problem of underdevelopment arises from structures of production, consumption, technology, employment and socio-political organisation including problem of mass poverty, food shortage, low productivity, weak production base and backward technology. This crisis is exacerbated by factors that affect economic performance. These include inflation, export earnings instability, balance of payment deficits and rising debt burdens which are the direct result of the lack of structural transformation, the unfavourable physical and socio-economic environment and the excessive outward orientation and dependence (Ondiege, 1992:125).

/

Natural and human factors have continued to erode the natural resource base, which is needed to sustain Africa's development. These factors include over-use and misuse of the soil, poor conservation policies, overgrazing, deforestation, draught, salination, river system pollution and water logging. The cumulative effect of these factors has led to reduced carrying capacity of the land at present levels of technology, reduced productivity, social dislocation and accentuation of absolute poverty in the rural areas.

The past development strategies that stressed industrialisation and urbanisation have failed to sustain the growth of these economies. Objectives of providing dynamic forces for the

structural transformation of their economies and promotion of equitable growth have not been successful

Most African countries depend on agriculture for employment, income, foreign exchange earnings and government revenue, and yet agriculture is still characterised by traditional techniques a generally low-level productivity. Most efforts to transform this sector have been concentrated on export subsectors. While women play an important role in agricultural production, especially the food subsector, their role as producers and agents of change in the much-needed rural transformation has been severely constrained by their meagre share in the means of production, land, capital, credit and technology, and by their marginalisation in production relations (Ondiege, 1992:126).

In sub-Saharan Africa, the rural population seems to be the most affected as even minimum basic needs have not been adequately provided. Thus, in these economies, national development should be essentially concerned with rural development. This entails promotion of agricultural and non-rural farm activities, and increasing economic and social welfare levels of the population through employment creation, rising income and poverty reduction. The ultimate aim of rural development should be to improve the earning capacities of farmers and also to provide services and living conditions which are better adapted to their needs. To achieve this, it is imperative to provide an enabling environment that will allow the participation of rural women and men in conceptualising, implementing and managing their development programmes.

This study deals with issues involved in land tenure reform and the effects these have on

women as food producers. Land reform is concerned with changing the institutional structures, which govern people's relationship with land. It involves interventions in the prevailing pattern of land

ownership, control and usage in order to change the structure of holdings, improve land productivity and broaden the distribution of benefits. In practice, land reform is pursued in response to political pressures for economic change arising from factors such as increased population, pressure on the limited land base or an ideology of egalitarianism based on more and even distribution of land or income. To contextualize it, land reform has interlinkages with political, economic and socio-cultural dimensions which, in turn, have significant implications for development (World Bank, 1974:3).

In Kenya, the purpose of land tenure reform is to change from customary land tenure to 'modern' law ownership of land by individuals. The Land Tenure Reform Legislation provides for registration of land titles in the name of the head of the family; such heads are usually men. Under the individualised tenure system, women's legal rights are not specified. Privatisation of land is widely held by planners to be an important precondition for the modernisation of agriculture because it strengthens private profit incentives and facilitates the use of credit on the basis of land collateral, which leads to greater increases in household incomes.

These benefits are intended for women as much as for men. However, the extent to which women share in the attainment of these objectives is a matter of debate. Agriculture contributes the largest share to Kenya's economy. Land is, of course, the most basic resource for food and agricultural products. Questions of access and rights to land are, therefore, of paramount interest to the majority of the Kenyan population whose livelihoods depend on agriculture.

Kenya covers an area of 581,751 square kilometres, of which 571,416 square kilometres is dry land while 11,230 square kilometres is open water ( Republic of Kenya, 1984a: 70). As a result of adverse physical conditions, unreliable rainfall and poor soils, over 80 per cent of the land available in Kenya is classified as low potential and, therefore, unsuitable for crop production (Mathangani, 1989: 9). While agriculture is declining, the population growth rate has been advancing. In 1969, Kenya's population stood at 11 million but almost doubled to 21 million in 1989, a growth rate of 3.8 per cent. The current growth rate stands at 3.34 per cent with an estimated population of 24 million, out of whom 21.6 million are in the rural areas ( Republic of Kenya, 1994:2). This has further implications on the already severely limited land resource. Given this trend, there is a growing concern over the country's future capabilities to feed its population.

In Kenya's rural sector, increasing population pressure on limited arable land has resulted in a large number of small holdings which are insufficient to support household production. These co-exist with large, underutilised holdings. This has led to poor agricultural growth rates.

In order to address the above stated problems and to guide and develop the production of food to meet the country's requirements, the government has over the years formulated a series of policies which address various aspects in the agricultural sector, the main goals being self - sustenance, growth, employment and diversification (Republic of Kenya 1984a, 1986, 1989a, 1994). The Kenya Government's land policy aims at achieving optimum land utilisation by intensifying agriculture and adopting correct management practices to conserve the soil and to sustain the population (Republic of Kenya, 1986:89). Together with this, the Government

policy on nutrition and food security aims at increasing and diversifying food production at the household level (Republic of Kenya, 1989a:22).

In Kenya, as in many other regions of the developing world, women play crucial roles in agriculture as producers and providers of food. Women are culturally obligated to provide food for the family and to earn income to meet the needs of daily family welfare. Traditionally, they have been provided with access to productive resources, including land, to enable them to fulfil their obligations. It is important to point out that the pre-colonial system of land holding created stable security of tenure which acted as incentive to full and committed participation by women in the economy ( Nasimiyu, 1984:19). Today, their obligation to provide food to the family remains but their access to productive resources and ability to control the product of their economic activities, is less secure or has actually declined.

The problems facing women's efforts in food production are several and complex, and range from historical transformation of African agriculture from the pre-capitalist mode of production to the capitalist mode of production, lack of land rights for food production, decision-making power over land use to the division of labour along gender lines.

Nasimiyu ( 1984:19) has argued that the economic reforms introduced by colonialism significantly changed the value of women's economic roles, thus creating the pattern of women's dependency on men. The subsequent introduction and continued production of cash crops remained mainly in the hands of men. Women's participation in agricultural production was, therefore, limited to the supply of labour force alone and food farming

which was, and still is, monetarily unprofitable. This also led to women's economic participation in the non-capitalist mode of production, particularly in rural areas where women's work is geared towards subsistence agricultural production, which enhances the exploitation of women.

On her part, Suda (1991) has observed that labour for crop production is separated on the basis of gender. While women continue to contribute to subsistence agriculture for home consumption, the male labour participation is disproportionately concentrated in the production of cash crops for exchange. Men who are drawn into commercial agriculture are usually trained in the new farming techniques, inputs and machines, while women are relegated to subsistence farming with low technology, which leads to inefficient production and marginal wages. This has created a productivity gap between the sexes, subsequently accentuating dependency of women on men, which is further deepened by the loss of legal rights to land.

In his study among Babukusu in Western Kenya, a situation generally applicable to other rural situations in Kenya, Nangendo states that:

In each of the households, the ownership, real control, use and disposal of land is the prerogative of the man. The man controls other resources such as livestock, labour and other household family property. The man directs, when, where, who and which fields have to be planted with what crop as well as which fields are to be set aside for pasture. The woman in each household generally speaking is expected to feed the family through her farming efforts.... Thus in these households women and other dependants of the man exercise relatively little social and economic power ( Nangendo, 1994:17).

The negative consequences of this are evident at the micro level in terms of adverse trends in rural women's and children's health and nutrition status and at the macro level, and in failure



to keep marketed surplus of food crops rising in line with population growth (GOK/UNICEF1992).

It is recognised in the Kenya Development Plan for 1989 -1993 that:

Women have always occupied a central role in African economies being the main agricultural producers and suppliers of welfare services at the household and community levels. The woman's position in traditional society was clearly defined and largely determined her right social status. However, colonial subjugation and its attendant Victorian attitudes towards women both as workers and as partners in life eroded women's economic and social status. Kenya has been working towards the restoration of women to their active role, not only in the development of the economy but also in the ownership and control of wealth arising from economic production (Republic of Kenya, 1989a: 27).

Nevertheless, this recognition has not yet been translated into concrete policies and programmes that would promote a more equitable distribution of resources, enhance women's productivity in agriculture and increase their ability to earn income. It is recognised in this study that not all forms of property are equally significant in all contexts, nor are they equally coveted. In an agrarian economy such as that of Kenya, arable land is the most / valuable form of property, for its economic as well as its political and symbolic importance. It is a productive, wealth creating and livelihood-sustaining asset. For many, land provides a sense of identity and rootedness within the village, and in people's minds land has a durability and permanence which no other asset possesses.

More than 80 per cent of the women in Kenya live in rural areas, playing multi-faceted roles in the rural sector as smallholder farmers, income earners and family caretakers ( Nadine, 1989:2). Women contribute most of the labour required for cultivation of food crops on family holdings, and have increasingly also contributed much of the labour in the small and medium size holdings in the production of cash crops. It is estimated that 27% of the small

holdings in Kenya are solely managed by women while another 47% of the holdings are managed by women in the absence of their husbands (Republic of Kenya, 1985:39). Nevertheless, certain structural factors in the agricultural sector continue to prevent women from taking advantage of their increased control as managers of smallholdings. These include lack of control over land resources which limits women's ability to make major management decisions, for example, in using land as a collateral to secure agricultural credit. Furthermore, agricultural incentives, such as becoming a member of a co-operative society and the provision of extension services on information, inputs and marketing, are often biased in favour of the male owners of land.

Women are the prominent economic actors in land - related activities, with a major stake in crop and small stock husbandry, crop preservation, processing and marketing, and food preparation for both domestic consumption and sale. Suda's study in Siaya District, Kenya, shows that 70 per cent of the total labour force in food production is female. Women were found to be more heavily and regularly involved in planting, weeding, harvesting, storing, processing and marketing of food crops than men (Suda, 1991: 9). Women contribute 80 per cent of agricultural labour, 70 per cent of hours worked in farming, carry out 60 per cent of the marketing and produce some 60 per cent of the food that is domestically produced and consumed (Jiggins 1988). Land- based opportunity thus remains the basis of incomes and livelihoods in the rural areas. Male migration to urban areas in search of paid employment has left women in charge of small scale farming activities. Women are, therefore, a critical link in achieving food security, and land is a significant factor in the household food security equation.

- Supportive agricultural policies recognising this critical link between women and food production will definitely influence their ability to contribute to household food security.

## **1. 2 Statement of the Problem**

Land has been and continues to be the most significant form of property in rural Kenya and is a critical determinant of economic well-being, social status, and political power. Since Kenya's independence in 1963, the government has pursued programmes to transform customary land tenure to statutory freehold tenure through land adjudication, consolidation and registration. From the time of independence in 1963 to 1984, about 1.5 million titles had been issued, over 6 million parcels of land adjudicated and 5.5 million hectares surveyed for adjudication and registration (Republic of Kenya, 1984a: 105). The problem is that the titled land is being transferred almost exclusively to male individuals, thereby leaving no provision on how women's access rights are to be defined and how women would realise the above stated goals of privatisation once the land is registered in an individual male's name. Land title deeds do not only increase men's control over distribution of land, but also create dependency of women on men since the former now do not have legal access to the land.

Furthermore, the introduction of cash crops from the 1960s has brought about changes whereby men have taken charge of cash - cropping while women remain in charge of food cropping. This evolved division of labour has exacerbated women's subordinate position in farm households because it has consolidated men's monopoly of access, control and ownership of land. Even where women contribute towards cash crop production, the income accruing from the sales thereof are normally controlled by men, usually husbands. Ironically, men are generally unwilling to share the income from cash crops with their wives, the contribution of the wives notwithstanding, or to re-invest proceeds in food production. There is substantial evidence that economic resources in the hands of male household members often do not benefit female members on an equal basis.

In this scenario, women's access to land is merely derived because they have no rights of ownership, access, or use except through the male kin. The precise nature of those rights is further conditioned by their position in their natal or their husband's lineage, their marital status, and their life cycle status. Moreover, derived rights do not include the rights typically related to ownership - rights to use land, to raise loans, to rent, to sell, to dispose of by will or make permanent improvements thereon.

Changes in family composition, land law, and economic structures have increasingly tended to make women's access rights to land less secure. Issues which affect women relate to the fact that their rights to land are determined by their marital status, by the laws of inheritance and divorce and by institutions that are themselves deeply embedded within local perception of the role that women should play in society. A married woman may gain access to land, if she has her husband's authorisation but is likely to lose this in the event of the breakdown in relations, divorce or widowhood. Her rights may also change if her husband remarries within a polygynous arrangement. Thus, in the event of marital separation, divorce and, sometimes, widowhood women's rights to land under the individualised tenure remain ill-defined. People most threatened are women and children who have no off-farm income and depend entirely on land for their livelihoods. This directly threaten women's ability to produce food and maintain their families. It also means that women cannot treat land solely as an economic asset. Their management, independence and right to the products of land are compromise

### **1.3 Research Questions**

As land becomes scarce and begins to assume a capital value, and as pressure builds for increased cash crop production, both women and men are affected in different ways. What is the nature of these differences and what have been the consequences of land tenure reform policies upon women's access to land and on their agricultural output? How might land policies be reformulated to ensure women's future effective participation in agriculture and increased production

In pursuing the issue of women's access to and control over land for food production, a number of related questions arise, such as has land tenure reform enabled women to own land? What rights in land have women historically enjoyed, and why did these change over time? What rights (inheritance, use) are granted to women under the contemporary land tenure system? How does land tenure reform affect women's decision making power over agricultural production and division of labour at the household level? Have women benefited from the set out objectives of / land tenure reform?

### **1.4 Research Objectives**

The overall objective of this study was to investigate the effects of land tenure reform on women's access to land, control and land use for food production. Further, it assessed benefits women have reaped from the reform and effects these have on household food production.

The specific objectives were:

To find out whether land tenure reform is discriminative to women by providing title deeds only to male heads of households.

- To investigate the effects of land tenure reform on women's decision- making power regarding agricultural production.

To assess the impact of land tenure reform on the division of family labour, taking into consideration monetary and subsistence production at the household level.

- To determine whether women have benefited from the objectives of land tenure reform.

### **1. 5 Justification of the Study**

There are a number of practical reasons for doing this kind of research. At this time when the total production of food in the country is decreasing and cannot adequately feed the growing population, there is an urgent need to look into the constraints of those who produce food in order to identify their needs with the aim of addressing the constraints and thereby increase production.

Threats posed by food shortages and famines make food production a priority in development planning. Some of the explanations given for Kenya's declining ability to feed itself include drought, desertification, disease, mismanagement and suggestions that there may be a certain endemic incapability on the part of the people involved to feed themselves (Dey, 1984:1). The immediacy with which food aid has to be sought tends to obscure the fact that food shortages occur as a result of a multiplicity of factors, each of which perhaps contributes a small percentage

of the total deficit in food, and all of which are significant in the contribution of the suffering that results when stomachs go empty (Ndumbu, 1985:32). One of the most neglected factors in the causation of the shortage of food has been the extent to which the non-availability of production resources to women affects the production of food. Only a few researches have been carried out to determine the debilitating factors in the food deficit for African countries and even fewer have been carried out to discover how the talents, time and energies of women can be utilised at the national planning level, to stem the food shortage.

While strategies to encourage African agriculture must be multi-faceted and must face the varied facets of the farming system, in Kenya, like in most sub-Saharan countries, "the focus must be on the needs of women farmers for it is they that the improvement of agriculture and food production will largely depend" (GOK/UNICEF, 1988: 56). If women are currently the major food producers, then their productivity will depend not only on improving the basic resource (land) which they use / in production, but will also be determined by how much access to and control they have of these resources.

The objectives of any agrarian reform, within which the land tenure programme falls, include the promotion of equity, creation of employment, raising productivity and increasing the income of the poor. These objectives ought to apply to women as well as men. These being the objectives of land tenure reform, it becomes immediately important to investigate how women have gained, or otherwise, from the land tenure reform.

Several interconnected arguments are presented here to support the need for women to have independent rights in arable land. First, researches done in Asia indicate that among poor households, lack of women's rights to land is linked to the households risk of poverty and destitution. Notable differences have been found in how women and men in poor households spend their incomes under their control: women of poor households typically spend almost all their incomes on purchasing goods for the family's general consumption and for children while men usually spend a significant part of their personal needs like tobacco and liquor ( Agarwal, 1994: 28). A corollary to the noted gender differential in spending patterns are research findings which suggest that children's nutritional status tends to be much more positively linked to the mother's earnings than the father's.

According to Agarwal (1994), the risk of poverty and the physical well-being of a woman and her children could depend significantly on whether or not she has direct access to income and productive assets such as land, and not just access mediated through her husband or other male family members. Within this general argument in favour of women's access and control of economic resources, the case for rights to land is especially strong. In a context of limited non-farm opportunities as in rural Kenya, land serves as a security against poverty- a means to meet basic needs. Direct advantages of accessing land stems from the possibilities of growing crops, trees, vegetable garden, keeping livestock or practising sericulture. The indirect advantages include the possibility to mortgage, sell or rent in times of crisis. Nevertheless, given the noted biases in the intra - family distribution of benefits from household resources, exclusive male rights in land,



Third, Land Tenure Reform, which is part of the agrarian reform adopted by the Kenya Government, includes, among others, the promotion of equity. Thus, equity remains a central concept in development planning, particularly in terms of creating equal opportunities for everyone, irrespective of their gender. Perhaps the most burdensome economic discrimination of all derives from laws limiting access to productive resources. Gender equality is a measure of a just society, in which equality of rights over productive resources would be an important part. It is within this framework that Kenyan women would like to see themselves as equal partners in the management of both household and national affairs. Although equality of opportunities is granted for all citizens by the Kenyan Constitution, it exempts inheritance of property from this provision (Sivard, 1985:32). These gender gaps need to be bridged if indeed Kenyans are to move towards a more just society. For the purposes of this study, our central argument is that if women are to enjoy equity with men in life-long access to and ownership of land, regardless of their marital status, / then their land rights must be secure. It is imperative that the availability of equal opportunities in access to and ownership of land must be protected by law for women as for men. Providing women with legal rights to land would not only empower them economically but also strengthen their ability to challenge social and political gender inequalities. That is, land rights would enhance women's freedom to achieve and the capability to function in non-economic spheres such as politics.

This study is not only important, but also appropriate as it is being conducted at a time when the Government has recognised the high degree of sensitivity and complexities on land issues and,

therefore, plans to appoint a commission to review land tenure laws and practices in the country to recommend legislation that will bring the law into conformity with Kenyan needs (Republic of Kenya, 1989a:30). In 1993 a task force comprising both women and men was appointed to review laws that discriminate against women and identify and recommend those that need amendment. More important, the Kenyan Constitution is in the process of being reviewed and reformed. The results and recommendations of this study should form an important basis on which discriminatory laws in land tenure would be discussed and reviewed.

Increasingly, local newspaper reports are beginning to bring out women's voices of lament by highlighting the multiple facets of rural women's relationship with land, and the importance many attach to having rights of access and control to land: women divorced or deserted by their husbands and left landless and widows deprived of their rightful shares by prosperous brothers-in-law, left destitute and forced to seek wage work or even beg for survival and so on (Daily Nation, Friday, December 15, 1988; Kenya Times, Monday, May 24, 1993). For a significant majority of rural households, arable land is likely to remain for a long time the single most important source of security against poverty in rural Kenya, even if it ceases to be the sole source of livelihood for many. As already stated, land defines social status and political power in the village, and structures relationships both within and outside the household. Yet for most women effective rights in land remain elusive, even as their marital and kin support erodes and female headed households multiply. In legal terms, only a small number of women own land, and even fewer can exercise effective control over it. Yet the voice of the disinherited female peasant has, until recently, gone largely unheard, not only by policy makers, but also by grassroot groups and academics. According

to Agarwal, employment has been taken as the principal measure of women's economic status, obscuring what has commonplace in measuring the economic status of men in the households: property ownership and control (Agarwal. 1994:2).

Women's struggle for their legitimate share in landed property can prove to be the most critical entry point to women's empowerment in Kenya, and this study sought to bring this issue from out of the wings onto centre stage. The study examined the current gender relations given the land tenure reform, relations that we argue are crucial to formulating policies through which Kenyan women as food producers can be advanced. Policies concerning women have long been preoccupied with sectors of wage employment, education, health, water and women's role in agriculture. In a radical shift of focus, this study addressed the single most important economic factor affecting women's situation, that is, the gender gap in command over property. However, it is realised that inevitable changes with regard to women's economic power will require simultaneous struggles over norms governing gender roles, behaviour, attitude and hierarchical gender relations which have been based on unequal access of women and men to economic, political and social power. In a comprehensive and rigorous analysis that draws from historical, economic, legal, ethnographic perspectives and empirical sources, the study investigated the complex reasons for the gender gap in command over property, and examined how existing barriers to women's land ownership and control might be overcome and how gender relations get constituted and contested, both within and outside the household. The study should make a

significant contribution to current debates on land rights, women's status and should also interest scholars, students, policy makers and activists.

## **CHAPTER TWO**

### **A HISTORICAL BACKGROUND TO LAND TENURE REFORM IN KENYA**

#### **2.1 Introduction**

Land and land tenure issues have been and continue to be at the heart of events in twentieth - century Kenya. Founded as a settler colony, the colonial government set aside substantial amounts (c. 44,000 km<sup>2</sup>) of the most productive land for Europeans, while Africans were shunted into reserve areas (Riddell and Dickerman, 1986: 85). Demands for land by Africans remained a constant theme in the colonial era, leading to the Mau Mau rebellion. Landlessness, fragmentation of holdings and crowded conditions became increasingly critical as, indeed, they are today, despite the extensive programmes of land registration and consolidation undertaken in the 1950s and 1960s as well as the resettlement programmes implemented in the Highlands and other areas since independence. In areas where land registration was undertaken earlier, landholders continue to follow customary procedures. However, outside the registered areas too, there is an unmistakable trend towards individualisation of tenure.

This chapter looks at the historical changes that have taken place from the pre-colonial, through the colonial to the present time and, consequently, at how women have related to land, given the dynamic changes over time.

## **2.2 Pre-Colonial System of Land Tenure**

### **2.2.1 Historical Concepts and Symbols of Land**

In Africa, land assumes many forms that order relationships between people- both living and dead. According to Davison ( 1987a:5 ) land structures relations between groups within society and between people and the supernatural world. In this sense, land is both sacred and profane and the pre-colonial, pre-capitalist societies recognised this duality. Soil is used as a material resource in symbolic rituals to express a society's attitude towards sex and gender relations. Previously, human contact with land was structured by religious beliefs that viewed the earth as a sacred entity - often female. The Dogon of West Africa associate the earth with varying facets of female / fertility, representing a symbol of generation born and unborn ( Griaule, 1965:17). The Agikuyu of Central Kenya, ritualised a marriage ceremony (e.g.,guthinjiro) whereby an elder linked a woman's family with a man's by mixing soil brought from a woman's home with blood from a goat belonging to the man's family (Davison, 1987a: 16). Most times, soil is linked symbolically with fertility. For example, among the Babukusu of Western Kenya, boys are smeared with mud during the time of initiation to ensure their future fertility as adult males (Nangendo 1994). On the other hand, the Jo-Luo of Western Kenya perform sexual rituals for the earth to ensure the fertility of crops.

The sacredness of land sometimes extends to the products of land. For example, the mugumo tree is a sacred shrine to the Agikuyu while the Ibo of Nigeria believe that certain groves of trees and land belong to particular deities. Historically, land as an entity was perceived as belonging to the ancestors to be held in perpetuity ( Obi 1963).

From pre-colonial land tenure studies, a generalisation has emerged which refers and describes African land tenure as 'communal', although there has not been an agreement on how it was politically administered, whether by individual, family, clan or ethnic group (Okoth-Ogendo, 1976:150). Nonetheless, at the community level, land was and still is defined in terms of relations between kin, family members and neighbours. In many communities land was held by a village or lineage male head of age who had a good knowledge of lineage history and land use patterns and was considered a trustee and not an owner of the group's land (Pala 1978a). It was his responsibility, in consultation with lineage elders, to allocate land to heads of families depending upon need and availability.

During a lifetime, a landowner could loan, lease, pledge or pawn a piece of land for temporary use. Thus, land could be pledged as a means of paying debts or tribute; pawned in exchange for cash or goods for a wedding, bridewealth or funeral; and, in some instances, livestock were exchanged for temporary use rights ( Pala 1978a; Obi 1963). However, the exchange of goods for land was never viewed as transfer of permanent rights. Land was not alienated permanently without the consent of the trustee group, be it lineage, clan or community (Obi 1963; Okere

1983; Mayana 1984). In cases where a portion of land was held throughout a person's lifetime, land rights would be reverted to the ancestors, lineage group, family and especially to sons in the cases of patrilineal inheritance (Kaberry 1952; Okere 1983). Consequently, the degree to which women used land depended upon her relationship to the male member of the lineage (Davison, 1987a: 17).

### **2.2.2 Patterns of Land Use and Tenure**

In the period before the advent of colonialism, land was the cornerstone of African humanity. It defined the African way of life; it was the focal point of African solidarity. It determined the spirituality and belongingness and symbolised the economic status of a people (Wanjala 1995).

Under adverse conditions of cyclical drought and inherently poor soil conditions, African cultivators developed several survival strategies: they planted drought resistant crops like millet, sorghum and tubers; intercropped legumes and cereal crops to maintain soil fertility and keep down weeds; practised shifting cultivation and fallowing to allow soil recuperation; planted in different ecological zones; and when the population outgrew the arable land they migrated to other areas and had first use rights. According to Davison (1987b: 10), land was viewed as an economic resource that people had an obligation to use wisely for the good of the community on behalf of the ancestors who were often perceived as spiritual guardians.



In many African communities where agriculture was practised, the heavy work of clearing of bush and the first breaking of the soil was the responsibility of the men while the women planted the crops, tended the gardens and did the harvesting. It was essential for the wife to grow the whole range of crops needing different soil conditions. She, thus, required several patches of land. Shifting cultivation was another practice which required several patches of land. After several years of cultivation, plots were left to fallow by a process of natural regeneration. The fallow land, together with uncultivated land, was used for grazing stock.

As sons got married, they were given portions of their mother's plots for their wives to cultivate. Provision was made for the aged dependent relatives while, sometimes, tenants were allowed to build on the site and cultivate land (Sorrenson, 1967: 11). The emphasis was, thus, placed on access to land for sustenance of human and social life rather than ownership of land. In this scenario, even strangers gained acceptability into communities by being granted access rights.

Among African societies and within them, there is no single method of classifying land for the purposes of use and occupation. Some types of land were classified as residential, cropland and pasturage for single families (Sheddick, 1953:57). Schapera (1955:203) makes a distinction between three types of field: those used by the male compound head, those reserved for the wife or wives and those designated as common household fields. Among the Luo of Western Kenya, land rights have been defined by kinship and length of cultivation. *Wuon lowo* refers to rights in lineage land which a person holds throughout their lifetime. Rights in short time use are termed

*kwayo puodho* (Pala. 1978b). The Babukusu of western Kenya also divide rights into long term occupancy for use by the male lineage member, termed *kumukundu*, and short term cultivation usually by women termed *silundu* (Nangendo, 1994:24). Other classifications are based upon control by occupants, sacred land controlled by ancestors, land controlled by the community and land controlled by individual members of the community.

Clans or patrilineal lineages determined the occupation and land ownership. The land of the clan was not necessarily in one piece, as clans could own several distinct lands which were individual property of the founder of the clan. These distinct clan lands possibly led to the division of clans into sub-clans each occupying a separate land. Land which was once owned by the individual founder of a clan or lineage, became a common property of his descendants, although it was cultivated on an individual household basis. Each wife cultivated several distinct fragments of land. Land was thus held in trust by clan or lineage leaders to allocate to male heads of families. According to Davison (1987c: 11), customary practices of land occupancy and use tended to be inclusive rather than exclusive, that is, no one who needed land went landless. Communal groups and individuals had usufruct rights to land, which were viewed as temporary and redeemable in varying degrees.

Land could be acquired through a process of occupation by first clearing, inheritance, status ties or purchase from another community. Negotiations were carried out where one could be given right of cultivation in return for a loan of stock, but on condition that the land could be redeemed at

any time. Some communities recognised various tenantships based on unwritten contract, that is, the use of land against a loan of stock, temporary cultivation rights on the basis of friendship and without payment other than an annual 'tribute' of beer and first fruits, and the right to erect residential buildings (Sorrenson, 1967:10). The rights of land use were, therefore, very distinct from ownership rights. The tenant could be turned off the land on the redemption of stock, on the reaping of the crops, or on the removal of his hut. Tenancy based on status ties included: the in-laws relationship, where a father-in-law could give a landless son-in-law rights to use land; a widow's children were permitted to use land belonging to their mother's clan; a stranger married within a clan was permitted to occupy land while their offspring had full inheritance rights; and an adopted male person could inherit land from the adopter's lineage.

Nevertheless, land issues were not without conflicts. Pioneers in the land had to establish their rights in land in the face of incoming migrants. Even though newcomers were welcomed as they could help clear the land, this was done with the understanding that their right did not amount to more than a form of tenancy. Stresses and strains within the African land tenure systems of land ownership, succession and utilisation often led to the break up of clans and ultimately to migration of small groups to new territories (Sorrenson, 1967:8).

Many scholars writing on pre-colonial land tenure systems in Africa have often found it difficult to identify or generalise on a system that prevailed during this time. This has been mainly due to lack of authentic literature on the subject, faulty anthropological and historical accounts of

western researchers and, mostly, because of the diversity and complexities of traditional societies (Kibwana, 1990:231). One thing is clear though, that each person in a community had rights of access to the land depending on specific needs of the person at the time. Access to land has been specific to a function, for example, cultivation or grazing. Thus, in any given community, a number of persons could each hold a right or a bundle of rights expressing a specific range of functions. A village could claim grazing rights over a parcel, subject to the hunting rights of another, the transit rights of a third and cultivation rights of the fourth (Okoth-Ogendo, 1976:154).

Okoth-Ogendo further explains that although cultivation rights were generally allocated and controlled at the extended family level, the grazing rights were controlled by a much wider segment of society. According to him, to control land was to guarantee rights to allocate to other members of the community. Those who controlled land did not 'own' land to the exclusion of everybody else (Wanjala 1990). Kibwana (1990:233) states that the proper grasp of the above / principles of land holding reveals that it is conceptually wrong to identify 'chiefs' or 'leaders' in pre-colonial Kenya who 'owned' land or were trustees on behalf of members of an ethnic group. Here, it is important to note that attempts being made by different scholars to explain African land tenure systems may sometimes look contradictory in the way land ownership is perceived. Nevertheless what is clear is that land use activities were linked to different levels of social and political organisations, with varying degrees of control over the land.

The lineage head was responsible for allocating land to families and was accorded great respect

and obedience but those under him had a strong sense of their own rights and obligations. The obligations included a fair distribution of land and settling disputes that might arise from land. In this way, the lineage head obtained a position of power in the administration of the land.

As families and lineages grouped up to form larger communities, gradual changes occurred and loose and non-defined tenures were replaced by definite recognisable land rights attached to individuals and, at times, whole communities. Thus, the indigenous tenure arrangements have historically been dynamic and adaptive to economic and technological changes. The tenure arrangements that gradually emerged were governed by principles relevant to pre-industrial economies relying on kinship as the primary organising factor. The rules governing access and use of land were then determined primarily on one's membership and status in the social group controlling a particular territory (Wanjala 1995).

### **2.2.3 Land Rights and Gender Relations**

Historically, access to land through inheritance assumed a pattern, for the majority of African societies, which ascribed to a patrilineal ideology and organisation. That is, land was allocated to an individual male. Upon his death the land rights were transferred to his sons and, consequently, the degree to which females inherited land depended upon their relationship to the male members of the lineage (Davison 1987a). Thus, the patri-local societies had controlled the process of allocations and transmission of its primary means of survival through the male members. Men, therefore, gained access to land largely as lineage members and women gained access as

wives. Characteristically, men controlled women's access to land and allocated their labour. For example, the more wives a man had, the more land he accumulated and controlled (Guyer 1984). The more land a man controlled the more wives and children he needed to help cultivate it (Davison, 1987b: 18). This joint productive-procreative value of women is symbolised by the exchange of bride wealth to compensate her family for loss of labour and to assure the future paternity of her children. In turn, her male children inherit the land she cultivates.

It is important to note that although landholding was historically inclusive, nevertheless, the amount and quality of land acquired or inherited depended upon an individual's status and position in a family, lineage or community. For example, there was disparity between land held by a chief and that held by the ordinary member of the community. Likewise, the wives of the chief had access to more land than the wives of ordinary members of the community. Again the first wife by virtue of her position in the family, always had greater access to land than her co-wives.

According to Davison (1987a:9), women as a social category cannot be viewed as a single category even in the pre-colonial period. Their social status, thus, impinged upon their access to and their role in agricultural production.

Male access to land was also based upon social factors like status in the community and size of the family, whereas women's access to land was, and still is, often dependent upon their relationship to men and their marital status. What is significant, however, is that the individual members of the family including women were allocated definite rights and obligations with

respect to control, ownership and use of the resource. In the post-land reform situation, the possession of land is passing to men although it does not follow that women lose their traditional right to grow crops of their own. They may preserve a customary right to use land belonging to their husbands for the growing of food for the family and to sell the surplus of such crops and use such proceeds freely. Nevertheless, the position of women has changed from that of an independent cultivator with her own farming rights under the customary land tenure system to a person who is farming land belonging to another person. Moreover, this position may be no more than a transitional step to the stage where women are unpaid helpers in the production of crops belonging to their husbands (Boserup, 1970:60). The position of women is bound to become precarious, because the men can, and often do divorce and marry other women. In which case their former wives are deprived of the land they had considered their own, and with good reason, for they had cultivation rights over it.

## **2.3 The Colonial Period and Land Tenure Reform**

### **2.3.1 Origins of Land Tenure Reform**

The origins of the tenure reform can be traced right back to the Berlin Conference of 1895, when Kenya was declared a British Protectorate and to 1920 when she became a Crown Colony. European settlement was largely a consequence of the construction of the Uganda Railway, which reached Lake Victoria in 1902. The railway opened the way for colonisation of the healthy and fertile highlands, and European settlement was encouraged by the Foreign Office because this seemed to be the only way in which the railway, and the Protectorate, could be made to

pay (Sorrenson, 1967:15). From then on, a series of Ordinances followed which eventually alienated large tracts of land from the indigenous people (Wanjala 1990). The colonial era ushered in disruptive changes to the African land tenure systems in which the following measures were taken to provide land for European settlers, plantation owners and mercantile traders. This led to the acquisition of African lands through the Crown Land Ordinance, the imposition of English tenure through individualisation and the transformation of indigenous tenure system.

Prior to European settlement, African lands were secured by the Protectorate Regulations of 1897, which provided that no alienation could occur with respect to land regularly utilised by Africans. It could take place only if the Administration was satisfied that the land was no longer regularly used and that Africans would not be adversely affected. Within five years the situation was radically altered due to the Orders-in-Council of 1901 and 1902 and the Crown Lands Ordinance of 1902, which gave the protectorate government jurisdiction over all lands except the lands occupied by Africans (Rosberg and Nottingham, 1966: 62). That is, African ownership of land / was recognised only in actual occupation and use of land. Without clearly defining what 'actual occupation' meant, the decision as to whether land was occupied or not was left to the administration.

The 1902 Ordinance opened the way for European settlement in Kenya. By this time, all the land was assumed to belong to the Crown. After the Uganda Railway was completed, the British government promised plenty of good farmland to people who would emigrate from Britain and settle in Africa. (Huxley 1948). It was generally believed by the colonial government that most of



this land belonged to nobody, especially the Kenyan Highland and other parts of Rift Valley which belonged to the Agikuyu and the Maasai (Friedmann, 1975:13). The year 1908 saw the Crown Lands Ordinance which conferred power upon the Commissioner to make grants of 99 year-leases to the settlers. White settlement in the Kenyan Highland areas became the cardinal influence in the social and economic development in Kenya. Application for land was made as early as 1902. In 1904, the first European settlers took up land and signalled others to come into the country from South Africa. In 1906 a large group of Boers moved from the Transvaal in South Africa to the Uasin Gishu Plateau in Kenya. By the end of 1905, over a million acres of land had been leased or sold by the protectorate authorities (Rosberg and Nottingham, 1966:40). Large tracts of land were alienated for settlers despite the fact that Africans often were in occupancy and claimed rights to the land. The African squatters were to provide labour for European farms. They were either made landless as a result of land alienation or were unable to meet their needs in the crowded rural areas. They were allowed to settle on European farms, cultivate crops and pasture cattle in return to varying periods of service each year.

By 1914, the framework of the exclusive 'White Highlands' system had already been constructed, including the settler interest on how much land should be alienated for settlement and concrete methods to be employed to obtain African labour to work on the land. In 1915, the colonial government formally claimed that the African had no inherent or legal rights to land. It was upheld by the legal court that individual ownership of land was foreign and, to absorb it, Africans had to adopt alien civilisation. Provisions of the 1897 Regulations protecting African holdings

against land grabbing were eroded and any part could be alienated if the governor, together with the Secretary of State for the Colonies, was convinced that the land was not being 'beneficially' occupied. The Crown Lands Ordinance of 1915, thus, provided the Governor with powers to reserve any Crown Land which, in his own opinion, was required for the use or support of the colony (British Government, 1955). By 1915, European population in the Highlands had doubled and some 4,560 square miles of land had been alienated in the Highlands for special projects and settlement schemes (Rosberg and Nottingham, 1966 :33).

The 1915 Ordinance, thus, radically increased African anxiety over insecurity on land. The ordinance precipitated further alienation of land, threats of alienation, adverse court decisions regarding African land claims and expansionist attitude of Europeans towards African land (Rosberg and Nottingham, 1996: 94). The lands which had been given, sold or leased to Europeans by the Africans had to be withdrawn from any future African economic activities.

Areas which belonged to Africans were set aside for European Settlement, for example, Lumbua, Nandi, Southern part of the Rift Valley, Seltima, Laikipia, Kenya Province, Kikuyu territory and Ukamba territory as far as Makindu (Wolff, 1974:63).

In 1929 restrictions on administrators buying land in the colony were removed and so European interests became well served. Colonial regulations were altered to allow civil servants acquire land in the country (Rosberg and Nottingham, 1966:323). By 1951, even the governor could buy a farm in Kenya in which to retire, and it became a public policy to encourage civil servants to retire

to Kenya.

Future policies concerning land by the colonial government owe their origin to this period (Wanjala 1990). Henceforth, there was to be a systematic and planned imposition of English property law, and agrarian changes in the colony (Sorrenson 1968).

The settlers, feeling that they were supporting the colonial government's economy as the main actors in agriculture, began putting on further pressure by advocating for a system of property law with regard to transfers, mortgages and leases, the content of which was English (Wanjala 1995). These demands were implemented by the Transfer of Property Act, 1901, of India under the Crown Lands Ordinance of 1908 and the Registration of Titles Ordinance, 1915. As if this was not enough, the settlers further asked for more, of which Okoth-Ogendo writes:

In order to insure security not in the 'legal' but in a jurisdictional sense, the settlers demanded that all land considered or likely to be 'suitable' for European settlement should be set aside for their exclusive occupation and use, actual or prospective. They therefore demanded that Africans be grouped into definite reserves far removed from the European centres or any land likely to be opened up for European settlement (Okoth -Ogendo, 1976:133).

Government policy accompanying the 1915 Ordinance held that African lands should not be encroached upon to the extent that the peoples immediate needs were unable to be fulfilled, and that Africans should have 'some' security in their own distinct areas. The Land Committee of 1904 - 1905 had recommended that the Africans be allowed what is necessary for their existence, and

what is necessary for any reasonable increase in the number of that particular community (Rosberg and Nottingham, 1966 :156). The Ordinance had empowered the Governor to reserve any Crown Land for use and support of the Colony (British Government, 1956, para. 19).

In 1921, a Supreme Court, through the Crown Lands Ordinance (1915) and the Annexation Order (1920), prevented Africans from owning land on the same basis as Europeans. Africans were now tenants-at-will of the Crown Land. This gave Africans little sense of security, since they could be removed *en masse* or individually on the order of the administration with the permission of the Secretary of State for the Colonies (Rosberg and Nottingham, 1966 :155).

All these developments had far reaching consequences for the indigenous peoples. By 1926, the colonial government proceeded to define and gazette the African reserves. The 1929 Land Settlement Commission recommended for a soldier settlement scheme and so an additional 83,000 acres of African land already surveyed between Nairobi and Limuru was alienated (Odingo, 1971:39). Nonetheless, these reserves came into existence without clear plans as to how they were to develop except to provide for cheap and dependable labour for the settlers' plantation agriculture.

The effects of land alienation were felt more by communities such as the Maasai, Kalenjin, the Agikuyu and the Akamba. Between 1903 and 1906, most of the areas of Gikuyu land were alienated. Administrative officers entrusted with the task of processing European

applications for land usually gave settlers immediate authority to occupy the land on condition that they pay the Gikuyu owners a meagre three rupees per acre compensation for their loss of rights (Kanogo, 1987:9). In May 1906, there were two Gikuyu Reserves, one covering Nyeri and Fort Hall (Muran'ga) and portions of the Gikuyu country, and the other covering Kiambu and Nairobi. Among the rural Agikuyu, the impact of land alienation had its deepest political and economic effects in the densely populated Kiambu district. From time to time, small areas of land within the Gikuyu reserve were set aside for missions, schools, commercial sites, public roads and railways. By 1904, large numbers of settlers had been allocated land in the area and by 1905 about 11,000 people in Kiambu had lost 24,000 hectares. In 1923, the Agikuyu were moved from Tigoni to Lari. In 1933, North Yatta was to be added to the Fort Hall and Nyeri Gikuyu reserves as a Native Leasehold area. In 1949 some of the Agikuyu from Kiambu were repatriated to Meru while others were settled at Olenguruone, Lari, Kerita and other forest lands around the southern borders of Gikuyu land. Many of these people were taken on as 'squatter' labourers on land which they regarded as their own (Sorrenson, 1967:19).

The Maasai were shut out of their Rift Valley grazing grounds and directed towards Laikipia, and then moved from the high wind-swept plains to the south of the railway (Huxley, 1948:13). The Maasai reserve stretched as far as the Ngong Hills, Athi Plains, Mau-Mara, Narok and Olenguruone. Olenguruone was later purchased from the Maasai in 1939 and set aside for settlement by the Agikuyu in 1940 (Kanogo, 1987:109). The Nandi reserve covered the Uasin Gishu area of the Rift Valley.

Land alienation forced the Akamba from their fertile land and confined them within the reserve (Myrick, Easterbrook and Roelker, 1975:5). These people were given eroded land, characterised by low rainfall and poor soil. In 1911, the Maasai had been moved into a single large reserve south of the railway, extending to the Tanzania boarder.

Problems arose from the disruptions created by moving both agricultural and pastoral communities who had to struggle to adapt themselves to new ecological conditions. The consequences were severe famines and livestock disease and plagues, particularly among pastoral people. Second, the fixed ethnic boundaries established in the creation of reserves, restricted shifting agriculture and also led to widespread landlessness. As a result, there was rapid deterioration due to land fragmentation, overstocking, soil exhaustion, erosion, low crop yields, diminishing livestock herds, low income and discontent among the Africans (Okoth - Ogendo, / 1979:150). Land disputes also developed and clans and families sought to retain rights of access to ancestral lands.

Although it was officially claimed that Africans had been compensated for their lost lands, the Africans still regarded themselves as owners of the land by right. After the First World War, most Africans did not want compensation on alienated land, rather they preferred to have their lands returned. This assumed significance from 1921 to 1924 with the emergence of African nationalists like Harry Thuku of the Young Kikuyu Association whose campaign was

centred on 'return of the stolen lands.'

In 1931, a Joint Select Committee urged the colonial government to give sympathetic consideration to long standing African grievances, especially the land problem. Over 300 claims were submitted on behalf of 600 clans each of which claimed had lost land, most of them not compensated. In 1932, the Kenya Land Commission was appointed and charged with the responsibility of giving a sense of security to the African population by settling their claims to land and by assurance of sufficient land for their future needs, and to the European by defining the area in which he was to enjoy a privileged position (Blundell, 1962:235). The provision made was that the native lands had to be administered in accordance with the provisions of the Natives Land Trust Ordinance. In this Ordinance, various areas of Crown land were reserved for the use of Africans under Native Temporary Reserves, Native Settlement Areas, Native Leasehold Areas and the Communal Reserves (Blundell, 1962: 235). The tenure of each reserve was to be built on the basis of the African custom, but had to be progressively guided in the direction of private tenure, proceeding through the group and family towards the individual holding. In reference to land tenure reform in Kenya, Ainsworth and Hopley, Chief Native Commissioners, observed that:

In dealing with African savage tribes, we are dealing with a people who are practically at the genesis of things, and we cannot expect to lift them up in a few years from the present state to that of a highly civilised European...(Rosberg and Nottigham, 1966:65).

Thus, the Natives Land Trust Ordinance had no provision for the grant of individual title to

agricultural land. Only a negotiable title in the form of a registered lease could be granted in respect of land set aside for some purpose other than agricultural land.

Until 1934, the land issue remained an emotional force capable of creating a degree of unity among Africans and continued year after year to petition the government. It acted to increase the African bitterness and frustration. It was a key political issue (Rosberg and Nottigham, 1966:160). It is in the areas where land had been alienated for white settlement, for example, Nairobi, Gikuyu reserves and Rift Valley, that protest movements against colonialism developed.

On 5 October 1944, Eliud Mathu was appointed to the Legislative Council (LegCo) to represent African interests. Mathu was concerned with diverse issues, among them the land issue. According to him, land reform was the most vital issue since, 'it is on the land the African lives and it means everything to him. Without land the future of African people is doomed' (Myrick, / Easterbrook and Roelker, 1975:76). Mathu's land reform programme intended to restore at least part of the highland areas to African ownership. His argument was that, "There are acres and acres of land lying in the European areas some of it undeveloped, some with one person on it. Such land should be settled by Africans and all such settlement should be done on inter-tribal basis.." (Myric, Easterbrook and Roelker, 1975:77). Mathu also pressed for abolition of the African tribal reserve system, called for individual ownership of land by Africans as in European areas, sought to have restrictions which did not allow Africans to grow cash crops, especially



coffee and tea, removed and advocated for the establishment of irrigation schemes and roadways in the reserves so as to boost production and marketing (Myrick, Easterbrook and Roelker, 1975:77). However, he did not succeed in his legislative efforts. The government's commitment during this period was to maintain the status quo on the distribution of land; the expansion into highland areas set aside for white settlers was to continue being a private European domain despite the fact that vast areas remained undeveloped (Myrick, Easterbrook and Roelker, 1975).

Where there was close contact between Africans and Europeans, land tenure became more individualised while where there was less contact tenure remained more communal. However, more Africans began to press for secure titles to land on an individualised tenure system. In 1946, the Provincial Commissioners accepted the policy of administering land through indigenous authorities. This move was aimed at reviving the traditional elders' control over land. In 1949, a move was made to grant titles to selected African farmers. The recommendation was that / individuals or groups be granted 'special' titles after a district officer had thoroughly examined claims to the land in question. The 'special' titles were to be inheritable provided that only one son inherited the land. Transfer was also permitted with the provision that there would be no subdivision (Sorrenson, 1967:62).

In the wake of the Second World War and its aftermath, when settler dominance could no longer be sustained, new political organisations were formed to channel and articulate popular discontent. Growing incidences of landlessness, unemployment, low wages,

accelerated population growth resulting in increased pressure on the land and declining soil fertility in the Reserves, were part of the popular discontent (Hebinick, 1990:57). Among the Agikuyu, this began in Kiambu where they had lost most land to the settlers (Rosberg and Nottingham. 1966:40-41). Most attention by Africans was focused on African problems and needs, especially the plight of the landless squatters on European farms and the alienation of African lands.

By 1950 widespread unemployment and landlessness among a large Gikuyu population lent impetus to more militant and violent actions resulting in the Mau Mau rebellion and in the proclamation of the Emergency in 1952. The Mau Mau movement, fighting a guerrilla war against British troops which were called upon to restore order, was a struggle against colonialism and the white settler for land which was alienated to the white community and also against the landed Gikuyu "loyalists" within the Reserve (Clayton, 1976:1). At Olunguruone, the use of the oath as a tool for massive mobilisation was initiated as squatters and Olunguruone residents accelerated their struggle against the slavery of the White Highlands. This later spread into Central Province and laid the foundation for the Mau Mau rebellion. Women, men and children took oath in a bid to create unity. It was the settler created elite, the foremen, clerks, traders and teachers who emerged from the squatters as the natural leaders of the Mau Mau. The crisis injected militancy into both the squatter and the Central Province political activists which was a significant development on the eve of the rebellion. After massive oath-taking, acts of organised defiance took the form of labour strikes, labour withdrawal, violence and sabotage in the period

1937 to 1952.

The demand for land and freedom was central to the Mau Mau ideology instigated by the landless in the reserves, the disinherited squatters in the White Highlands and the Gikuyu urban proletariat. The squatters wanted to appropriate the White Highlands from the settlers. The squatters state of landlessness was the major and single most important source of discontentment, and so they directed their bitterness towards the European estates (Kanogo, 1987:131). The Agikuyu took the lead that led to the outbreak of the rebellion. Mau Mau songs and prayers stressed Gikuyu claims to the lost land dating back to antiquity (Kanogo, 1987:150). In 1945 the Agikuyu organised themselves into the Agikuyu Highlands Squatters Association which sought to articulate squatters' land rights. Thus, by 1952, Mau Mau was not an isolated movement for it received much political and material support from grassroot organisations and town dwellers. It had spread to Nairobi to non- Gikuyu groups such as the Kipsigis, Akamba, Abaluyia and Luo.

The Mau Mau rebellion, thus, accelerated the beginning of a new policy thinking in the colony. The shift in state policy was accelerated by the need for a long - term solution and drew Africans into the economic and political structure of the country. The colonial government seemed set to respond to "improve" the African reserves, at least to avert any major political upheaval (Mwaniki, 1975:10).

One could be tempted to assume that it was out of genuine concern that the colonial government

embarked on improvement of the deteriorating situation in the African reserves. However, the fact of the matter was that the settler economy alone was not capable at this time of satisfying the colony's demands. In 1913, about three-quarters of the country's export earnings originated from agriculture (hides and skins, maize and sesame seed). The Colony also relied heavily on the revenue from African cash crops and taxes contributed by Africans (Brett, 1973:176). As such it was necessary for the African sector to assist by producing enough. In order to achieve this, it was imperative that the administration should assume wide powers in regulating and directing economic activity in the settler and African areas (Okoth-Ogendo, 1976:160).

Administratively, the colonial government realised during the Mau Mau revolt that individualisation could be used to create a solid middle class population attached to the land which has too much to lose by reviving Mau Mau in another form (Sorrenson, 1967:160). This means that:

/

Individualisation of tenure was aimed at defeating Kenyan nationalisation in that a landed class of conservative people was to be created through replacement of customary land tenure with a tenure that permitted a few people to own land. Such a class of people would in turn act as a buffer between the settler and the landless (Kibwana, 1990:237).

As a counter - revolutionary measure, land reform in Central Province was used during the Emergency years, essentially to reward the loyalists among the Gikuyu peasantry at the expense of the Mau Mau fighters and their supporters.

Agronomically, the colonial government was advised that the greatest problem in the African reserve was embedded in their land relations which they termed 'communal'. As Clayton wrote:

It has been clear for many years that one of the main causes of bad farming was customary system of land tenure leading to fragmentation of holdings. The picture of agriculture in African areas of Kenya in 1946 was discouraging. Overcropping, overstocking and soil erosion had produced problems of major importance. It is physically impossible for a farmer to supervise his land if it consists of a number of small scattered fragments. It is also hard for agricultural officers to advise him in such circumstances. Separate pieces of land are too small to permit a sound rotation of crops and other manual activities on the farm. Large numbers of small fragmented holdings also made soil conservation measures ineffective (Clayton, 1956:233).

Other arguments put forward were that the structure of access to rights encouraged sub-division of holdings, leading to small units of sub-economic size and that proper husbandry was impossible (Swynnerton, 1954:13). The only answer to these problems, therefore, was to reform the African tenure system, that is, in the access and use of land. These arguments were to lead to a land tenure reform programme relentlessly pursued by the colonial government throughout the latter part of the colonial period. The solution to the problem lay, in the eyes of the colonial authorities, in the individualisation of land tenure.

In 1951/1952, land consolidation was now reviewed as the most urgent and important matter. It started on a general scale in the Central Province. Under the Native Land Trust Ordinance, Africans who were applying for rights of occupancy were to apply to a local land board and to obtain a certificate from the department of agriculture to prove that the land formed an

economic unit, conformed to good husbandry practices and to certify that they were the owners of the land. Applications were advertised for six months and titles awarded if the applicant's rights were not challenged. In the event of a challenge, the dispute was to be settled in an African court where women did not hold positions. Committees of male experts and arbiters were set up by the colonial government to advise on land consolidation.

Under customary practices decisions on land were usually taken by chiefs or elders on behalf of, and in trust for, the clan or family. Authority was generally ascribed to the patriarchal lineage, and most major decisions were taken by men. While women could bring their views to the attention of such authorities, they never participated in decision-making. Thus, in setting up committees to advise and arbitrate on land, custom was invoked to exclude women from decision-making (men and not women decide land disputes) and acquiring ownership interests (Martin and Hashi, 1992:35). In such a scenario, women's claims to land within customary systems could only be obtained through their husbands or male kinsfolk and therefore considered secondary rights. Such rights, for example, could be subject to change and could also be subject to good relations between the parties involved. The whole process thus reinforced the traditional male dominance over access to land which, in turn, created new uncertainties for women and further weakened institutions that provided economic security to all members of the community. In turn the deliberations made by the new committees under the Native Land Trust Ordinance generally resulted in the loss of women's traditional rights.

to permit them to hold title deeds on land, finally removing the racial constraints over property ownership (Hebinck, 1990:58).

### **2.3.2 The Swynnerton Plan and Land Tenure Policy**

The Swynnerton Plan, completed in 1953 and published in 1954, provided a definitive statement on land tenure policy. This aimed at intensifying African agriculture on the basis of land tenure reform and production for the urban and export market. According to Swynnerton, the architect of the Plan:

Sound agricultural development is dependent upon a system of land tenure which will make available to the African farmer a unit of land and a system of farming whose production could support his family at a level, taking into account prerequisites derived from the farm, comparable with other occupations. He must be provided with such security of tenure through an indivisible title as will encourage him to invest his labour and profits into the development of his farm and as will enable him to offer his security against such financial credits as he may wish to secure from such sources as may be open to him (Swynnerton, 1954:9).

According to the colonial government, customary tenure created a barrier to social and economic advancement of the people. This opinion was later to be declared by the East African Royal Commission thus:

Policy concerning the tenure and disposition of land should aim at individualisation of land ownership and a degree of mobility in the transfer and disposition of land which without ignoring existing property rights, will enable access to land for its economic use (British Government, 1955:43).

to permit them to hold title deeds on land, finally removing the racial constraints over property ownership (Hebinck, 1990:58).

### **2.3.2 The Swynnerton Plan and Land Tenure Policy**

The Swynnerton Plan, completed in 1953 and published in 1954, provided a definitive statement on land tenure policy. This aimed at intensifying African agriculture on the basis of land tenure reform and production for the urban and export market. According to Swynnerton, the architect of the Plan:

Sound agricultural development is dependent upon a system of land tenure which will make available to the African farmer a unit of land and a system of farming whose production could support his family at a level, taking into account prerequisites derived from the farm, comparable with other occupations. He must be provided with such security of tenure through an indivisible title as will encourage him to invest his labour and profits into the development of his farm and as will enable him to offer his security against such financial credits as he may wish to secure from such sources as may be open to him (Swynnerton, 1954:9).

According to the colonial government, customary tenure created a barrier to social and economic advancement of the people. This opinion was later to be declared by the East African Royal Commission thus:

Policy concerning the tenure and disposition of land should aim at individualisation of land ownership and a degree of mobility in the transfer and disposition of land which without ignoring existing property rights, will enable access to land for its economic use (British Government, 1955:43).



Likewise, the Arusha Conference held in February 1956, recommended that governments would be well advised to encourage the emergence of individual tenure in areas where conditions were ripe for it (British Government 1956).

In the following years, the policy of individualisation through the process of land rights and the subsequent registration of absolute titles was pursued vigorously. The Registered Land Act (Republic of Kenya: 1977c) further enhanced the individualisation of tenure among the indigenous communities. Thus, the introduction of the free enterprise system began with the European settlers owning the land, while Africans provided labour. The main issue here is as to whether security of tenure was, in fact, a problem in rural Kenya prior to the reform, except in areas where colonialism and commercialisation of agriculture had a major disruptive impact on traditional tenure relations (Green, 1987:4). Responses to the impending tenure reform and conditions brought on by its implementation may have resulted in security problems beyond those that already existed.

Kibwana (1990:238) has rightly observed that the colonial government consciously excluded the participation of indigenous people in the free enterprise system on an equal footing with Europeans. He goes on to state that even when eventually privatisation was allowed among Africans, such privatisation was on marginal land and not on a large portion of Kenya which had earlier been massively dispossessed.

Contrary to colonial expectation, the Swynnerton Plan resulted in neither large scale land alienation nor in extensive land ownership. A few peasants emerged as owners of uneconomic holdings of average 0.1 to 1.2 hectares, so that they could not engage in economic production. The plan failed to generate the expected economic transformation in Central Province and instead made the situation worse. In theory, directives were given to the divisional land boards to preserve economic units of 2.8 to 4 hectares, but in practice applications were made for subdivision. This was as a result of the fact that adjudication and registration could only be carried out on the basis of recognising existing rights and not to deprive anyone of his legitimate title. In effect this meant that all rights to land had to be ascertained, consolidated and registered however small and uneconomic the final product. The majority of the holdings were still supporting large families and, in practice, women in each family continued to cultivate their separate gardens instead of using the consolidated registered land as one economic unit. Consolidation also created a landless class and failed to pave way for improving the majority except a small minority of a landless class. The limited agricultural development that followed failed to raise registered land above subsistence units or to provide a sufficient livelihood for more than two-thirds of the land owners ( Sorrenson, 1967:227). As a result, a new political organisation, the Kenya Land Freedom Army, was formed to generate expected economic transformation in Central Province (Kanogo, 1987:165).

In this scenario, there is no question that colonial capitalism dramatically transformed the gender relations to land. The solutions imposed by the colonial system aimed at intensifying agriculture and introducing cash crops, with emphasis upon male controlled agriculture, and ultimately becoming the primary determinant of women's loss of status and power in agriculture. Boserup asserts that:

European settlers, colonial administrators and technical advisors are largely responsible for the deterioration in the status of women in the agricultural sector of developing countries. It is they who neglected the female agricultural labour force when they helped to introduce modern commercial agriculture and promoted the productivity of male labour (Boserup, 1970:53).

Boserup further explains that the Europeans showed little sympathy for the female farming systems which they found in many of their colonies. Their acceptance that cultivation is naturally a job for men persuaded them to believe that men could become far better farmers than women and that for the development of agriculture male farming ought to be promoted to replace female farming. This was followed by teaching modern farming techniques to men but not to women. The gap between the labour productivity of men and women began to widen. Men were taught to apply modern methods in the cultivation of a given crop, while women continued to use traditional methods in the cultivation of the same crop, thus getting much less out of their effort than men. The inevitable result is that women maybe discouraged from participation in agriculture.

A tendency towards a widening gap in labour productivity and income of the two sexes was exacerbated by the fact that it is the cash crops that the men have been taught to cultivate by modern methods. These crops were gradually being improved by means of systematic research and other government investment, while the cultivation of the women's food crops is favoured by no government support or research activities. Moreover, men could now use part of their earnings from cash crops to invest in the improvement of their production, while women who produce food crops for the family have no cash income for improving their farming techniques. Farming improvements have thus been concentrated in the male sector, while the female sector continued with traditional low-productivity methods. The discriminatory agricultural policies thus created a productivity gap between male and female farmers and further strengthened the change in production pattern by giving men the role of independent cultivators who take decisions, while women's role was reduced to that of family aid or of a hired workers on land belonging to male farmers, with a correspondingly enhanced male status over women.

/

This change in women's status in agriculture is closely connected to the land tenure reform. The colonial policies led to increased concentration of arable land in settler hands. Women in the Native Reserves found themselves with poorer quality land and smaller plots on which to grow food. Moreover, with high concentration of people in the reserves, the soil quickly became depleted from overuse. Although such colonial land policies had an equally detrimental effect on both sexes, the Swynnerton Plan, in particular, undermined women's relative economic stability in rural areas for three reasons. First, it gave precedence to individual ownership invested in

male heads of households and in turn marginalised the usufruct rights of women formally guaranteed under the lineage tenure. Second, because collateral was required for credit and few women held land in their own names, the Plan created disadvantages in women's abilities to secure credit for agricultural improvements. Third, the Plan fostered the capitalisation of agriculture by encouraging export crop production by Africans for the first time- a development that further marginalised the labour of women in food production (Davison, 1987b: 165). Since the production of cash and subsistence crops were directly linked to the access of land, women were confronted with a whole range of handicaps in fulfilling their roles as producers. Lack of control over land and all that goes with it became a major cause of women's economic dependence. Without land, women were reduced to a state of dependency with no security and only provisions of labour.

It is necessary to understand here that given labour division, women were the backbone of rural farming. They were responsible for growing subsistence crops for feeding the whole family. The men helped with clearing land for cultivation. Thus, women's role in agriculture and food production was recognised by customary rights of access to land, forests and support from family labour. As already discussed above, with the advent of colonialism, the women's position began to be exploited. The structural changes under colonialism and, later, the post-colonial phase, have eroded many rights women enjoyed in their traditional settings, leaving them with unsupported and unrecognised bulk of agricultural work in the rural areas.

In the same process, the women's productive procreative labour began to be devalued by capitalist production relations. Less emphasis was placed upon food production and women's labour in this sector was uncompensated, while men's labour in agriculture assumed exchange value. The technological innovations that would help women in their productive/reproductive roles remained static while men gained from agricultural technology, comparatively. The customary rights of women continued to be eroded by the new reforms that promised to generate progress.

The subsumption of African communities into the international economy changed the gender division of labour into a system where men controlled the production of cash crops and women were primarily responsible for the supply of food to the households (Martinand and Hashi, 1992:30). The end result of colonial capitalism has been the re-structuring of gender roles of production and a greater gender segregation in labour tasks, with men increasingly becoming agricultural managers or wage labourers (Davison, 1987c: 15). This study shows that, in essence, men rather than women have benefited from reforms and re-structuring of the customary practices of land tenure.

#### **2.4 The Post-Colonial Period and Legislation on Land Tenure Reform**

The land reform envisaged in the Swynnerton Plan 1954, and implemented further after the transfer of state power in 1963, is an important ingredient of post-colonial development. After-independence, Land Tenure Reform continued in Kenya, as a matter of policy. For example, the 1970/74 Development Plan pointed out that:

It has been government policy that land tenure system in African areas of Kenya should be changed, so that the farmers can be provided with title deeds to their land where necessary so that scattered fragments of land can be consolidated into one holding (Republic of Kenya, 1970:120).

The full process of tenure reform involves three distinct stages, namely, adjudication, consolidation and registration of titles. Adjudication is the means by which a final ascertainment is made of existing rights in land, by recognising and confirming existing rights without creating or altering the rights. This process is contained in Chapter 284 of the Land Adjudication Act (Republic of Kenya 1970) which provides for the appointment of an adjudication officer by the minister concerned. The officer then declares an adjudication area (i.e., an area in which adjudication is actually done). She/he then goes ahead to give notice of the intention to adjudicate and fixes a period, which must not be less than six months, during which all persons claiming rights in land within the area must present their claims. The adjudication officer appoints for each adjudication area, a committee of not less than ten persons residing within the adjudication section. This is done in consultation with the district commissioner of the area. An executive officer is also appointed by the adjudication officer, for each committee, to keep its records and inform the recording officer of its decisions. Upon the request of the adjudication officer, the provincial commissioner of the Province in which the adjudication area lies, appoints an arbitration board consisting of not less than six and not more than twenty-five persons resident within the district of adjudication.

Fragments of land are then measured and the area of each fragment recorded under the name of its owner, this actual ownership being determined by the committee. If the committee fails to agree or is unable to reach a decision, it refers the case to the arbitration board, which is required to decide the matter and inform the committee of its decision. What is known as the record of existing rights is compiled from the decisions of the committee or arbitration board. This record is open for inspection for sixty days during which objection may be lodged with the executive officer of the committee concerned. An objection is re-considered by an arbitration board and heard by the adjudication officer who makes final decision on the case.

After the expiry of sixty days, and when all objections have been resolved, the record of existing rights is declared to be final and it cannot thereafter be altered. The committee now proceeds with consolidation. The word consolidation in the context of land reform is usually associated with fragmentation, which arises from different parcels of land in small pieces or fragments. Consolidation was a measure which was designed to remedy two distinct conditions: the division of rural property into undersized units unfit for rational exploitation and the excessive dispersion of parcels forming parts of one farm. According to the Mission on Land Consolidation and Registration (Republic of Kenya, 1965b:40), the process is contained in the Laws of Kenya. Chapter 283 of the Land Consolidation Act states that after adjudication, the same appointed committee now proceeds with consolidation. The Survey of Kenya will have determined the total area of land within the perimeter of the adjudication section. This is compared with the total area of the measured fragments and any other kind in the section. The area under each owner's



name is then adjusted by multiplying it by a "reconciliation factor", which is obtained by dividing the total area of the adjudication section determined by the Survey of Kenya by the total area of the measured fragments.

The committee then decides how much land within the section is required for schools, villages, roads, hospital and other infrastructure in the community. The hectareage for public purposes is divided by the total hectareage of the section determined by the Survey of Kenya and each owner's entitlement is multiplied by the resulting fraction. This deduction is known as the 'percentage cut'.

The committee then allocates land to each land - owner in a single piece equivalent in area to the sum total of all his previous fragmented pieces, after adjustment by the reconciliation factor and deduction of the percentage cut. The consolidated holdings are demarcated on the ground in the presence of the members of the committee and the adjoining landowners.

After this, the adjudication register containing details of each landowner's holding is prepared by reference to the demarcation plan. The register is open for inspection for a further objection period of sixty days. The objections, if any, are made to the adjudication officer who considers the matter with the committee, and may either dismiss any objection or rectify it accordingly. His decision is final. After the period of objection has elapsed and all objections dealt with, the adjudication register becomes final under Section 27 of the Land Adjudication Act.

The final step in the process of tenure reform is the registration of titles. This process involves the concerned minister appointing a Chief Land Registrar who is responsible for administering land registries in accordance with Chapter 300 of the Registered Land Act (Republic of Kenya 1977c).

From the adjudication register, the Registrar prepares the registers in respect of each parcel of land. The effect of this is to convert the 'landowners' of the Land Adjudication Act into the "proprietors" of the Registered Land Act. The adjudication officer delivers the adjudication register to the Land Registrar or Assistant Land Registrar in charge of the registration in the district concerned. The Registrar prepares a register for each person shown in the adjudication register as a land owner and every other person shown in the adjudication register as being entitled to the benefit of any interest, lease, right of occupation, charge or other encumbrance affecting the land shall be registered as being entitled. For the purposes of this Act, rights of occupation under African customary law recorded in the adjudication register is deemed to be a tenancy from year to year. A land certificate is issued in the name, which appears on the register.

Individualisation and registration of titles has threatened the security of tenure of women and children and the security of economic opportunities of entire families through rights of disposal conferred on the male head of the household (Green, 1987:1). It must be mentioned here that the whole process from adjudication, consolidation and registration has generally been implemented by men and male groups. That is, adjudicators, consolidators and land committee and board members are almost always men. The women's participation in this process has been almost non-existent. It has been argued that "by custom women did not take part in land disputes and

therefore it was reasonable that they do not take part now (Pala. 1978b:39).

Thus, land tenure policies since independence, have continued the trend first established by the Swynnerton Plan. Land continued to be registered in the names largely of male individual owners (Barne, 1983:48). In addition technical inputs and agricultural extension services promoted in the post-independent period to increase production among smallholders have continued to favour male rather than female producers (Staudt 1982). The result is that women's economic status has moved from one of relative self-sufficiency to one of relative dependency (Davison. 1987c: 165). This means that, although women have continued to play a major role in subsistence food production, men exercise an increasingly dominant role in the management of property, including agricultural inputs, control of land, and the distribution of goods and services (Nasimiyu 1984; Staudt 1982).

As mentioned earlier on in this chapter, there are three prongs to the argument in favour of the granting of freehold title, under which complete usage rights and transferability are vested in the owner. The first two are concerned with the impact on investment of security of tenure. The farmer has a greater incentive to invest in land improvements the greater his certainty that the land will belong to him and his descendants in the future. If the land is held communally, the incentive to invest is low. Second, titled land can be used as collateral to secure loans, thereby increasing the funds available for agricultural investment. The third prong argues that more efficient farmers have higher marginal returns than less efficient farmers. Therefore, assuming that the only value

of land is its agricultural use and assuming that no other impediments to increasing scale exist, more efficient farmers should be able to buy out their less efficient neighbours in a transaction that is beneficial both for farmers and society as a whole. Over time, productivity in the agricultural sector will rise as a result of these transactions. Such transactions are only possible when individuals have the right to both buy and sell land. In their recent study, Pinckney and Kimuyu (1994) have noted that titling of land has had little, if any, impact on investment or credit markets, and that was not good as hypothesised by Swynnerton.

The counter-argument holds that freehold tenure, whatever its impact on efficiency, leads to increased inequality with respect to both landholding and income. This has led to the equity versus efficiency debate on three grounds. First, traditionally land was rarely communal in areas of permanent cultivation. Indeed, households were usually allocated plots of land that remained theirs to cultivate as long as they wished; in addition, land was inheritable by sons. Second, indigenous land rights have not been static (Bruce 1988). Rather, as the advantages of individualised tenure have grown, tenure systems have evolved towards the granting of those rights (Cohen 1980). Although in most cases the right to sell land outside the lineage group is still restricted, all other rights are frequently allocated to individuals. Since security of tenure is not suspect under such arrangements, there would be no increased security under freehold title and thus no direct impact on investment. The indigenous tenure regimes evolve towards individualisation, thereby making formal entitlement unnecessary to ensure security (Migot-Adholla, Hazel, Blarel and Place, 1991).

The other challenge is the argument in favour of land titling which assumes that indigenous systems will disappear when the government introduces a new land tenure policy. It is possible that village elders could continue to control the allocation of land in their areas even after title deeds have been issued (Okoth-Ogendo 1976; Shipton 1988). Rights granted or withheld by the legal system may not be de-facto rights. If the granting of legal freehold tenure does not provide the owner with complete transferability rights, neither the second nor the third prong of argument in favour of freehold tenure would hold, since lenders would have difficulty disposing of collateral and more efficient farmers may not be able to buy out less efficient farmers.

If freehold tenure fulfils its promise then land titling should lead to land-secured credit, a more active land market and increasing inequality of land over time. This has not been the case, and indigenous tenure systems continue to dominate centrally imposed changes in land tenure long after the initial reform.

The full effect of land registration may not be obvious and known for some time to come, but one thing is clear, that the transition from indigenous land tenure systems to the Western property concept of 'ownership' is not an easy one. According to Shipton:

The adjudication and registration processes themselves require converting multiple, situational and overlapping rights to individual, absolute and exclusive rights. The process can never be free of disagreement, deceit, and difficult compromise and it can sometimes tear families apart ( Shipton, 1987:48).

People are learning to live with private property, but the land tenure reform has been hard for farmers, and by no means fully successful for the government (Republic of Kenya, 1989a: 171).

Shipton further explains that while land tenure reduces disputes about boundaries, it tends to lead indirectly to new disputes about the ownership of whole plots. This is because it introduces new possibilities of misunderstandings between local communities and the national government as farmers are suddenly expected to comply with unrealistic rules about recording of transactions while the emergent land market is largely unregistered (Shipton, 1987:50). However, before accurate interpretation can be made concerning the impact of the land tenure reform programme on land disputes, there is need for more information on the number of disputes occurring and whether that is increasing or decreasing.

Nevertheless, the land reform programme is still proceeding at its own momentum and in mythology and a substructure of powerful political incentives. Although some land still remains under customary tenure, the process of adjudication is under-way to convert such land to individual tenure. The courts, on the other hand, have not conclusively decided that adjudication and registration of land initially held under customary tenure deletes customary land claims altogether. Irrespective of all that is going on regarding registration of land in the name of individual male heads of the households, evidence has shown that the family by and large continues to enjoy rights of access to the land which existed under customary law (Kibwana, 1990:240).

Land and land tenure constitute a central place in human life and despite the fact that over-emphasis by the Kenya Government policies is on industrialisation strategies, land remains the major means of production in the country's economic activities.

Alongside tenure reforms, other dynamic social changes have taken place. According to Kibwana, with a perennially rising population access to land for subsistence purposes for the majority of the population is no longer guaranteed. According to him, since land does not expand, the 'exclusionary' land tenure systems cannot cater for any expansion in the community population on a continuing and re-adjustment basis through re-arrangement and re-allocation. In effect, the individualisation of tenure has led to the 'genesis of landlessness in a scenario where employment opportunities in the public or private sectors are not visibly expanding, and neither have the multiple interests of those who use the land have been taken into account (Kibwana, 1990:230).

Legally:

It is impossible to translate group rights under customary land tenure to an exact equivalent under individual tenure so that during the conversion process property rights under customary land law will necessarily be extinguished (Kibwana, 1990:239).

Kibwana further explains that the dilemma facing Kenyan courts is that they have two interpretations regarding the effects of registration of land, which has been converted from customary land tenure to individual tenure. While on the one hand the interpretation holds that all

customary land claims are extinguished, the second interpretation holds that such claims are merely transformed into another species of rights and that the registered holder under individual tenure hold the land in trust for those who need access to it under customary law, for these can still enjoy their rights notwithstanding their non-registration. Whether or not Kenya turns back on its policy, which is unlikely, it will have to find alternative arrangements of how to deal with those that have been left out in the land tenure reform - the women who are the majority of the country's citizens.

The question of land tenure reform, which would favour not only the masses of rural population but women in particular, since women represent well over half the agricultural labour force in Kenya with an increasing number becoming de jure and de facto household heads, indeed strikes at the very core of rural society, since land is the primary resource of their existence. Private property in land has far-reaching consequences for women's relationship to land and their work in agriculture.

Our conclusion is that, historically, socio-political and economic processes, combined with existing discriminatory cultural practices, have over time undermined women's land rights. In addition, changing relations of production have not only weakened and marginalised the interest of those with only user rights in land, and those engaged in production for subsistence, the



majority of whom are women, they have also turned custodians of land under customary land tenure into owners of land.

In the next chapter, we examine women's rights as regards the land tenure reform and the implications these have on women as food producers.

## **CHAPTER THREE**

### **LITERATURE REVIEW**

#### **3.1 Introduction**

Several studies on land tenure have been carried out in different countries, regions and communities. Land tenure issues are neither uniform across societies nor historically static and different concepts and assumptions have been raised over time. In this chapter, we present a critical review of relevant studies on land tenure. Out of the review of literature, we have derived a conceptual framework to help us characterise gender relations in land tenure reform and identify the processes by which they might change over time. In this chapter we also raise assumptions which have been used to guide the study and an attempt is made to operationalise and define the complex concepts of land tenure.

#### **3.2 Literature Review**

##### **3.2.1 Origins of Land Tenure Reform - Cross Regional Comparisons**

According to the World Bank (1974), land reform involves changing institutional structures that govern people's land rights in order to accommodate socio-economic changes arising from factors such as increased population, re-structuring of land use systems for higher productivity or

distribution of land to create equality. The institutional structures identified in the World Bank Report which have led to land reform in different regions of the world are: the feudalistic land lord and tenant system (Asia), the communal land ownership patterns (Africa), private ownership of land (Western countries), the State or collective ownership of land (Socialist countries) and the plantation ranch type, where land is owned by the state or foreigners (World Bank, 1974:13). The adjustment of these structures, which leads to reform, is often concerned with social and equity considerations. For instance, land reform can involve varying degrees of structural changes, including redistribution of public or private land, consolidation of holdings, changes in land ownership, and tenorial rights and changes in conditions of tenure such as the conversion from customary to Western statutes of legal rights to land, as has happened in Africa.

### **3.2.2 Customary Land Tenure System in Africa**

In Africa, the term 'customary land law' has been used to describe the land tenure system practised by indigenous peoples, which is distinguished from the western land law. A common feature of the customary land tenure in Africa is its customary origin and its generally unwritten form and the community interest (Mitsud 1967). Wanjala (2000) describes land tenure in Kenya before the advent of colonialism, which was fundamentally different from that in feudal England from which alien law was imported. The most common form of tenure during the period in question is what is termed communal tenure, whereby land belonged to no one individual in particular but to the community (clan, ethnic group) as a whole. Each person in the community had rights of access to the land dependent upon her/his specific needs at the time. The rights of access were guaranteed

by the political authority in a given community. Such authority did not own land but rather exercised political control over the same. The political control was necessary to facilitate the structural framework within which the rights of access were to be enjoyed and maintain an equitable balance between the availability of land and the needs of individual members of the community. Thus, there was no ownership either by individuals or the political authorities in the same sense as ownership is known in the English law. Nevertheless, the normative structure of the customary land tenure, the form, the rigour of control and the degree of communalism differed from community to community. The social formation of the people in relationship to the historical stage of development (hunting, gathering, herding, settled farming) were important influences on the land tenure system in each community (Wanjala, 2000:26).

Noronha and Latham (1983) point out that dealing with customary tenurial systems is not an easy matter since the system is different from the property concepts of Western land ownership. According to the two scholars, customary land tenure consists of "the rules accepted by a group of the ways in which land is held, used, transferred and transmitted" (Noronha and Latham, 1983:ii).

Glazier (1985:151) suggest that prior to colonialism, notwithstanding the boundary disputes, conflict over land was insignificant. The conception of lineages as shallow , under four generations, meant that for all practical purposes the individual domestic group 'exercised corporate rights to land'. As land became scarcer, however, and land registration was introduced, agnic kinship has assumed a new importance as previously independent shallow lineages

coalesced into larger units claiming a genealogical depth well beyond four generations. Amalgamations of agnates, on a much more widespread basis than previously, began to forward claims to very large parcels of land. Such groups may represent a single descent unit or define themselves in a customary idiom. Membership may include affines, matrilineal kin and other non-agnates who have made financial contribution to the group.

An abundant and available resource prior to colonial occupation, land was rarely 'owned' in the Western sense of exclusive alienable rights invested in one individual in exchange for cash. For this reason, there is confusion over terms related to land rights such as 'tenure' (land holding rights), 'usufruct' (rights to use land), 'freehold' (holding exclusive rights but transferable), and 'ownership' (cash valued land with title for individual or group) (Meek, 1946:90). Okoth-Ogendo has criticised Western scholars who have written about land and customary law while thinking about Anglo-American jurisprudence, which centres around the evaluation of the concept of 'ownership' during the feudal period when land belonged to the crown and the tillers of land were tenants. According to him, the African property system cannot be analysed within the Western property laws (Okoth-Ogendo, 1981:20).

In an earlier publication, Okoth-Ogendo (1979:59) expounds on this by asserting that the idea of ownership within the colonial context was an important tool for the colonial process which conveniently resolved that African rights in land were in the nature of usufruct only and that whatever was not under cultivation or occupied was vacant land which, in the case of Kenya, the

sovereign colonial power was free to grant to the settlers. He explains that ownership in the Western sense was introduced to sell the capitalist theory of law and land development in terms of decision-making and land use. From this perspective, he cautions that the power of control should not be confused with ownership of the land.

According to Okoth-Ogendo (1981:25)'control' in the "African property system was a collective responsibility over land resources, which ensured that rights are equitably distributed through time among all members of the society". He further explains that access related to land use activities carried a varying degree of control exercised at different levels of political organisation. The control authority was either vested in the grandfather, lineage or clan but the exercise of this power did not involve exclusive appropriation or distribution "upon whim and will". In this sense Okoth-Ogendo concludes that to describe tenure systems as communal and simply as usufructuary, obviously distorts the very complex relations which rule the customary property law and the manner in which they function. The author firmly believes that:

... tenure regimes cannot be adequately explained by directing inquiries into whether or not African social systems, knew or recognised the institution of ownership and whether if they did that, ownership was 'absolute' or corporate and who in society, the individual, the chief, the family, the clan, the lineage or the 'tribe' was the repository of that ownership (Okoth-Ogendo, 1989:69).

Bentsi-Enchil (1965:25) draws our attention to the fact that since land systems are dynamic and also vary from community to community, this consideration places obvious limits on the value of broad generalisation about African systems of land tenure in general. His suggested approach to

the comparative study of the land tenure system can be conveniently embraced in the questions: 'Who holds what interest in what land? Are the group the holders or owners of land?' Bentsi-Enchil recognises that the African land ownership is vested in the community as a whole or in the chief as a trustee for all people. His point of interest concerning an apportioned land owned by a group is that 'a single and undivided control' is usually exercised over it, and that the village and the community represent a type of customary association that represents itself as a company or a co-operative where the interest holders are the individuals.

Bohannan (1982) agrees with Okoth-Ogendo on the fact that one must not use European concepts in describing African situations. He recommends three factors in studying land tenure cross-culturally, namely, concept of land, correlating man with the physical environment and a social system with spatial dimension. On the other hand, Allot has suggested that a definition of absolute ownership is a starting point in the light of traditional and introduced laws in Africa with the view to seeing whether it is in principle possible to isolate the category of interest in holders (Allot, 1958:34). This view is opposed by Simpson (1986:5) who observes that the word "ownership" has no God given meaning and that since it is an ordinary English expression, it will be easy to recognise it where it exists, although he recognises the fact that one might meet with difficulties in defining 'rights' which, according to him, have simply not developed into 'ownership'.

Gutto (1976:50) explains that the term 'ownership' in its present connotation should not be used; instead 'allodial rights' should be the terms to be used. According to him, this is more legitimate in

that the individual head of the family had the right of occupation and transmission only to members of the family as custom dictated. In this sense, Gutto warns that this type of control should not be confused with the feudalistic system since the head of the family had no authority to dispose of the occupier of his rights; neither was the occupier liable to pay rent in terms of labour or otherwise.

It is apparent from the literature reviewed under this section, that the term 'ownership' is fraught with confusion largely because the popular concept of the term influences perception. Nevertheless, in the African context, the individual members have been allocated defined rights to land and obligations in respect to 'control', 'ownership', exploitation of the resources and continued attachment of the family and the natural resource that sustained it.

### **3.2.3 Women's Land Rights in the Customary Land Tenure System**

To what extent can we assert that women had greater rights on land in the pre-colonial tenure structure? There are two schools of thought that emerge from this question. One claims that the pre-colonial tenure system benefited women (Pala 1980; Okoth- Ogendo 1981; Gutto 1976) while the other claims that it did not (Sacks 1979; Friedl 1975; Boserup 1970). Pala (1983:70), in her study of the Joluo of Kenya, writes that the traditional system provided a daughter with 'usufruct' rights of land belonging to her father's patrilineage. Her role in agriculture and food production was recognised by customary rights of access to land and support from the family labour. She further points out that such rights to land conferred to wives lasted for a lifetime. According to



her, women as individuals or groups, did not have the legal rights to allocate or dispose of land but neither did the individual men.

Okoth-Ogendo (1982a:24) points out that land was transmitted through the permanent members of the family - who were men and therefore it was patrilineal succession. He further draws our attention to the fact that although indigenous property laws excluded women from 'owning' or 'inheriting', "this cannot be a symbol of an inferior status or in any way a form of chauvinism developed by one sex for the suppression of the other". This is because rights over immovable property were transgenerational, and although women were treated as permanent members of the societies in which they were married, the patrilocal societies had to control the process of allocation and transmission of its primary means of survival.

According to Gutto (1976:94), the women had virtual control and monopoly of crop production which led them to having rights to land they controlled for the maintenance of their households. Although men were considered heads of their families, when they died the property remained intact for family use. The author points out that the widows held property as trustees for their sons, while the leviratic unions helped the widowed women to maintain their husbands' property as property right was contingent on residence and status. Furthermore, the rules that governed land, its acquisition, tenure, use, disposal and control of produce, gave women an enviable authority. By virtue of their status, women had stronger voices in terms of land rights and obligations which operated to hold the kinship group together (Gutto 1976).

>

Nangendo (1994:107) explains that although land among the Bukusu community was regarded as communally owned, families, lineages and clans had specific land rights to certain pieces of land. Each married man was demarcated his own portion of land for farming. The man, in turn, allotted the land to his wife(ves), married sons as well as his grown up daughters. However, daughters did not inherit the land allotted to them for cultivation. In this system, wives had rights to prevent husbands from giving out family land to another person. If the husband was dead, dumb, impaired or very old, a woman could sue for trespass, eviction, settle boundary disputes of her husband's land and retain all rights to the land until the sons got married.

Velherst (1970:70) points out that women's land rights were guaranteed and protected by the very principle under which the initial rights were acquired, based on the principle of kinship, residence and allegiance. According to him, "land formed the foci of social relations and as long as these relations which gave rights to land were maintained, the question of having no land seldom became a live issue".

According to Davison (1987a), the advent of European colonial capitalism drastically altered former patterns of land use and occupancy in many places. The abundant land held by Africans was gradually restricted in many areas by government policies that favoured the consolidation of scattered tracts in the hands of male owners. In this process, women's productive procreative labour has been devalued by capitalist production relations given the introduction of cash crop

production and less emphasis placed on food production (Davison, 1987a: 14-15).

Nasimiyu's (1984:68) analysis of the participation of women in the pre- capitalist and post-capitalist mode of production reveals that profound changes in the traditional system of division of labour brought about by political and economic forces, thereby leading to a new orientation in rural economies. One such development was the introduction of cash crops which brought about changes in the tenure system, resulting in the widening of the economic gap between women and men who now had differential access to and control of resources. According to her, lack of control over land became a major cause of women's economic dependency.

Mackenzie (1990) notes that at the centre of current debate about land tenure systems in Africa, whether some form of individualised tenure has been institutionalised or not. is the problem of conceptualising and defining the significance of 'customary' relations to land. Her perspective views customary law with respect to land as a continuing arena of struggle. Here customary rights to land , malleable and manipulative by individuals or groups, and thus subject to continual construction and reconstruction in the resolution of conflict, are part of the process of legitimisation of individual material interests and thus social differentiation. Customary law, then, is constituted and fought over in processes of change in modes of production and reproduction. It is constructed and appropriated by individuals located differentially in relations of class and gender.

Mackenzie's study (1990:611) in Murang'a District, Central Province of Kenya, revealed the

following. First, that the manipulation of 'customary' law- or indeed the re-creation of components of 'customary' law-is instrumental in increasing gender and more generally social differentiation. That continuing to frame rights to land in relation to the sub-clan (the mbari), and its associated territory (the ng'undu) in a situation where dejure freehold rights also pertain, allows individual men to gain access to land from which they would otherwise have been excluded. This strategy is part of the struggle to accumulate land in a context of increasing land scarcity. Control over land, in turn, has strong implications for the control of labour and its products. Second, that manipulating rights to land under both 'customary' law and state law, is largely at the expense of women. While individual men may exercise greater autonomy vis-a-vis the land than the women, women individually and collectively have been able to effect some control over land through customary idiom like the 'female husband', local collective organisations, registered women's groups, and purchase. Viewed thus, the relationship between the two systems of land tenure is defined not by 'structural' articulation, but as arena of struggle. Mackenzie concludes that:

Kinship ideology and 'customary ' land rights can and do change: they are both created through adaptation and subverted for individual (material) objectives. Both in term of gender relations and terms of interaction with customary law, the syncretic properties of 'customary law', of power and counter-power, or resistance, become evident. Customary law becomes a domain in which the alternative realities of the less powerful in society confront the representation of the more powerful (Mackenzie, 1990:611).

In Africa, by and large, women's relationship to land, as conceptualised in different societies, is a critical factor in their ability to produce food for themselves and their families. Thus, their relationship to land affects the political economy of their lives as producers and procreators and

are perceived in terms of obligations and responsibilities. At the same time unequal distribution of power between females and males shapes relations of production where women's access to and use of land are concerned. Gender relations to land on the African continent have been modified overtime by a major intrusion, namely, colonial capitalist notions of male property ownership brought about a re-structuring of gender relations to land in some places, and intensification of men's control in others. As a result, customary use rights, either communal or individual were discouraged in favour of legal measures that began to circumscribe land parcels and place them in the hands of individual male owners ( Davison, 1987c:20). In other areas, women's inheritance rights have been eroded by male compound heads and pre-empted women's control of land for cash crop production. One of the major concern in this study is to find out the consequences of the land tenure reform on women's access to land for food production.

#### **3.2.4 The Impact of Land Tenure Reform on Women and their Role in Food Production**

The severity of Africa's increasing food crisis and the failure of existing policies and actions to arrest the continuing deterioration of production and consumption has led to greater recognition of women's crucial role in food production and food security at the household level. Here in Kenya women are a major resource in agriculture and food production as evidenced by their numerical proportions, their share of labour in agriculture and food production and the division of labour by sex in this sector (Republic of Kenya, 1985:8). However, despite the women's crucial role in agriculture and food production, their potential has not often been well understood or appreciated. In practice, women have not benefited from adequate policy support. The agrarian land tenure

policies have restricted women's access to land and other factors of agricultural production such as technology, credit subsidy and inputs. These can be seen from the outcome of this study as discussed in chapters six, seven and eight. Women have not had equal access to support services and incentive systems for expanding agriculture and food production, for example, in extension and training services and information (International Centre for Public Enterprises in Developing Countries, 1986:10)

On the other hand, commercialisation of agriculture has led to different patterns of household decision-making, a situation that may lead to the emergence of different decisions on land. The family economy has to be divided into both cash income and subsistence, and this has transformed the role of women in the indigenous economy and increased their labour burden. Lack of decision-making power on land use is pushing women to marginalised land and, thus, further decreasing their productivity in food.

The individualisation of tenure has created potential landlessness (Wanjala 2000). It is estimated that over two million people are absolutely landless, consisting of about 400,000 families and increasing at the rate of not less than 1.5 percent annually (Okoth-Ogendo, 1988). As there is ready cash and the newly entitled individuals can sell land which was once, or ostensibly is still, family land, there is a trend that poor people will raise money from the sales of land either to pay school fees or for plain subsistence (Shipton 1987). Concentration of land in the hands of few people who can afford to buy could lead to landlessness and poverty for large segments of the

population (Pinckney and Kimuyu 1994). Evidence in the current land reforms suggests that access to land for women as a group is being systematically eroded to a degree where they will be added to the growing hordes of the landless poor, with obvious detrimental consequences to the agricultural industry (International Labour Organisation. 1986: 123). Pala speculates that the women most threatened will be in families with little or no off-farm income, as well as daughters and widows, "often defined by land officers as those who do not need much land"(Pala, 1980b: 16). The families with little or no off- farm income will be forced to sell land in order to make ends meet.

Customary law continues to determine the way in which a household head divides the land (Riddell and Dickema, 1986:60). To inherit land, each male member of the family can only be supplied with a plot of arable land by subdividing the land into smaller and smaller plots. Women are rightly represented as both among the landless and those whose accessibility is so small as to be uneconomical and, therefore, must be content with land wherever they find it. The norm is to have access to small scattered pieces of land borrowed, rented or gifts from other people (International Labour Organisation, 1986:12).

### **3.2.5 Identifying Gaps and Giving Centrality to Women and Land Rights**

From the literature review, it is important to note several gaps in the analyses offered: First, that a substantial body of literature is documented on women's land rights in the pre- colonial and post - colonial period. This literature tends to delve into the contentious question of how women's

subordination with regard to land rights originated historically. From this picture, one can construct some aspects of women's land rights during different historical periods relating to kinship and marriage. However, in most of this literature, women appear as objects of study and exchange, and not as subjects. They are seen and not heard, their presence registered but not their perspective and the relationship between women and men regarding land is depicted as essentially peaceful without any problems.

Second, a vast body of economic and legal-political studies have documented a strong interdependence between the rural household and possession of agricultural land and its relative economic, political and social position. Characteristically, these studies focus on the household as the unit of analysis, neglecting the inter-household gender dimension. Underlying this assumption of gender congruence is interest within the family, portraying the dominant view that men are breadwinners and women the dependants.

Third, that implicit in descriptions in the previous studies is the assumption that the possible material subordination, or the dialectical link between the material context and the gender ideology is seldom recognised. Culture is often recognised as given rather than the process of constant reformation or arena for contestation.

Fourth, development policy has failed to recognise the importance of land rights for women. Women have been an issue of concern only with regard to welfare and their integration into the



national economy. They have not been recognised as possible change agents who could contribute to development in their own way if granted independent access to material resources.

Fifth, the land question clearly illustrates the extent to which an inter-play of cultural, historical, socio-economic, legal and political processes have structured and reinforced the marginalisation of women in agriculture. Patriarchal cultural arrangements in all social contexts have appropriated women's labour on land but denied them ownership rights. As a result, women's lives under all existing land tenure systems are closely tied to a resource which the majority of them have access to through their relationship to male relatives (Kharono, 1998:13). The most pervasive aspect of this arrangement is the extent to which women and men have internalised the patriarchal ideology and value system, thereby denying women ownership rights over land. In essence, patriarchy has structurally excluded women from making political demands on land matters, as they have no rights of inheritance or ownership. The consequence of this is that women's lack of control over land is presented as given and is rarely problematised by policy makers as well as academics and women activists. Although land is a central resource to the lives of the majority of women in Kenya, therefore, their silence and invisibility in discussing land ownership, management and use becomes striking.

Sixth, in the past decade, a body of literature on women and development has emerged which incorporates gender analysis in diverse ways, including bridging important gaps, for example, on women, work and roles. This type of literature examines gender biases in economic development,

national economy. They have not been recognised as possible change agents who could contribute to development in their own way if granted independent access to material resources.

Fifth, the land question clearly illustrates the extent to which an inter-play of cultural, historical, socio-economic, legal and political processes have structured and reinforced the marginalisation of women in agriculture. Patriarchal cultural arrangements in all social contexts have appropriated women's labour on land but denied them ownership rights. As a result, women's lives under all existing land tenure systems are closely tied to a resource which the majority of them have access to through their relationship to male relatives (Kharono, 1998:13). The most pervasive aspect of this arrangement is the extent to which women and men have internalised the patriarchal ideology and value system, thereby denying women ownership rights over land. In essence, patriarchy has structurally excluded women from making political demands on land matters, as they have no rights of inheritance or ownership. The consequence of this is that women's lack of control over land is presented as given and is rarely problematised by policy makers as well as academics and women activists. Although land is a central resource to the lives of the majority of women in Kenya, therefore, their silence and invisibility in discussing land ownership, management and use becomes striking.

Sixth, in the past decade, a body of literature on women and development has emerged which incorporates gender analysis in diverse ways, including bridging important gaps, for example, on women, work and roles. This type of literature examines gender biases in economic development,

authority, over hierarchical character of gender relations within and outside the household, based on highly unequal access of women and men to economic, political and social power. The breadth and depth of the obstacles which may be experienced makes women's land rights for food production a critical entry point for challenging unequal gender relations and power structures at many levels. This study has generated empirical data on advantages of women having ownership and control of land in their own right for food production.

Viewed in this way, this study focuses on the implication of the land tenure reform on women and food production. The study demonstrates a fresh approach to the study of rights to land as a resource for food production, by looking at the use and the disposal of land within the individualised tenure system, by looking at the nature of the rights of those who possess the land with regard to other members of the family, and by investigating not only the nature of the rights but also the effects all these have on women and food production.

### **3.3 Theoretical Framework**

The relationship between gender, property and land is explored from a perspective that explains changes that are taking place given the productive relations over land. In order to capture women and men, who contribute to these changes and are affected by them, this study adopted the gender relations of production as the theoretical frameworks.

### **3.3.1 Gender Relations of Production**

Gender relations of production is a concept derived from Engels' work on The Origins of the Family, Private Property and the State (1972), in which intra-family gender relations are seen as structured primarily by two overlapping economic factors, namely, the property status of the household to which women belong and women's participation in wage labour. Engels argued that in capitalist societies, gender relations would be hierarchical among the property owning family of the bourgeoisie where women did not go out to work and were economically dependent on men, but egalitarian in propertyless proletarian families where women were in the labour force. According to Engels ( 1972:137 - 8) the first premise for the emancipation of women is the re-introduction of the entire female sex into public industry. That is, the ultimate restoration of women to their rightful status requires a total abolition of private property, a move to socialism, the socialisation of housework and childcare and full participation of the women in the labour force.

Engels' analysis is clearly important to this study in that it lays emphasis on the relationship aspect of gender and on women's economic dependency as a critical constituent of the material bases of gender oppression. In advocating for abolition of private property as the solution, Engels has bypassed the issue of women's property rights altogether and left open the question of: what would be the impact on gender relations in propertied households if women were propertied as individuals? Agarwal (1994: 13), on the other hand, argues that entry into the labour force is not the only way to reduce economic dependency; independent rights in property would be another

and, possibly, the more effective way.

The gender relations of production has been used to explain changes occurring in productive relations in Africa without losing sight of the social actors-men and women- who contribute to these changes and are affected by them. It is an organising contract that encompasses both social and economic relations. It means a socio-economic relations between females and males that are characterised often by different assignment of labour tasks, control over decision-making and differential access to and control over the allocation of resources, including land and income.

Gender analysis, therefore, becomes the basis for analysing gender roles and intra-household dynamics within farming systems. It allows for the recognition that because women and men have different positions within the household, and different controls over resources, they not only play different and changing roles in society, but also often have different needs. Gender analysis begins with the recognition that the household is not an undifferentiated grouping of people with a common production and consumption function, that is, with shared and equal access to resources and benefits from the production. Thus, individual household members may share some resources, benefits, be independent of some, and be in conflict with others.

Although it is no surprise that relations within household change as members move in and out, quarrel, separate from a house, remarry, or die, it is difficult to capture the consequences and implications of these changes in analytical models based on a unitary conception of the farm household. While it is helpful for some analytical purposes to assume households to be unified

production and consumption units whose internal relationships are taken as given, for other purposes it is useful to open the lid of this black box that represents the farm household.

Haugerud's (1995) research among the Embu of Kenya revealed that some households experience multiple disruptions from interpersonal conflicts during the twenty-month monitoring period. His observation was:

In household 17, for example there were repeated changes that involved the return of both wives of one son to their natal homes at different times. In household 32 two daughters rejoined their natal home following disputes with their husbands. Household 45, the most striking case, is headed by a man with an erratic personality who on occasion affable and outgoing, and at other times drinks to excess and quarrels with and beats his wives. His first wife had already left him when the research began. His second wife left a few months after the survey began, and she took with her younger children and left the older ones under the care of their father and paternal grandfather. About four months later the second wife left and was replaced by a third. A few months after that the third wife left and the second returned. ...the number of children in this household varied from zero to eight and the number of adults from one to three (Haugerud, 1995:159).

Thus, some household membership changes as a result of interpersonal conflicts -

Moser (1993) explains that, often, universal tendency makes three generalised assumptions about the household. First the household consists of a nuclear family of husband, wife and children. Linked to this assumption is the concept of headship, normally assumed to be a man, who represents and manages the household, is perceived to be the breadwinner and financial supporter, with all other members defined as dependants. The concept has been widely applied in the process of land tenure reform with land title deeds being registered in the name of the male heads of households. Frequently, women are counted as heads when it becomes impossible to list the

oldest male present, be it the grandfather or grandson, because there is no likely candidate.

Second, the household functions as a natural socio-economic unit in which there is equal control over resources and power of decision-making between all adult members in matters influencing the household's livelihood. This is a stereotype perception that derives from the assumption that the family, a social unit based on kinship, marriage, and parenthood, and the household, a residential unit based on co-residence for such purposes as production, reproduction, consumption and socialisation, are naturally and universally synonymous units. In reality, internal factors relating to the nature of the marital contract, patterns of inheritance and the different stages of expansion, consolidation and contraction in the family life cycle influence them. In addition, a diversity of external socio-economic and political factors are also important. Perceiving the household as a joint utility function, decision-making and resource allocation, removes the possibility of exploring conditions of unequal exchange and exploitation between family members. In particular, this is between men and women, as they relate to decision-making and the allocation of resources. The assumption that the family pools and shares its resources derives from the stereotyping about marriage as a unit marked by joint control and management of resources (Young 1990). Yet, ideological and cultural as well as economic reasons, underlie the symmetries and asymmetries in intra-household resource allocation. It is questionable whether family labour, income and resources, on the grounds of allocative efficiency, enter into a common fund. Equally controversial is the idea that they are distributed equitably such that all family members have access to pooled resources sufficient to meet their personal and collective needs. The household is

not necessarily a collectivity of mutually reciprocal interests (Whitehead 1984). Even where an ideology of sharing exists, this does not necessarily mean that an equal distribution of resources occurs. Within the household, self-interest is often the predominant motivation.

Since the head of the household does not represent household needs, his welfare cannot be taken as proxy for the welfare of all the household members. This has been most vividly illustrated in the distribution of resources within households. Although wide variations exist within Africa, women's access to and control over land is largely indirect. They acquire land by means of their relationship to individual males such as husband, fathers or brothers by virtue of their gendered roles as wives or mothers. Men, in contrast, own land in their own right or by virtue of their lineage membership or other systems of inheritance. Thus, men and women, not only have differing access to resources, but gender-based responsibilities also result in differences in the management and distribution of resources within the household. Allocation of resources between women and men, such as land, varies widely. Cultural traditions also determine what amount of resources each must have.

The third assumption is that within the household there is a clear division of labour based on gender with the man. The man is the 'breadwinner' and is primarily involved in productive work outside the home, while the woman as the housewife takes overall responsibility for the reproductive and domestic work involved in the organisation of the household. The reproductive role comprises the childbearing/rearing responsibilities and domestic tasks undertaken by women,



which are required to guarantee the maintenance and reproduction of the labour force. It includes not only biological reproduction but also care and maintenance of the labour force. Not only is a woman's reproductive role critical to production, it also shapes her relations to land (Davison 1987a). On the other hand, the productive role comprises work done by both women and men for payment in cash or kind. It includes market production with an actual use value, and also with a potential exchange value. For women in agricultural production, this includes work as independent farmers, peasants' wives and wage workers (Moser, 1993:31). The gender division of labour also continues to structure work relations in rural areas. In agricultural production in Africa, the common policy stereotype is still the dichotomy that women work on subsistence food production while men produce cash crops. Although there are clear gender demarcations of tasks, women usually have a dual productive role and sometimes even threefold. In cases where women have separate access to land, it is common for them to work both as independent farmers on their own smallholder plots and work as "peasant wives" contributing to household production as unremunerated labour in the field of male household members, where they work in planting, hoeing and weeding, the tasks designated in the gender division of labour as women's work. Women also work as wage labourers, most frequently seasonally, to supplement household income. Commercialisation of agriculture has increasingly pressurised women to spend more time working their male kins' farms.

In making gender the focus, this study concentrated on sets of relationships that affect land use and tenure: who controls access to land and decides how it can be used for production; what

influences such decisions; who are the beneficiaries of such decisions, and do such decisions increase or hinder food production?

Gender relations and ideology are decisive social factors which allow women to use and exploit certain resources, and not others. They involve unequal and changing power relations which are not restricted to the household alone, although this is where it is most visible, but are basic features of all levels of society, the community and the state.

### **3.3.2 Sex Gender System/Gender Structuring**

In analysing changing relations of production, the sex-gender system has been used as a conceptual tool. It is a system which can be applicable across time and space, and describes asymmetrical power relations that exist between women and men. Kinship is a manifestation of this system. Gender structuring is a tool for analysing gender relations in Africa. First, gender structuring applies to relations of production at all levels, from the household (micro) to the state (macro) levels. Second, it accounts for the role of socialisation in determining the way women's and men's control over various aspects of production and the allocation of resources are defined in any society. It is observed by Agarwal (1994) that, indeed, in most of the societies today, it is men as a gender, even if not all men as individuals, who largely control wealth-generating property, even when such property is privately owned, including managers in large corporations. According to her, even property under the state, community or clan ownership, remains effectively under the managerial control of selected men through their dominance in both

traditional and modern institutions. Thus, in most countries, men as a gender exercise dominance over the instruments through which their existing advantages of property ownership and control get perpetuated as the institutions that enact, implement and the mechanisms of recruitment into bodies which exercise control over property (Agarwal, 1994: 14).

Gender structuring describes the process through which a society structures relations between females and males, including productive and procreative relations. . Further, Jaggar (1983) explains that the gender structuring is not a biologically determined phenomenon but socially imposed. The way gender is defined in any society is related to the historically prevailing system of organising social production. This means that, culturally, legitimised ways of defining women and women and men in a particular historical period contribute to a given society's sexual division of labour. In many cases the division of labour gives advantage to men, regardless of class (Jaggar, 1983:137).

In examining gender relations of production and structures in any society, the assignment of labour tasks, allocation of resources and control over decision-making become useful indicators. Often, relations of production translate into relations of power beginning at the household level. Donham (1985) provides a perspective for viewing such gender relations and points out the notion of relations of production that has applicability for non- capitalist societies as well as capitalist societies. For example, he states that relations of production exist between husbands as holders of power and their wives. Implied in the relations of production are relations of power which

provide a legitimate process through which productive relations between the sexes are empowered (Donham, 1985:26). Schlegel (1977:24) describes power as the ability to exert control'. According to her, a key indicator of control is the extent to which a group or individuals exercise authority, the socially recognised and legitimated right to make decisions concerning others. Although gender relations often imply a power relationship, such relations are constantly changing: they are equally affected by historical trends and cultural attitudes.

### **3.3.3 Explanations for Gender Differences in Relations of Power**

Leacock (1972:1) supports Engels<sup>1</sup> notion that gender-based power differences lie in the eclipse of communal and family based property ownership. Engels reasoned that the transition from communal to capitalist modes of production initiated the emergence of individual exchange value for labour as opposed to use value. The result was that women's work, which was primarily confined to use value in the home, became devalued. There are misconceptions in Engels' argument that have significance for productive relations in Africa: one, his belief that women's work was universally confined to the domestic sphere; two, his contention of the existence of universally communal forms of property; and three, his belief that societies with communal property accorded women equal control in decision-making and allocation of resources.

To what extent has communal property been the norm in Africa, and can it be claimed that where communal property existed women had a greater role in decision-making. In many African societies individual and communal rights to land have concurrently existed (Obi 1963; Kaberry

1952). Leacock (1972) claims that communally held property benefited women, but Friedl (1975) argues that communal property controlled by men through first-use rights has disadvantaged women. Friedl (1975:54) suggests that because men have always cleared land in Africa, collectively they have been able to gain control over land at the expense of women. That is, women are never allowed by themselves to initiate the process of cultivating new or long fallowed land.

Leacock and Friedl focus on changes in the control of property to explain women's loss of power in reproductive relations. On the other hand, Sacks (1979) examines the shift in the mode of production as a means of determining what led to women's loss of power. She argues that the transition from gathering-hunting and simple horticulture to more complex agriculture resulted in women's loss of control over decision regarding the assignment of labour tasks and allocation of goods. She asserts that control was increasingly invested in male-dominated kin-groups.

Other scholars have pointed to colonial capitalism as the major determinant of women's loss of productive power. Boserup (1970), for example, asserts that historically plentiful available land coupled with low population density, resulted in gender specialisation of agricultural labour that benefited both sexes. She attributes such specialisation to the notion that, generally, men felled trees (along with hunting and warring) and cleared land while women cultivated it. Boserup contends that as felling and hunting became less important and inter-tribal warfare was prevented by European domination, little remained for the men to do (Boserup, 1970:19). The solutions imposed by European agricultural agents, accustomed to male farming systems, was to engage

African males to export crop production for European markets. Thus, the introduction of cash crops with its attendant emphasis upon male-controlled agricultural intensification is the primary determinant of women's loss of status and power in African agriculture (1970:35,53-57).

'Gender relations of production' and 'gender structuring' encompass historical processes as well as social and economic relations of production and are, therefore, appropriate tools for analysing land issues. It is within the above theoretical frameworks that we have analysed women's rights to land within the individualised tenure system and the effects of the land tenure reform on women and food production.

There is no question that colonial capitalism drastically transformed the political economy of gender relations in agricultural production (Boserup, 1970; Obbo 1982; Nasimiya 1985). The advent of European colonial capitalism drastically altered former patterns of land use and occupancy in many places. Once an abundant and available resource, agricultural land held by Africans was gradually restricted, in many areas, by government policies that favoured the consolidation of scattered tracts of land in the hands of male owners. The owners were often manipulated or forced to grow cash crops for export, which has continued in the post-colonial period encouraged by a growing land market. Women's productive-reproductive labour has been equally devalued by capitalist production relations. The trend towards increased export crop production means that less emphasis is placed upon food production which, in turn, affects the nutritional status of women and their children. Women's labour, particularly in subsistence

production, continues to go uncompensated, while men's labour assumes a surplus exchange value. Technological innovations that would lessen women's productive/reproductive labour burdens remain low as a development priority. Women's needs for legal rights to inherit and acquire land in the face of increasing scarcity go unrecognised. In most cases, women's customary rights to land continue to be eroded by new reforms that promise increased agricultural production (Dey 1984).

The net result of colonial capitalism has been a re-structuring of gender roles of production in areas where capitalism has taken root like Kenya. Where complementarity or gender collaboration previously existed, often the introduction of cash cropping for export has brought about greater gender segregation in labour tasks with men increasingly becoming agricultural managers or wage labourers. Likewise, men, rather than women, have benefited from reforms re-structuring customary practices of land tenure (Davison, 1994:15). Thus, capitalist notions of male property ownership brought about a re-structuring of gender relations to land, and intensified men's control to land. As a result, customary use rights- either communal or individual- were discouraged in favour of legal measures that began to circumscribe land parcels and place them in the hands of individual male owners while ignoring women's customary rights to land.

As land becomes scarce and begins to assume a capital value, and as pressure builds up for increased cash crop production, both women and men are affected in different ways. What are the consequences of land tenure reform policies upon women's access to land and on food

production? How might agricultural /land tenure policies be reformulated to ensure women's future participation in increased food production? This study takes up these questions.

### **3.4 Hypotheses**

1. Adjudication and registration discriminate against women in land titling by registering only men's names as owners of family land.
2. The introduction of cash crops has meant that males rather than females control decisions related to agricultural production.
3. Women farmers perform the bulk of the work in both food and cash crop production but have little control over the allocation of incomes accruing from their labour.
4. The absence of land titles limits women access to productive resources such as credit, extension, training, information and membership to cooperative societies.

### **3.5 Definition of Terms**

#### **3.5.1 Dependent Variables**

##### **Land Tenure Reform:**

Land tenure refers to a set of rights which a person or groups hold in land. Tenure applies to land holding rights, including land which is transmitted through inheritance, loan or rental for an



established exchange value, and outright sales. Land tenure reform, therefore, involves changing the customary structures of land ownership, control and use with the purpose of confirming to modern law ownership through the registration of land and provision of title deed which bears an individual's name.

### **3.5.2 Independent Variables**

#### **Land Ownership**

There is confusion over terms related to land rights, such as usufruct and ownership when applied to the African context. In this study, ownership is used in the Western sense of applying to land that has a cash or commodity value and is registered through a process of entitlement to an individual or corporate group. The "owner of land" is a person who enjoys a demarcated piece of land, registered in his name, with the right to gift, transfer, and will away the land. In Kenya, adjudication and registration of land has been conducted on the basis that the power of control was equivalent to ownership as understood in Western laws, which has led to the transfer of land almost exclusively to male individuals. This had been done at the expense of providing for use rights "which is the area most women cultivators stand to be most adversely affected by the new scheme" (Pala, 1978b:5).

#### **Land Rights**

Rights are defined here as claims that are legally and socially recognised and enforceable by an external legitimised authority, be it at community level or higher level judicial or executive body

of the state. Rights in land can be in the form of ownership or of usufruct and these are associated with differing degrees of freedom to dispose, lease out, mortgage, bequeath or sell. Land rights can originate from inheritance by an individual or joint family basis, from community membership, from distribution by the state, from tenancy arrangements or from purchase. Rights in land also have a temporal or, sometimes, locational dimension: they may be hereditary, accruing only for a person's lifetime or for a lesser period; and they may be conditional on the person residing where land is located.

### **Decision - Making Power**

This study makes a distinction between access to land by women and its effective control. Decision making power refers to the ability to decide how the land is used, how land and crops are allocated, how its produce is disposed of, about the allocation of income from both cash and food crops and whether the land can be leased out, mortgaged, bequeathed or sold.

### **Family Labour Division and Increased Workload for Women**

The twentieth-century economic revolution has resulted in male labour seeping out of the subsistence sector into urban wage work or agricultural employment with the development of commercial cash crops. As a result, women's agricultural work burdens have increased. In addition, women are expected to fulfil certain household responsibilities, including cooking, fetching water and fuel, and looking after children. As a result, women are forced to work 10-16 hours a day in order to fulfil their domestic duties as well as grow food crops, care for animals,

process food, dairy products and carry out their entrepreneurial activities ( Dey, 1984:89). This study identified crops grown for sale, for food and other reproductive household activities and the breakdown of labour by sex to assess the increased workload. Many of the changes taking place in rural economies and in the gender division of labour in the production, distribution and accumulation processes, are linked to radical changes in the economic relations of household and kin groups. The introduction of cash crops has meant that male, rather than female, producers more often control intra-family decisions related to agricultural production. An increasing proportion of women's labour is spent on production for their husbands but lack control over the rewards of what they produce, particularly when the product is in the form of money. Rarely is there a direct link between the amount of a wife's labour and the proportion of the total household product or to the income to which she has access. Moreover, men tend to control capital that is used to buy technological inputs and can obtain credit using title deeds (Fortmann 1984; Cowen 1986). On the other hand, women continue to grow food crops, which gives them a limited cash income. This study, therefore, looked into the gender definition of tasks, the disposition of household labour, and the control of household income in relation to labour inputs.

### **Goals of Land Tenure Reform**

The various goals of land tenure reform include promoting equity, creating employment, and raising productivity. Through the use of the title deed as collateral, one can access credit, purchase farm inputs and increase income.

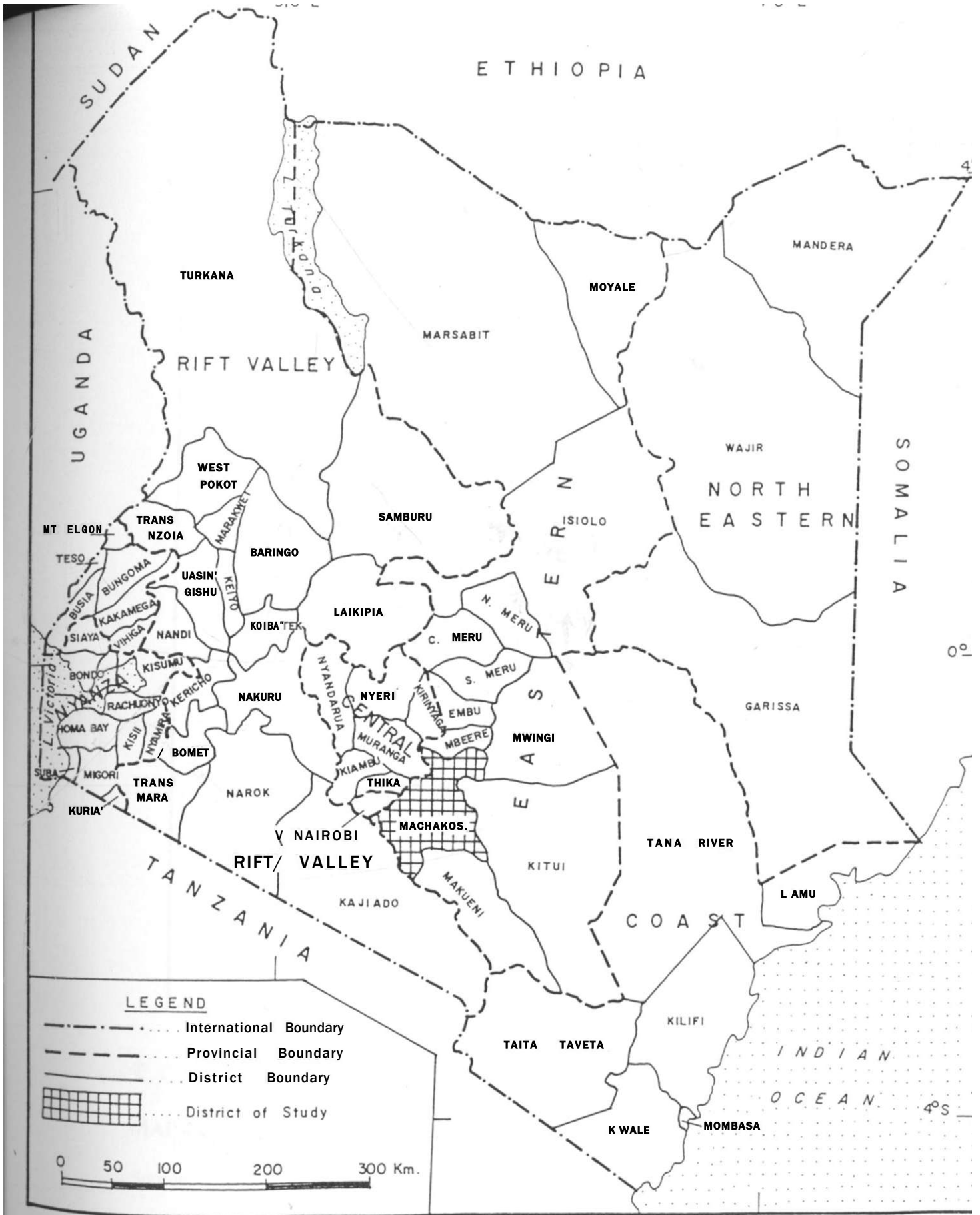
## CHAPTER FOUR

### RESEARCH AREA AND ITS PEOPLE

#### 4.1 Research Site

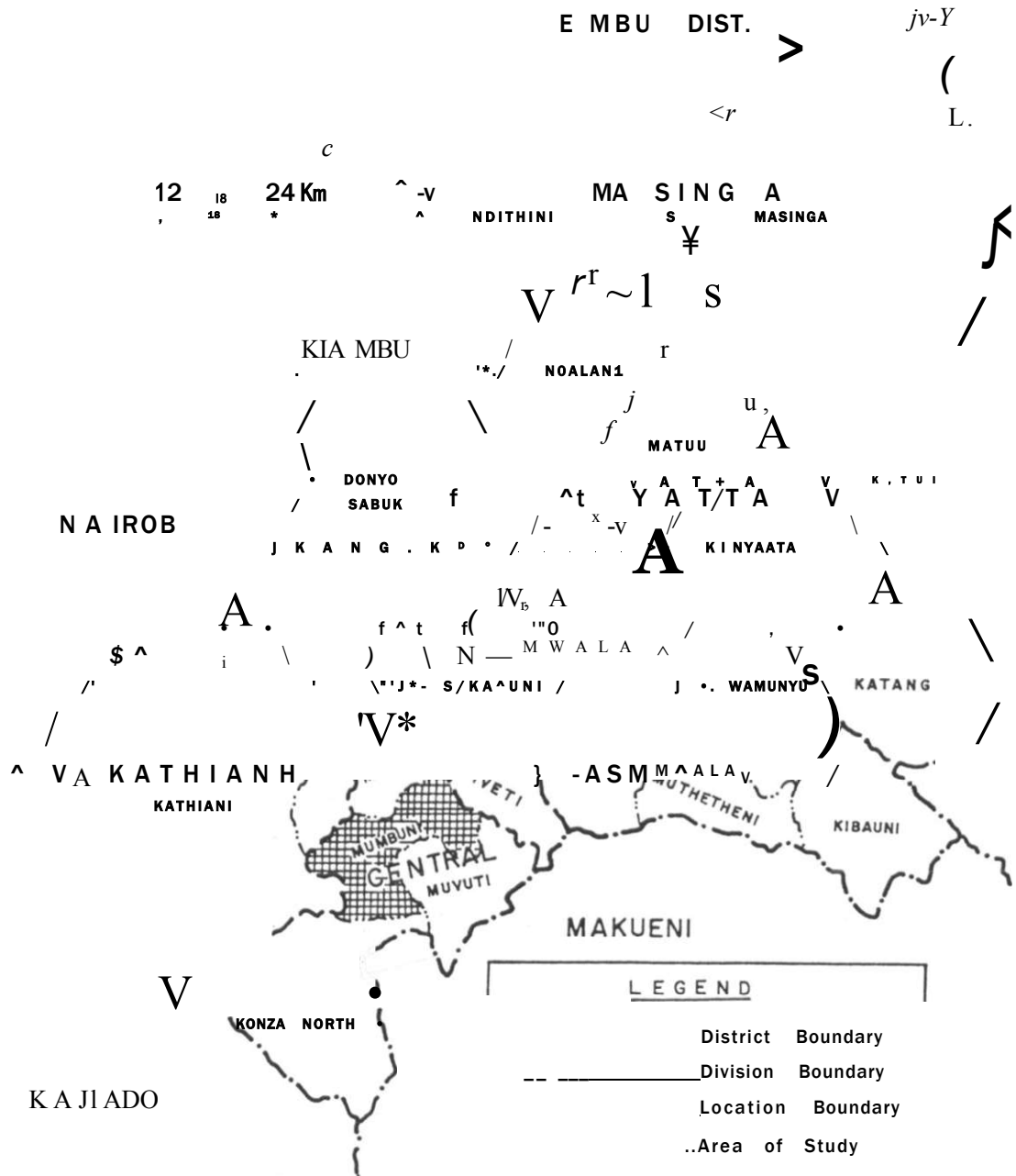
Field work was undertaken in Mumbuni Location of Machakos District, Eastern Kenya (Maps 4.1 and 4.2). The District mainly consists of small plateaus rising to 1,800-2,100 metres above sea level, and surrounded by large plateaus which are elevated to about 1,700 metres in the West and sloping to 700 metres in the South-East. There are isolated mountains in the North-west, the Yatta Plateau in the East and Chyulu Hills in the South-East (Jaetzold and Schmidt, 1983: 149).

Machakos District has been known as a Problem District in Kenya since the colonial period. The earliest problem was overstocking, later it was soil erosion, and then over population (Ondiege 1992:130). The District is comparatively large, with a total area of 13,968 square kilometres. The Akamba people occupy the District. According to the 1989 census, the district had a total of 1,402,002 people out of whom 726,236 were female and 675,776 were male. The district had 237,160 households while Mumbuni Location had 8,197 households 44,480 people, out of whom 22,647 were female and 21,833 were male, with a total of 5.88 persons per household (Republic of Kenya 1989b). Population densities decrease in a south-easterly direction where rainfall is less in both quantity and reliability.



MAP 4.1: LOCATION OF MACHAKOS DISTRICT IN KENYA

Source: Machakos District Development Plan, 1994-1996



**MAP 4.2: LOCATION OF MUMBUNI LOCATION IN MACHAKOS DISTRICT**

Source: Machakos District Development Plan, 1994-1996

The annual average rainfall in the district ranges between 500 millimetres and 1300 millimetres, recording 60 percent reliability. The consequence of the variable rainfall pattern is that, in four years out of ten, there is a major drought (Were and Akon'ga 1981). The rains are concentrated into two short seasons, end of March to May (which records 50-450 millimetres) and end of October to December (which records 60-530 millimetres). The annual average rainfall in Mumbuni is between 550 and 1300 millimetres. The location has 60 percent reliability of rainfall, with the first rains recording 150 millimetres. It has a medium to short, and short to medium cropping season, lasting 65 -155 days growing period in the first rains and 20 - 135 days of growing period in the second rains.

The District has six main agro-ecological zones, which include the Mountain Tops, the Upper Coffee Zone, Midland Livestock Zone, Sorghum/Millet Zone, Cotton Zone and Lowland Ranching Zone. Mumbuni Location falls within different ecological zones, ranging from Wheat/Maize/Pyrethrum Zone, Main Coffee Zone, Marginal Coffee Zone, Sunflower Maize Zone and Livestock/Sorghum Zone. The altitude of the different zones ranges from 1400 to 2130 metres, while the annual mean temperature ranges between 20.2 degrees to 16.0 degrees Centigrade, depending on altitude.

Generally, the district has poor soil, which, coupled with unsuitable climate, make successful smallholder rainfed agriculture difficult in more than 80 percent of the district. These conditions make the development of small farms extremely difficult in more than 75 percent of the District. Soil and water conservation and on-farm investment is highly recommended if the farmer has to be self-reliant. Nonetheless, this has not been the case and, instead, the

decline in socio-economic conditions sometimes has led to famine relief in the area. This means that on-farm investment or famine relief are the two realistic alternatives for more than 80 percent of farmers in Machakos District (Jaetzold and Schmidt, 1983:155).

The Location covers 100,000 hectares of land, out of which 2,000 hectares consist of unsuitable steep slopes, 15,000 hectares are occupied by roads, homesteads and rivers and 83,000 hectares is agricultural land. Agricultural land per household is 2.79 hectares, and 0.43 hectares per person (Jaetzold and Schmidt, 1983:160).

Mumbuni was chosen as the focus of this study for three reasons. First, the choice of the location was based primarily on the fact that due to male migration in search of employment in the nearby Nairobi City, women have been left behind as cultivators of food and their livelihood depends on land. For this reason, they grow a wide range of crops, including maize, millet, beans, sorghum, potatoes, cassava, arrow roots, pigeon peas, cowpeas, green-grams, vegetables and fruits. These are largely used for home consumption and sometimes the women sell their products in the local markets to earn cash for purchasing household needs such as sugar, salt, cooking oil, other foods, matches and soap.

Second, the location has arable land traditionally given to subsistence farming, but increasingly being used for cash crop growing (especially coffee) in the higher areas. This has led to agricultural intensification and changes in access and use of land for the majority of women in the area, who need to continue growing food to feed their families.



Third, in Mumbuni, land adjudication and registration is already in process while at the same time, the majority of the population is still practising customary land tenure systems. Mumbuni, thus, provides combined conditions found suitable for assessing the effects of land tenure reform on women's access to and control of land for food production.

## **4.2 The People**

Probably the simplest approach to understanding the system of land tenure among the Akamba is by way of its traditional evolution since the community first occupied its present territory. These people are said to have originated from different areas. However, one tradition suggests that most of them came from the Mount Kilimanjaro region and settled in their homeland between 1450 -1550 A.D. They first settled in Chyulu Hills and then spread to Mbooni Hills. The population at Mbooni increased steadily and the ancestors of the Akamba were forced to migrate into other areas such as Kitui, Iveti, Kilungu and Mariakani. As a result of this, they began to take agriculture more seriously than they had done in the past. Here, the patrilineal land-kin synthesis was developed, and here, too, probably patrilocal marriage became the vogue. The original settlement would seem to have been by matriclans, the forbears of the present parent clans, or at least some of them ((Lambert, 1947). By 1800, the Akamba we know today had settled in Ukambani, their present homeland, in the districts of Kitui, Makueni and Machakos in Eastern Province (Hobley, 1971:25).

### **4.2.1 Social Organisation and Political System**

The Akamba do not have unifying institutions. A wider area had no generic name, but is referred to as nthi (country). The political unit is the utui, of which the unity is based on common residence, not on common kinship and therefore not on common ownership. There is

scarcely any form of government based on lodges with a wider area of jurisdiction than the Kabul, and there is no government by generation sequence. Though there is ceremonial of initiation (nzaiko) including circumcision, the age-group (nthuke, iika) is not dependent on it and the division of adult males into ages (aanake), young men, nthela, young married men, and atumia, elders, is somewhat indistinct. The age depends on function rather than the function on age, and the division into ages has little of any unifying power. Among the Akamba, it is the kinship system which cuts across the mutui organisation and runs through the community. It has a certain binding force because there is still a spiritual loyalty to the parent clan and to the totem (Lambert, 1947).

The Kamba kinship system is divided into about 25 dispersed patrilineal totemic clans, varying greatly in size and generally named after the founding ancestor. For some considerable time the kinship group has been patrilineal in pattern and marriage is patrilocal. The parent clans, the names of which are still remembered and associated each with its own exclusive totem, may have been matrilineal. No parent clan is now associated, except traditionally, with any particular area, and even in a parent clan's traditionally associated area, the land owning sub-mbai do not exclusively or pre-dominantly belong to it (Lambert 1947:139).

An agnatic descent group is referred to as mbai regardless of order or size. Mbai applies to a group, larger than a four-generation joint family known as the muvia, while mba is used to designate the agnatic core of a muvia or joint family. A muvia is an extended family, generally covering three or four generations only, that is, a man together with his sons and grandsons and their wives and families. It is a patrilineal unit. Brothers, half-brothers, and

paternal cousins who have a common paternal grandfather and live together in one area are, together with their wives and children, called a muvia.

A man can be adopted into a clan, taking upon himself the obligation of membership, including those of exogamy. The applicant and the head of the muvia jointly swear an oath known as kithitu. Expulsion from the clan is impossible but a clan member who incurs public disapprobation may be driven away by ostracism. Each muvia has a cattle brand known as kio, from which the clan of the owner can be known. Each dispersed clan had a totem, although these have declined very much and these days many Akamba cannot name their totem (Ndeti,1972: 14; Hobley, 1971: 78,81).

Traditionally, the smallest land-holding unit is the musvi (homestead). A musyi is the homestead of a family, multiple family, or extended family living together. Authority within the homestead occupied by the joint family is vested in the family head who had complete control over all members of the group, including adult males with families of their own. The homestead is generally surrounded by a stockade (mathanzu). Each wife has a separate hut. The entrance through the stockade is the muvia . Outside the muvia is an open space (thome) where the men sit, drink and talk after the day=s work (Lambert 1947:139).

Joint families are grouped into a wider political unit known as utui. The utui is the political territorial unit. The people living in an utui are usually of mixed mbai. There is accordingly no natural bond between them requiring mutual assistance and good behaviour. An artificial bond by oath is therefore made to serve a similar purpose. The utui oath is of the social type

(ndundu) as opposed to the judicial type (kithitu). Every new resident is to swear the utui oath, no matter how many utui oaths he may have sworn in other motui ( Middleton, 1953:80). A wider area had no generic name, but is referred to as nthi (country).

A larger group is the kibalo which is a large utui or group of motai. There is no kibalo oath, except as may be required on special occasions, as in war. There is generally a common place supplication (ithembo) and consequently some degree of religious unity between the motui of a kibalo. Probably, the strongest forces holding a kibalo together are those induced by inter-marriage and friendship arising from propinquity. Though it is scarcely reinforced by any ritual sanction, the bond is functionally quite real (Mbiti, 1966).

There are institutionalised age grades among the Akamba, the more senior of which have political and ritual functions. Female and male children are referred to as syana. An uncircumcised boy is referred to as kavisi while a girl is kelitu, and kamwana is a circumcised boy who could herd cattle but has not reached puberty. A girl in her prime, big enough to assist her mother in pounding grain, fetching water and firewood, cultivating, preparing food and could attend neighbourhood dances is called mwiitu (Were and Akong'a. 1986:247). After puberty marriage can take place any time, the male now becomes mwanake, a warrior, while a married woman is kiveti. A married man with children is called nthele and when he enters the elder's grade he becomes known as mutumia. Women never became elders. Married women, iveti, are expected to perform domestic duties, thatch roofs of houses, make pots and kyondo (baskets), pound grains and, in the process, train their daughters on the job.

#### 4.2.2 Land Tenure

The Akamba call land to which no individual or family has acquired specific rights weu. In a legal sense, this normally signifies grazing land which may be used from time to time by any individual and to which no one has established an exclusive claim.

The land-holding unit was the joint or extended family (muvia), and individual rights in land were considered within the framework of rights held by the joint family. The use to which land was put and the rights held in it are closely related. Individuals could take up the holdings from the weu in two ways and for two purposes- cultivation and grazing. Land used for cultivation is called ng'undu, and it is obtained by demarcating a stretch of land from the family land, by cutting down the bush and trees so that they fall along the line of the boundary, or knotting the tops of tall bunches of grass together. The man clears it partially and cultivates a little, planting the seeds of a food crop as symbol of his intention to use this for planting. He continues with this process of clearing and planting and of building his homestead, until he is firmly established (Muthiani, 1974:24).

Exclusive grazing areas called kisesi can also be taken up. The occupation of kisesi when there was no ng'undu was achieved by demarcating its boundaries and establishing a cattle post on it, kvengo, in which the owner or a relative or friend of his, must reside. The rights of use of such land were retained by occupation of the cattle-post or by frequent visits, by regular renewal of boundary marks or even by proclaiming the intention to return and use the land again. The exclusive rights to the area of grazing which an owner has enclosed will then be respected. Beehives were frequently hung on trees and the owner had certain rights over the

ground immediately surrounding the trees. The elders' council of the village restricted the size of the land to what they considered to be reasonable bounds (Middleton, 1953:86). Title to grazing land was not acknowledged.

As cattle became more important in the Kamba economic system, family heads tended to establish their musvi in their own isese, the woman going to the ng'undu for their agricultural work each day and returning to their musvi to do their household chores and spend the night. Thus, a man could build his homestead - musyi - on his kisesi, instead of merely having a hut for the herdsman there, and his ng'undu was some distance away without a building on it. He was free to take up ng'undu without residing on it, but he had to cultivate it to establish his right. For a kisesi, he had to occupy, or have his representative occupying it and looking after stock upon it. Cultivation was the essence of the claim to ng'undu; while occupation served the same purpose for the kisesi. Nowadays a musyi is associated with a kisese rather than a ng'undu, and the elders hearing a claim for possession of a kisese require good evidence that the claimant had a musyi there occupied by himself or by somebody on his behalf (Lambert 1947:143).

Once ng'undu was acquired, the title was permanent and the owner could even leave it to go elsewhere for years but, on his return, claim back that land. The ng'undu was regarded as a necessity because it meant subsistence which was regarded as a primary right of every Kamba, while cattle keeping was regarded as something of a luxury. Thus, the title of the kisesi lasts only as long as it is being used. If a man pulls down his kvengo and goes, he loses all claims to the land, which reverts to weu. He had to keep the land in use or keep his claim alive through a

caretaker if he wanted to prevent the land from returning to weu, and then someone else taking it (Muthiani, 1973:34). It is in this sense that the frequent definition of a kisese as a temporary exclusive grazing ground is partly justified.

#### **4.2.3 The Land Rights of Women**

The piece of arable land cultivated by a woman is called mbee. Once a woman is married, she is shown where she can begin her cultivation. A young wife usually shared the plot of her mother-in-law and was not allotted her own mbee until she had born children. She was then shown her first plot and the direction in which she was to work. A widow retained her mbee during her lifetime (Middleton 1953). As the husband increases the number of wives, he shows to each in turn the starting point and direction of her cultivation. Usually these strips lie side by side, and an uncultivated piece of ground referred to as utee is left between two mbee (Penwill, 1951:35).

Cultivated land in reality is the property in perpetuity of the man who first took it from the weu and his heirs (sons). For example, it could be left for any length of time and the claim to it reasserted ultimately by the heir (son) of the first occupant. If all the descendants of the first holder of the ng'undu should die out, the claim of right did not die, and it was inheritable by other more distant male relatives in the clan, even though they might not be descendants of the original occupier. It could also be sold outright.

#### **4.2.4 Land Transactions**

##### **4.2.4.1 Sale of Land**

In the early days, the question of sale rarely arose as land was in plenty. However, there are occasions when rich patches of land were sold for a goat or two. Nevertheless, land grabbing for the purpose of speculation would neither be condoned nor contemplated. Acquisition of land was contingent on beneficial occupation. The original occupier of land - that is a man who took land from weu - had fewer restrictions on his disposal powers over the land than he had over land he may happen to inherit. The first occupier had complete right to dispose of the land as he wished; he could sell it outright, give it away, or leave it to his sons, dividing it between them by definite boundaries. Although sons who had inherited land from their fathers (who were first occupiers) and grandsons had the same rights to sell or divide the land between his sons, there was one exception; the son was required to offer the sale of his land, first to the members of his mbai (clan) in the same village. He was also not allowed to sell his land without the permission of the other direct descendants of the man who first claimed the land. Elders of the area could also, indirectly, control the sale of land by refusing the purchaser to reside there.

A man who purchased land is in the same position as the man who had taken it from the weu for the first time. The buyer can dispose of the land as he sees fit, and divide it as he wishes between his sons. The buyer and the man who takes land from the weu can direct that their land be inherited by the daughter's children - which could only happen with inherited land if the claim through the male line was very remote and the elders were in favour of that decision.

>



When a father did not divide his land before his death, the sons shared out their mother's mbee between themselves. In the past, land left undivided by the first occupier could not be divided up by the sons on their own after his death. Nevertheless, this has since changed and, currently, it is possible for sons to divide up their inherited land between them, provided that the clan elders agree on who are called upon to make the boundaries. Once inherited land has been divided by the heirs, it also can be sold outright but with restrictions that the owner must first offer it to his family and must have the permission of his relatives before any sale can be made at all. If the seller is married, a close relative on the wife's side, for example the father or brother to the wife may object to a sale that deprives his daughter (or sister) of her mbee.

#### **4.2.4.2 Mortgage, Tenancy and Loan**

Mortgaging of land was common where land was plenty, but permission of the co-heirs was needed in the case of land rights. A man was allowed to lend rights to a friend and the tenant rights could be heritable. Land was sold to another in exchange of goats and beer, on the understanding that the land could be returned to the original owner once the sum received is repaid.

Men gave their friends and relatives a piece of their land on which to cultivate and build a homestead at a small fee of a goat and beer. The motive of acquiring 'tenancy' was normally a desire to stay among friends and relatives rather than go off to a distant weu. A tenant could be evicted at any time if the landlord returned the original amount given to him. The eviction of the occupier was possible but only after he had reaped the standing crops. On the other hand, a tenant of good character was hardly required to leave, and if sale of land became necessary he

would be given a chance to buy it. A man could be allotted land rights by his father-in-law or brother-in-law and these rights were inheritable, although such tenants had no legal right over the land and could be evicted. While land could be given in lieu of livestock, it, however, could not be pledged as security for debts (Middelton 1953). The Akamba did not practise the payments of regular rent for land, either in cash or kind.

Land could also be loaned out without payments of any sort made. The person, who had thus been loaned, could help the owner with such tasks as herding or building a fence around cattle enclosure. A borrower could be evicted any time. An eviction usually resulted from petty quarrel, or a desire to install some other man in the same relationship.

#### **4.2.5 Inheritance and Succession**

When a man felt that he was about to die, he gathered his sons to show them the boundaries of his land. This would be done in the presence of witnesses who would be called upon in case a dispute arose regarding the estate of the deceased (Hobley, 1971:82). The property of a man who dies is divided among the sons, the eldest son from the first wife takes the biggest share while the daughters gets nothing. If a man had no sons with the first wife, the eldest son of the second wife takes the lion's share of the inheritance. If the sons of the deceased were small, generally their eldest uncle acted as trustees for their property, but he must hand over to them as soon as they are adults (Lindblom, 1920:163). Thus, all sons shared in the inheritance of the father's land.

The division of land follows the principle of the woman's right of use. A man divided his land among his wives. Each wife had her mbee and no sons of another wife could enroach upon it or share in the inheritance of it. Her sons shared equally between them with a slightly larger portion for the eldest. The division is a gradual process going on over years. As each son got married, his wife was shown a place to cultivate in the mbee of the mother-in-law. In this context, no distinction was made between legitimate and illegitimate children. A woman without sons could adopt the sons of her co-wife to inherit her portion of land. Women without sons would "marry" a wife whose sons would inherit the portion of her (the woman who married the wife) land as her own sons. Thus, a man bequeathed pieces of land as he liked as long as he did not disregard the principle of inheritance according to matri-segmentation in so doing (Middleton 1953).

On the other hand, if a male occupant of a holding died without sons, the land was passed on to another branch of the family descended from the first occupant - possibly the male descendant of one of his brothers who moved off to land elsewhere. It would go first to the dead man's brothers, failing which it would go to his half-brothers, to paternal uncles or cousins, or more distant paternal relatives in that descending order of importance. If all the male descendants of the first occupier are dead, the ng'undu goes to the nearest clan relatives, while the kisesi reverts to the weu (Penwill, 1951:46). Nevertheless, a widow was left undisturbed as long as she was alive, since she may have sons and therefore heirs by the dead man's brother.

The kisesi was initially shared communally by a man's sons, but sooner or later it got divided up by agreement under the supervision of the elders. In the division of a kisesi, due regard would be taken of the general line on which the musyi of a particular branch of the family was advancing. The pattern of inheritance is, therefore, based on the equal share of all sons of a man in the mbee of their mother and in the grazing land of their father.

In the past, however, when land was plenty, adult sons left the fathers' homestead to take up land for themselves from the weu. The eldest brother went first, and if he found good land, the younger brother might follow and join him in the same area. Each brother in turn went out, until only the youngest was left. He stayed behind to look after his mother in old age, and to protect her interest. In the end he inherited the whole of his father's holding or, where his father had several wives, his mother's mbee and a proportionate share of the grazing land (Penwill, 1951:42). The other brothers simply allowed their rights to become dormant, having found sufficient land for their needs elsewhere. If they returned, having found no satisfactory land, they could take up again their share in user and eventually in inheritance. Nevertheless, once the right had been left dormant for a sufficiently long period, it would be deemed to have lapsed altogether.

Currently, older brothers do not move out, except temporarily to seek employment, which does not affect their inheritance, however long they may be gone. All the brothers, therefore, share the inheritance between them, thereby leading to sub-division of the land.

#### **4.2.6 Public Land**

There were no private rights in water in its natural state. It was to be used freely by all. Other pieces of land to which the establishment of individual rights were not permitted were the site of a market and a sacred grove-ithembo. These were regarded as the property of the community and encroachment, such as cutting down some trees, was not allowed.

In chapters six, seven and eight this study looks at what has changed with regard to the Kamba customary land tenure system presented in this chapter, given the land tenure reform.

## CHAPTER FIVE

### RESEARCH METHODOLOGY

#### 5.1 Research Design and Methodology

##### 5.1.1 Sample Size and Sampling Procedure

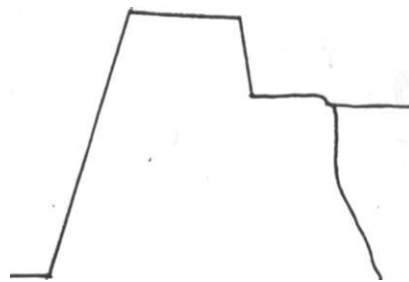
The study sample was drawn from women smallholder farmers who live and farm in Mumbuni Location. Small-scale agriculture is based, with the family controlling the basic means of production and whatever surplus is generated from economic activity. Thus, the family continues to control access to the use of available land resources, supplies most of the labour input required and consumes more than 75 percent of the produce. These functions are exercised through a network of kinship arrangements and reciprocal obligations by members. The economic power of these smallholder farmers is essentially based on the control of land.

To enable the researcher get the study sample, a sampling frame was drawn from four sub-locations in Mumbuni Location, namely, Misakwani, Kasinga, Mungala and Kiandani (Map 4.3). As shown in Table 4.1 the total population in Mumbuni Location is 39,580. comprising of 22,295 women and 17,285 men. The distribution of the sample was determined by a multi-sampling procedure in which unequal probability of selection was applied. That is, a sub-location with a higher population was given a higher proportion of the sample Kiandani (28.3%), Mungala (25.0%), Kasinga (23.3%), and Misakwani (23.2%), respectively. The actual inclusion of the sample was further determined by random sampling in the field. The total survey sample size was 220. This sample was found to be sufficiently large enough to

**K A S I N G A**

**M U N G A L A**

**K I A N D A N I**



**M I S A K W A N**

**SCALE 1: 50, 000**

**MAP 4.3: SUB-LOCATIONS OF MUMBUNI LOCATION**

Source: Machakos District Map Modified from Survey of Kenya

**Table 5.1: Population Size and Sample**

<b>Sub- Location</b>	<b>Men</b>	<b>Women</b>	<b>Total</b>	<b>%</b>	<b>Sample</b>
Kasinga	4451	5217	9668	23.3	<b>52</b>
Mungala	4190	5583	9773	25.0	<b>54</b>
Kiandani	4093	6314	10407	28.3	<b>62</b>
Misakwani	4551	5181	9732	23.2	<b>52</b>
<b>Total</b>	<b>17,285</b>	<b>22,295</b>	<b>39,580</b>	<b>100.0</b>	<b>220</b>

**Source:** Adapted from Census Statistics CEN/MBU/Vol. 1/53, Chiefs Office, Mumbuni Location, Machakos District

enable the researcher to draw conclusions based on the study objectives. In addition, due to financial and physical constraints, the researcher decided to use a manageable sample size.

### **5.1.2 Unit of Analysis**

The unit of analysis was the household and the woman in that household the respondent. The household is the basic unit of production or cultivation in Mumbuni. In rural Kenya, where compounds usually include more than one house, household as applied in the Western sense becomes problematic. In African homesteads or compounds, there are a number of households and a number of production units for purposes of cultivation, that may or may not include the same people (Black-Michard, 1981: 2).



This study took the household as the unit of analysis to better understand the impact of land tenure reform on women producers in small holder households by de-constructing the household to expose the often multiple houses and production units within a compound, and the individuals within these houses and production units. By interviewing only individual women farmers in production units within a household, this study attempted to capture women's perception of land tenure reform and production from those of male heads of household.

The Kenya Government's position on households for census purposes, straddles between two concepts: compound and house. The household is described as:

Ya group of persons, generally bound by ties of kinship, who normally reside together under a single roof or several roofs within a single compound and are answerable to the same head and share a common source of food ( Central Bureau of Statistics, 1981: 22).

Although the definition acknowledges the existence of polygynous marriage arrangements and intergenerational residence patterns, and recognises consumption units within a compound, it is inadequate in describing how agricultural production units are ordered in terms of who controls the allocation of resources, including land and income.

When assessing who exercises control over decision- making and the allocation of resources, it was felt critical to re-evaluate the parameters of each production unit within the compound. For the purposes of this study, women in each house within a compound were interviewed.

The household is essentially seen as a residential unit of consumption, procreation and socialisation. The household was thus viewed as a dynamic unit relating with larger structures, national and international systems. The specific roles in this unit were elucidated. The researcher had to reckon with the political economy of the household, for example, the power positions and land rights within the household.

### **5.1.3 Data Collection Methods**

In order to minimize the risk of erroneous conclusions, three methods were used in collecting data for this study. These included individual structured interviews, focused group discussions and in-depth case studies.

#### **5.1.3.1 Structured Interviews**

The main method used in collecting the primary data was that of structured interviews, with the research instruments consisting of a set of 65 open-ended and closed-ended questions (Appendix 1). The closed ended questions were generally simple and possible alternative answers were listed for a quick check. Open-ended questions, on the other hand, were used for questions that needed probing by the researcher and more explanation from the respondent. The questionnaire was administered with the help of research assistants. Data was collected on the status of land tenure reform and women's ownership of land, their land rights, decision-making power over the use of land, division of labour and benefits achieved from the reform. The statistical data in this study were generated from the structured interviews.

### **5.1.3.2 Focused Group Discussions**

Focused group discussions were an important technique and were used to further clarify information that may not have been adequately addressed in the structured questionnaire. A total of eight groups, two from each of the four sub-locations of study, were selected to participate in the discussions. Criteria for selection were based on the following: the respondent had been previously involved in the structured interview, willingness and interest to give information in the first interview, a certain level of awareness on land issues in the area and being a leader within the community in a women=s church group. Each group consisted of 12 to 18 respondents. The group interviews proceeded on the basis of a question guide which had been earlier drawn to enable relevant discussions to take place (Appendix 2). The discussions focused on the general overview of land issues and women?s land rights in the community.

Focused group discussion was found to be an appropriate method since the women in Mumbuni are already active in a number of economic, cultural and administrative groups. The collective focus was important as it made women more visible given their views on land and created a greater scope of linking research to action.

### **5.1.3.3 Observation**

Rather than relying on interviews alone as the basic source of data, the researcher employed non- participant and participant observation methods to get more information on women's

land rights in Mumbuni. In the non-participant observation method the researcher was not directly involved with the situation to be observed but was on the outside looking in on the **situation** without directly being involved or interacting with the object of observation. In the participation observation, the researcher became part of the situation without telling the subject of observation. Participants and non-participant observation was used to collect data on household dynamics and agricultural activities, land use. labour activities by women and men, as well as the size, distance and fertility of cash and food crop farms

#### **5.1.3.4 Case Studies**

During the structured interviews, the researcher identified special cases of women farmers who own land title deeds or have land registered in their own names and those who have no access to family land (the landless) but use other peoples lands to produce food. A total of 37 women were identified and later interviewed in-depth. Their life stories were recorded to find out how they got into their present situations as owners of land or landless women.

#### **5.1.4 Data Analysis**

The researcher used quantitative and qualitative techniques of data analysis. Data obtained by structured questionnaires were coded and quantitatively analysed in the computer using the Statistical Package for Social Science (SPSS) and then presented in the form of frequency tables and percentages. On the other hand, the focused-group discussions, observations and case studies were subjected to qualitative and descriptive analysis.

## **5.2 Problems Encountered in the Field**

Several problems were encountered during field work and these included:

### **5.2.1 Financial Limitation**

Field work was found to be very expensive and the researcher had to personally meet all costs, including engaging research assistants, providing for transport throughout the period and accommodation. The researcher was able to take care of these problems by working with a manageable sample size of 220 respondents and extending the research period to over 9 months. Data collection was divided into three stages: Structured interviews were conducted first, followed by focused group discussions and, finally, in-depth case studies.

### **5.2.2 Language Barrier**

The researcher could not communicate in the language of the respondents (Kikamba) and this might have led to loss of some important information. As a result of language barrier, the researcher had to use research assistants to administer the questionnaire to the respondents. Information which the researcher felt was not well captured in the structured interview was later re-introduced during focused group discussions and in-depth case study interviews.

### **5.2.3 Transport and Weather Conditions**

The study location is characterised by hilly topography, especially Misakwani Sub-Location, and so the researcher and the assistants had to walk most of the area on foot due to lack of transport. Since most of the study was conducted during the rainy season, we had to bear with

and muddy routes. This resulted in the team taking a longer time to reach all the  
ents.

## CHAPTER SIX

### THE IMPACT OF LAND TENURE REFORM ON WOMEN'S LAND OWNERSHIP AND LAND RIGHTS

#### 6.1 Introduction

In this chapter we address the first hypothesis in this study, namely, that adjudication and **registration** discriminate against women in land titling by registering only men's name as owners of family land. The chapter, therefore, examines the impact of land tenure reform on women's rights in ownership of land, the number of women who own land and factors which hinder women from owning land. Next, an analysis is given of women's inheritance rights, use rights, allocation rights and rights to lease, mortgage, and transfer or sale land. In the last section, conclusions derived from the findings on the negative impact of land tenure reform on women's land ownership and land rights are presented.

However, before presenting the data, it is important to re-clarify certain concepts already explained in chapter 2, which define rights in land as claims that are legally and socially recognised. In this context, rights in land refers to the form of ownership or of usufruct (rights to use). These land rights are acquired in several ways, either through inheritance, by being a member of a family or community, land distribution by the state or through purchase.

This study examined the source of individual rights to land and whether they are social or legal,

and whether the rights are temporary, permanent or conditional. Distinctions have also been made between ownership rights in land and access rights to land. For example, it is noted that there are several possible ways by which a woman may, in theory, have access rights to land without having ownership rights to the land. Indeed, access to land can be through rights of ownership and use, but it can also be through informal concessions out of goodwill granted by individuals to kin or friends. The individual who accesses land through such informal concessions cannot claim ownership rights to the land (Agarwal, 1994:19).

Further, three additional relevant distinctions are taken into consideration. The first distinction is made between legal recognition of land rights and its social recognition and enforcement. For instance, a woman may have the legal right to inherit property, but this may remain merely a right on paper if the law not enforced, or if the claim is not enforced, or if the claim is not socially recognised as legitimate and family members exert pressure on the woman to forfeit the share in favour of, say her brothers-in-law. Second, an attempt is made to distinguish between the ownership of land and its effective control, whereby the individual has the ability to decide how the land is used; whether she can dispose of it, lease it out, mortgage it, bequeath it, sell it, and so on. It is sometimes assumed incorrectly that legal ownership maybe accompanied by legal restrictions on disposal. For instance, where there maybe non-legal restriction on disposal but social constraints on doing so, the sale of ancestral land to strangers is often socially disapproved by kin and the village community. Finally, a distinction is made between ownership and use rights vested in individuals and those vested in a group.



**Although** land rights can take different possible forms (ownership or usufruct, as vested in individuals or in groups, and so in), it is not always obvious in advance which may be superior: Much depends on the accompanying organisation of production and distribution. Hence, for instance, in terms of fulfilling the individual's consumption needs, community ownership by a clan where all members irrespective of rank or sex have equal use rights, cannot be designated as inferior by a system where each member privately owns a plot (Agarwal, 1994:20). Similarly, legal ownership of land without effective control over its use and the disposal of its produce need not leave a person better off than if she had control without legal ownership. This makes it not possible to specify with precision for all contexts what maybe the most desirable form of women's rights in land should take. Nevertheless, whenever speaking of the importance of women having rights in land, it will mean effective rights, that is, rights not just in law but in practice. This will be emphasised since the popular tendency is to equate property rights only with legal rights.

This chapter examines some of the major issues regarding women's land rights within the framework of land tenure reform given the above stated complexities.

## **6.2 The Status of Land Tenure Reform in Mumbuni Location**

It was first deemed necessary to establish the status of land tenure reform in Mumbuni Location. Questions were asked on whether the respondent's family land had been adjudicated, consolidated or registered. Table 6.1 shows that 56.8 per cent of the respondents had their lands registered,

while 37.7 per cent had their lands already adjudicated but not registered. Despite this knowledge of the status of family land, 88.8 per cent of the women whose family lands had been adjudicated and 90.1 percent whose family land had been registered could neither tell (did not know) the adjudicated or the registration numbers as these documents were not in their custody.

**Table 6.1: Status of Land Tenure Reform in Mumbuni Location**

<b>Status of Land</b>	<b>Number</b>	<b>Percentage</b>
Land adjudication	83	37.7
Registered land	125	56.8
Do not know	11	5.0
Others	1	0.5
<b>Total</b>	<b>220</b>	<b>100.0</b>

Further inquiry as to which member of the family was involved or consulted during land adjudication, consolidation and registration revealed that women are generally not involved in the processes leading to land tenure reform. Table 6.2 indicates that out of 220 respondents, only 6.8 percent, 0 percent and 7.3 percent of the women were involved in land adjudication, consolidation and registration, respectively. Fathers-in-law and husbands have the highest score in terms of involvement during land adjudication and registration. Women, in their status as daughters, are completely left out of this process, while mothers-in-law only get involved together with their sons. It is also evident from the findings that those consulted and are involved in the process leading to the land tenure reform are the male members of the family,

that is, fathers- in- law, husbands and sons, while the female members of the family (wives, daughters and mothers -in- law) do not generally participate in the process.

**Table 6.2: Family Members Consulted/Involved in the Land Tenure Process**

L. T. Process		Self	Hus/Mil	Hus.	Son	Fil	Other	N/A	Totals
Adjudication	No.	15	18	52	2	87	29	17	220
	%	6.8	8.2	23.7	0.9	39.5	13.2	7.7	100.0
Consolidation	No.	0	1	2	0	2	0	215	220
	%	0	0.5	0.9	0	0.9	0	97.7	100
Registration	No	16	18	46	10	64	26	40	220
	%	7.3	8.2	21.0	4.5	29.1	11.9	18.2	100.0

Key

**Hus - HusbandMil- Mother-in-law**

**Fil - Father- in - lawN.A- Not applicable**

The respondents reported that during the land tenure process, more often than not, conflicts arise between members of the family and between clans regarding land boundaries and rights of ownership. Such conflicts are solved by clan elders and chiefs. In Mumbuni, women are never made clan elders and rarely do they become chiefs. This means that women are not represented in the structures, which solve conflicts during the process leading to land registration. Since women are generally neither consulted nor involved during land adjudication and registration, their interests and concerns as members of the family are not represented during the whole

process leading to the registration of land.

### **6.3 Land Ownership by Women**

One of the major concerns in this study was to find out whether land tenure reform has enhanced women's acquisition of land. One of the justifications of individualization of land tenure is that it enables any person to acquire land, thereby creating equality between the sexes. It was, therefore, important to determine straight away which of the women owned the land they farmed. The answer to this question could only be obtained through further inquiry, particularly in cases where registration of land titles has not been carried out. A number of women when asked whether they owned land, agreed they did, while further investigation revealed that some of the women referred to their usufruct social rights and not legal ownership rights. Because of the ambiguity of the term 'ownership', as already mentioned in the introduction to this chapter, the question put to the respondent was, "In whose name is the land registered?"

Table 6.3 indicates that out of the total sample of 220, only 40, a mere 12.3 percent of women (self and mother-in law) in Mumbuni owned land. The table further indicates that most of the land women use for their farming is either owned by the husband or parents-in-law. Thirty seven percent of the land women farm was registered in the names of their husbands while 34.5 percent was registered under the names of father- and mother-in- law. The whole sample had only one respondent whose land was registered jointly with the husband. It is important to note

that there was no land registered in the name of a daughter.

**Table 6.3: Land Ownership by Women**

<b>Registered Name</b>	<b>Number</b>	<b>Percentage</b>
Self	26	11.8
Husband	82	37.7
Son	1	0.5
Father-in-law	76	34.5
Self/Husband	1	0.5
Mother-in-law	14	0.5
Other	19	6.5
<b>Total</b>	<b>220</b>	<b>100.0</b>

The survey results given in Table 6.3 indicate that despite registration of family land in the individual male heads' name, women by and large do not own the land they farm, although they were found to still have access rights to land which existed under customary law.

>

#### **6 4 Factors Hindering Women From Owning Land**

**Despite** land tenure laws in the post - independence period that allow women regardless of marital **status** to own land, very few women in fact own land. In - depth interviews revealed that the possibilities of women acquiring land other than through inheritance are usually small. The respondents stated that it was only in rare cases that women received gifts of small plots from **husbands**. Theoretically, it is assumed that tenure reform gives equal chances to both women and men to buy land from their own resources. However, several barriers restrict women from acquiring land in their own names. Where women are theoretically in a position to buy land, their limited cash income, and their restricted employment opportunities outside the home make land purchase **unaffordable** for most rural women. The link between land title deeds and institutional credit proves that losing rights to land goes a long way in losing access to loans women might have. This is because since they cannot use land as collateral, which most banks require. Women cannot access these loans. Women's lack of title deeds, therefore, influences their ability to purchase land through bank loans.

It is also important to note that rural women's relationship with the outside world outside the family is typically mediated through male relatives: fathers, husbands, brothers or male extended kin. This especially affects women<sup>7</sup>'s access to economic institutions like banks, markets and judicial and administrative bodies which deal with land. The physical and social restrictions are explicit and subtle, but nevertheless effectively restrict women if they wish to undertake land transactions independent of their marital homes or access information on the laws which is a crucial prerequisite for exercising their legal rights. The judicial and land administrative officials are usually men and the fact that women need male mediation reduces their ability to act as

independent agents in relationship to their legal rights. At the same time, this very dependency on male relatives also leaves a woman especially vulnerable to being duped by the male mediators when they are interested parties. Since women are represented by their male kin in most dealings with non-kin sector of society, particularly government sector, women do not have the opportunity to speak for themselves and make viable land claims when they are aware of them.

Mumbuni women still enjoy access rights to family land for agricultural production and, because of this, many see no reason in purchasing extra land. This is perhaps an indication that the implications of individualized tenure have not been fully understood by the majority of women since they still perform their agricultural activities within the customary tenure system which safeguarded them.

In focus group discussions with different members of the community (elders, youth, government officials, both women and men) on whether women are now acquiring land more as compared to the past, it was revealed that women rarely acquire land in their own names. Married women also confirmed that they would not buy land in their own names even if they had the money to do so, as their husbands would not allow it. There was a general consensus among those who participated in the focus group discussions that women who claim that they own land were mostly widows. Few women buy land in their own names even when they have the money to do so. Further inquiries revealed that those who claim to own land do so in trust of their sons. Once the sons become adults, they take over the land. Generally, widows continue to cultivate their husbands' land without legally transferring the land titles into their own names with an exception

>

of a few of them (mothers-in-law) who had land registered in their names.

**Our** observations would suggest that gender ideology can restrict women from acquiring land. For instance, ideological assumptions about women's needs, work, roles, capabilities and so on, impinges on the framing and implementation of public policies and laws relating to property. Again ideas of gender underlie practices such control of women's mobility and associated practices and restrict women's ability both to exercise, claim or challenge gender inequalities in law, policy and practice. Hence the ideological struggle is linked to women's struggles over property rights. How property ownership or control in the community is socially distributed can significantly affect women's ability or the courage to acquire their own land within the communities they live. Those who own and control land in the community can exercise considerable direct control over the principal institutions that shape ideology which can either be gender progressive or retrogressive.

## **6.5 Women's Rights in Land**

### **6.5.1 Rights of Inheritance**

Questions were asked on land inheritance rights of daughters and sons under customary law. It was found that under customary law daughters generally do not have inheritance rights to family land. Eighty-nine percent of the respondents hoped that their daughters would marry and so use the land belonging to the family of their husbands. It is assumed that women always get married, and that their husbands always give them land when they need it. However, the in-depth case



studies presented in eight seven show that these assumptions are utterly false. An unmarried woman only has limited user rights in the family where she was born. A total of 93.6% reported that sons are heirs to the home and, therefore, enjoyed full inheritance rights to family land.

Table 6.4 presents responses given regarding the inheritance rights of daughters. Forty-nine percent (49.1%) responded that daughters do not have rights to family land if married while 37.7 percent stated that unmarried daughters could only be allowed to grow crops on family land but not to inherit the land. 4.5% said unmarried daughters had rights to inherit 4.1% said that daughters had equal rights as sons to inherit land, 1.4% responded that daughters can be given a small piece of land to inherit while 0.9% stated that a daughter can inherit land if she is the only child in the family.

**Table 6.4: Inheritance Rights of Daughters**

<b>Rights of Daughters</b>	<b>Number</b>	<b>Percentage</b>
No rights if married	108	49.1
Rights if unmarried	10	4.5
All have rights	9	4.1
Can be given a piece	3	1.4
Can only grow crops	83	37.7
If she is the only child	2	0.9
Not applicable	5	2.3
<b>Total</b>	<b>220</b>	<b>100</b>

**Questions** were also asked to find out whether the land tenure system has transformed the customary inheritance rights which generally left women out and whether it is the sons or daughters who would inherit the family's land title deeds. Basically, even under the land tenure reform, sons and not daughters are still inheriting land. As indicated in Table 6. 5, 63.6 percent of the respondents said that their sons would inherit the family land as compared to only 3.2 percent who said daughters would inherit it. Mothers-in-law (widows) fall in the category of ,3.6 percent which is indicated as others. This is further confirmation of the fact that basically women still do not inherit titled land as daughters and few do so in other capacities.

**Table 6.5 : Who Inherits Land Title Deeds?**

<b>Heirs of Land</b>	<b>Number</b>	<b>Percentage</b>
Daughters	7	3.2
Sons	140	63.6
Sons/daughters	63	28.6
Others	8	3.6
Not applicable	2	0.9
<b>Total</b>	<b>220</b>	<b>100</b>

In-depth interviews and focused group discussions revealed that women usually inherit land

**under** very restrictive conditions. For example, daughters enjoy little social legitimacy and the likelihood of daughters inheriting land is only where families have no sons. Cases of daughters inheriting land directly and unconditionally from parents were found to be rare. Generally, it was reported that there is still widespread resistance to the idea of daughters getting shares in the titled land. Furthermore, it was also reported that the chances of daughters inheriting land in families where there are sons were bound to be very low.

In focused group discussions, it was found that widows enjoy somewhat greater social legitimacy, as it is perceived that they have to share in the deceased husband's land.

Nevertheless, in practice many of the widows who are eligible to inherit do not and those who inherit do so in severely restricted terms. The nature of rights that a widow enjoys in her husband's land are, in practice, contingent on a variety of factors, such as whether or not she remains single and chaste, whether she has minor sons and whether the deceased husband had been allocated a separate land from the joint family land before his death. A widow usually loses her rights if she re-marries, leaves her husband's village on his death, if she only has a daughter or is childless. A woman with minor sons is allowed to use the husband's land as a trustee on behalf of her sons till they grow to adulthood, after which she is expected to live with one of them. On achieving adulthood, the sons are partitioned the land during their mother's lifetime, and a little portion left for her but not for her independent use.

Focused group discussions also revealed that a widow whose husband has not separated from the joint family land before death, is likely to only be given use rights as part of his share

without her name being entered into the registration records. Usually, widows continue to cultivate small portions which are still in the names of their fathers-in-law. If the husband before his death had apportioned his land from the common family land, a widow with sons is more likely to be able to get a formal registration of her rights in her husband's land, but usually this is done jointly with the sons.

Having land in her name does not, however, mean that the widow is allowed full control over it, to use, mortgage, sell, or will, as she wants. In this study, the popular perception among the villagers was found to be that land inherited by widows was meant for her maintenance rather than for her independent control, use or transfer. Nevertheless, formal registration is a step forward in establishing a woman's legal claim. It is, however, important to point out that land in the hands of widows tends to pass to male heirs in the next generations.

Women, as wives, were found not to have inheritance rights to the land of the family where they are married. In other capacities, other than as daughters and widows, women virtually never inherit land.

### **6.5.2 Use Rights**

These investigations also revealed that women farm land that has been inherited. For a son to inherit land from his father, the land has to be sub-divided for each son and his family. This sub-division of land already adjudicated and registered is most of the time never recorded with the land registry. Thus, sons and their wives continue to live and use the land which is not

letially registered as theirs. Registration by itself is, therefore, not a conclusive indication of what is actually taking place on the ground.

The freedom to decide how to manage and use the land was found to be crucial since it is bound to influence, among other things, exercising control over the distribution of produce from the land. Questions were, therefore, asked to find out what rights daughters, sons and wives have over the land they use.

Under customary law, daughters are not allocated land for their own personal use. A daughter uses land allocated to her mother to help produce food for the family until such time that she gets married. Thus, daughters' right to use land is limited only for the purposes of food cultivation. On the other hand, sons have full use rights of land allocated to them, although they do not have the right to dispose of the land until a separate portion is allocated to them. As shown in Table 6.6, 62.3% of the respondents stated that sons had full use rights to family land while daughters were reported not to have such rights. Forty- four percent reported that daughters only have cultivation rights while 17.3 percent said that sons could use family land freely.

Women as wives were found to have rights restricted only to the cultivation of food crops.

**Table 6.6: Daughters'/Sons' Rights Over Use Of Land**

	<b>Daughters</b>		<b>Sons</b>	
	No.	%	No.	%
Full rights	0	0	137	62.3
No rights	57	25.9	0	0
Cultivation only	98	44.5	34	15.5
Dispose if owned	2	0.9	11	5.0
Can do anything	10	4.5	38	17.3
Not applicable	9	4.1	0	0
<b>Total</b>	<b>220</b>	<b>100</b>	<b>220</b>	<b>100</b>

Table 6.7 shows that 78.6 percent reported that their customary land use rights was only limited to cultivation, 15 percent enjoyed certain rights through their husbands, 2.3 percent did not have rights at all while only 1.4 percent had full rights because they owned the land.

**Table 6.7 : Land Use Rights for Women (Wives)**

<b>Use Rights</b>	<b>Number</b>	<b>Percentage</b>
Cultivation	173	78.6
No Rights	5	2.3
Through Husband	33	15
Owns the land	3	1.4
Not applicable	6	2.7
<b>Total</b>	<b>220</b>	<b>100.0</b>

### **6.5.3 Privatization of Communal Land**

In focused group discussions, it was found that the introduction of cash crops (coffee and orchards) is eroding the communal pattern of land ownership. It was confirmed through group discussions that privatization of community lands into individual hands is taking place. Land which once belonged to the community is being taken up by politically powerful people. The land gets registered in their individual names and titles given to them henceforth, they have the rights of free disposal.

It was also noted that the privatization of community lands and registration are typically being granted in male names. Although in land registration records it is not differentiated whether the land was originally communal or family owned or gender of the grantees, focused group discussions revealed that a bias of giving out communal land titles is in favour of males.

Increasingly, land scarcity, development of the cash economy and the tendency of parents to give land to their sons and not to their daughters, is likely to erode women's land rights in the **community**.

#### **6.5.4 Rights of Land Allocation**

This study also examined how the respondent using the land came to possess it or who allocated land to the user. Women come to possess the land they use through their relatives-in-law. About eighty six percent (85.9%) of the respondents reported that the land they use had been allocated to them by their fathers/mothers-in-law or husbands. Questions asked to find out who allocates a wife land once family land has been registered with a title deed, revealed that wives are allocated land for use by their relatives-in-law. Table 6.8 shows that 91 percent of the family members allocating titled land to wives are fathers-in-law, mothers-in-law or husbands.

This allotment to wives or to children has been termed as allotment to the usufruct alone and creates no title in formal law. This shows that women's access to land is largely dependent upon their relationship to men and on their marital status. Thus, women as wives have access to some land while unmarried women are prohibited from inheriting family land. When a woman only has use rights to land, her effective ability to demand that the relevant male authority fulfils his customary duty to provide land for maintenance, is necessarily diminishing as land becomes a marketable commodity (Jones, 1981:201).



**Table 6.8: Who Allocates Wife Land with Title Deed?**

<b>Allocator</b>	<b>Number</b>	<b>Percentage</b>
<b>Father/Mother-in-law</b>	100	54.5
<b>Father/Mother- in- law/Husband</b>	34	15.5
<b>Husband</b>	66	30.0
Owner	10	4.5
<b>Government</b>	1	0.5
Not applicable	9	4.1
<b>Total</b>	<b>220</b>	<b>100.0</b>

Although women in Mumbuni do access land through being allocated, they have no similar rights to allocate land. Determining rights of allocation in this study was important since this influences both the types of land and the types of crops grown. If a woman has no rights to allocate the land she farms, then her agricultural production priorities are subordinated to those with such rights, depending on what the person with the right wants to use the land for. It is important to note here that gender relations, indeed, attest not only to access to land, but also to the conditions under which women are able to use land. This relationship was found to have direct impact on agricultural production. This impact will be discussed in chapter seven.

#### **6.5.5 Duration of Land Allocated to Women**

On duration of land use, questions were asked on whether the land being used can be re-allocated for other use by the actual owner of the land - the husband. Out of the 220

>

respondents, 19 had actually experienced their lands being re-allocated while 200 had not experienced such re-allocation. In the traditional tenure system, once land was allocated to a wife, this remained so for life and could not be re-allocated. From the focus group discussions, it was reported that re-allocation of family land is already taking place. Reasons for re-allocation were given as: sale of land, for cash crop production, exchange as gifts to return favours received by owner of land, giving to co-wife and leasing for money

#### **6.5.6 Women's Rights to Lease, Mortgage, Transfer or Sell**

Ownership of land by women, as already discussed in this chapter, is only half the story. The other equally significant aspect was to find out the gap between ownership and control under the land tenure system. This issue becomes important to address because of the potential differences in the rights that ownership may confer on women and men. The issue of control has many dimensions, the four principal ones being women's ability to take decisions regarding the disposal of the land through sale, mortgage, gift or lease. Each of these dimensions of control were found to be important if women are to benefit from their land, and their advantage would be greatest if they have control of all the four ways.

As indicated in Table 6.9, 58.5 percent of the females and only 12.7 percent of the males cannot dispose of land while 70 percent indicated that men can dispose of land. The table further indicates that both women and men can equally give land to their children.

>

**Table 6.9 : Rights to Dispose of Land by Females/Males**

<b>Rights of Disposal</b>	<b>Females</b>		<b>Males</b>	
	No.	%	No.	%
To give to my child	34	15.5	32	14.5
Not at all	129	58.5	28	12.7
Yes/if allocated	35	15.9	0	0
<b>Can dispose</b>	0	0	154	70
<b>Not applicable</b>	22	10	6	2.7
<b>Total</b>	<b>220</b>	<b>100</b>	<b>220</b>	<b>100</b>

Note: This information was obtained from women only

From Table 6.10, we can deduce that generally women have no rights other than usufruct to the land they use. Ninety- four percent, 90 percent, 87.3 percent, 79.5 percent and 72.7 percent had no power to raise loans, make permanent improvement on family land, sell, rent or give out land, respectively. For men, therefore, ownership tends to imply full control over the family land. It was also found that limitations on women's land rights are both legal and social. Women whose land title deeds are in their names said that they are not free to dispose of their land as they wish. Disposal of any land she owns requires the permission of her husband or, if widowed, that of her adult sons. Male kin were also reported to intimidate women against bequeathing their land as they wished.

**Table 6.10: Women's Rights to Lease, Mortgage, Sell, and Gift Land**

<b>Rights</b>	<b>Response</b>			<b>Total</b>
	<b>Yes</b>	<b>No</b>	<b>N/A</b>	
To raise loan	3(1.4%)	207(94.1%)	10(4.5%)	220(100%)
To rent	27(12.3)	175(79.5%)	18(8.2%)	220(100%)
To sell	7(3.2%)	192(87.3%)	11(5.0%)	220(100%)
To gift	46(20.9)	160(72.7%)	14(6.4%)	220(100%)
Make perm. Improvement	198(90%)	13(5.6%)	9(4.1 %)	220( 100%)

Thus, the right to alienate land has an important aspect of control. The freedom to mortgage or sell the land can prove critical in an economic crisis and important even in non-crisis situations where land may be needed as collateral for loans. This right also gives the owner extra leverage and a stronger fall-back position than lifetime usufruct rights. Women in Mumbuni were found to remain disadvantaged under land tenure reform in respect to freedom to decide, manage and use family land.

### **6.6 Implication of the Findings**

The results of this study indicate that land adjudication and registration processes have been conducted on the basis that the power of control in customary law is equivalent to ownership with respect to the male members of society without at the same time imposing obligations towards women on account of their membership in the society in which they marry. Thus, the Kenyan legislation has provided for registration of titles to the land in the name of the 'head of the family'.

with the usual practice of bestowing title deeds or life-long tenancies on male heads of households. In this way, the study concludes that the land tenure reform has not promoted women's legal ownership **and** inheritance rights. Indeed, it has even undermined the women's traditional use right under **customary** land tenure by registering the name of the husband or son on family land. In contrast to past practices, the on-going land adjudication process has over-emphasized the structural points of allocation and inheritance of land at the expense of use rights, which is the area in which women cultivators stand to be most adversely affected by the new scheme.

There appears to be no rationale as to why the new land reform should not provide women, who are the recognized users and, therefore, the major productive element, with legal protection of their user rights or at least partial ownership of land that they have been using. This, in essence, implies that the registered land titles in the names of male members of the family, have both increased control over distribution of land by the men in the family and the dependency of women on their male relatives to access land. This does not necessarily follow that women lose their traditional right to grow crops of their own. They may preserve a customary right to use land belonging to their husbands for growing food for the family, together with their right to sell the surplus of such crops and use the proceeds freely. Be that as it may, the position of women has changed from that of an independent cultivator with her own traditionally recognised farming rights, to a person who is farming land belonging to another person. Moreover, this position may be no more than a transitional step to the stage where women are unpaid helpers in the production of the crops belonging to their husbands (Boserup, 1970:60).

**Nevertheless**, given acquisition of land through buying, we feel that individualization of land is bound to create new rights for particular women, for example, daughters and single mothers, who did not **have** such rights under the customary system. Nonetheless, these new rights will probably give privileges to those women with good jobs and good salaries, at the expense of those who are poor. The latter form the majority of women who continue to depend on land for their livelihood.

The argument advanced for introducing individualised titles was that this would ensure rapid development as individuals could then raise loans for agricultural development against the security of their titles (Ingham 1950; Republic of Kenya 1974). However, the link between land tenure and institutional credit in Kenya proves that losing rights to land is closely associated with losing access to loans women might have since the state-owned Agricultural Finance Corporation and the country's three major commercial banks, Standard Chartered Bank of Kenya Ltd., Barclays Bank of Kenya Ltd. and Kenya Commercial Bank Ltd., all require collateral which they normally take in the form of land titles for agricultural credit (Shipton, 1987:42). Since it is men who hold titles, it is they who can get loans, although women can still use their husbands' titles; but this was found not to be a common practice. Women's lack of access to credit influences their ability to assure household food security. Women are, therefore, constrained from undertaking innovations as a result of their limited funds. In this study, women reported lack of cash as the main reason why they could not purchase land and farm inputs such as fertilizers and improved seeds. Women's ability to undertake viable economic activities is also hampered by lack of credit (Nadine, 1989:23).

On the other hand, registering land titles in individual male names also implies that the man has a

**theoretical** and practical legal right to dispose of the land by sale or any other means without **necessary** recourse to the elders in the family who would ordinarily have the power to veto in matters of **alienation** of land by individuals. Husbands are already using the newly acquired private land titles to seek loans, and when they get the loans, they need to develop the land more, usually by devoting more land to cash crops in order to earn enough to pay back the loan. In the process, women may lose part of the land they had for food crops without gaining access to money from cash crops. In focused group discussions, women stated that a bigger part of **family** lands has been converted to cash crop production and land scarcity in the area has become a reality. If this is true for most arable land in Kenya, then women's obligation to produce food for their families is at risk.

In addition, when husbands, fathers or brothers mortgage their land for credit, then the rights of related women (wives, daughters and sisters) who use the same land are at risk. Writing on the same issue, Shipton has made the following observation:

Husbands are using their newly private titles to seek loans over which they will have full personal control. Particularly vulnerable therefore, are the few whose husbands or fathers are able to mortgage their land for credit for these women may have little say in how the loan resources are used, and they are bound to be quite powerless to stop expropriation in the event of default (Shipton, 1987:42).

This study noted that there are widows with land in their own names even though they only inherit as legal custodians on behalf of their sons. The limited control in land, although not equivalent to full property rights granted for men under titled land, is of significance since it gives her the right to produce from the land and can be a source of economic security. The fact that the widow has a title deed in her name will also restrict the deceased husband's relative from interfering with that piece of

land, at least for the duration of the woman's lifetime.

**It is** also important to note that widespread disinheritance of women as daughters is a critical gender **disadvantage** which cannot be made up even if women's rights as widows are fully recognised. Once **disinherited** as daughters, most rural women for the major part of their lives would have no land of their own. This places women in a significantly weaker bargaining position vis-a-vis men, both within and outside the family.

A woman in a situation of divorce can be extremely vulnerable. Since community properties are all being registered under individual male names, divorced rural women are easily being left with little or no economic support. In such context, inheritance of land as a daughter would make a critical difference to her ability to sustain herself and her children.

What this means is that land reform has only served one section of the society, and it has been dominated by male individualised ownership. Together with kinship arbitration in case of conflict, the scarcity of land in general, and the periodical demands for cash, are all likely to increasingly limit women's access to land through outright disposal of such land and of the produce from such land by the individual owners. This new temptation which removes the very security the tenure programme was originally set up to strengthen, has created landlessness for members of the family whose



**interests** are not registered. According to Shipton:

Registration has, indeed, effected a hardening of men's land rights into absolute ownership, and generally to the exclusion of women and their daughters. Under the new system, women are theoretically protected by the land control boards against unreasonable sales and other disposals of land by male relatives, but no one has yet demonstrated how effective this protection is (Shipton, 1987:14).

On the other hand, women's lack of knowledge of the law prevents them from demanding their rights, particularly where cultural factors have reinforced male managerial and financial control over female property.

In this chapter, the conclusion is that although women can currently own land, in practice many are far from being able to achieve such a goal. Loans to purchase land require collateral and few have the necessary property for collateral. In addition, as the population of Kenya continues to grow and the amount of arable land remains constant, the land squeeze becomes a reality and the land market intensifies. Women, because they are often dependent upon husbands and fathers for access to land, are particularly vulnerable. Private property in land has far reaching consequences for women's relationship to land. In order to share equally with men in the benefits of development, women's legal rights in land must be expanded and secured with policy measures that transform the legal rights into reality. We shall now turn to the implications of land tenure reform on women and food production.

## **CHAPTER SEVEN**

### **EFFECTS OF LAND TENURE REFORM ON WOMEN AND FOOD PRODUCTION**

#### **7.1 Introduction**

In this chapter a critical analysis of the effects of land tenure reform on women and their role in food, production is presented. The hypotheses which guided the study are analysed in this chapter are: the introduction of cash crops are meant that males rather than females control decisions related to agricultural production; women farmers perform the bulk of the work in both food and cash crop production but have little control over the allocation of incomes accruing from their labour; and the absence of land titles limits women's access to productive resources such as credit, extension services, training, information, and membership in cooperative societies

#### **7.2 Women's Decision-Making Power Over Agricultural Production**

This section presents the survey results on women's decision-making power related to agricultural production. Questions were asked on women's rights to decide how land is used, how land and crops are allocated, how the products from the land are disposed of and who makes decisions regarding the use of income from both cash and food crops.

### 7.2.1 Land Use

The individuals who use the land in Mumbuni are members of a household, mainly women as wives, husbands, fathers/mothers-in-law, daughters, sons and other relatives. Land is used for growing both

**Table 7.1: Food Crop Growers by Marital Status**

Marital Status		Self	Self/Husband	Self/Children	Self/Others	Total
Married	No.	84	28	36	5	<b>153</b>
	%	54.9	18.3	23.5	3.3	<b>100</b>
Single	No.	4	0	1	1	<b>6</b>
	%	66.6	0	16.7	16.7	<b>100</b>
Divorced	No.	2	0	2	1	<b>5</b>
	%	40.0	0	40.0	20.0	<b>100</b>
Widowed	No	38	0	14	4	<b>56</b>
	%	67.9	0	25.0	7.1	<b>100</b>
<b>Total</b>	<b>No</b>	<b>128</b>	<b>28</b>	<b>53</b>	<b>11</b>	<b>220</b>

food and cash crops. The food crops grown in the area can be categorised into three main groups, namely, cereals (sorghum, millet and maize); tubers (arrow roots, sweet potatoes, English potatoes and cassava); and vegetables/legumes (cabbages, tomatoes, carrots, onions, cow-peas, pumpkins.

pepper and beans).

As shown in Table 7.1 above, the food crops are mainly grown by women. Amongst the category of married women, 55 percent reported that they grow food crops by themselves, 18.3 percent do so with the help of husbands and children, while 23.5 percent reported that they get help from children alone. The higher percentage between help from children and self-compared to self, husband and children, may indicate that married women get more help from children in food production than from husbands. The single, divorced and widowed women mainly grow food by themselves with the help of children and others.

The main cash crop in the area is coffee. Over 70% of the husbands of female farmers interviewed had coffee farms. Being one of the major cash crops in Kenya, coffee brings in substantial amounts of income for those who farm it. Other cash crops include French beans, fruits and onions. About seventy one percent (70.5%) of the respondents reported that they grow coffee, 25.9 percent grow fruits while 3.6 percent grow both coffee and French beans. Further inquiries, however, revealed that there is an apparent distinction between women's crops and men's crops. While cash crop farming, especially coffee, is under the control of men, food crops remain under the domain of women.

This study further reveals that land in Mumbuni is also used for other purposes beyond food and cash crop production such as livestock rearing, poultry keeping, tree planting, construction of buildings and renting (Table 7.2). Eighty five percent of the respondents reported that they used

land for livestock rearing which are in the hands of men and poultry keeping which is done by women.

**Table 7.2: Other Uses of Land**

<b>Uses</b>	<b>Number</b>	<b>Percentage</b>
Livestock rearing	63	28.6
Poultry keeping	34	15.5
Livestock and poultry	89	40.5
Brick -making	2	0.9
Woodlot	26	<b>11.8</b>
Houses/rental	4	1.8
Not applicable	2	0.9
<b>Total</b>	<b>220</b>	<b>100.0</b>

### **6.2.2 Decision-Making Power and Land Use**

This study set out to find who makes decisions regarding where cash crops and food crops are grown, how many hectares of land are allocated to food crops compared to land allocated to cash crops and which crops are given priority in terms of soil fertility, distance from the residential home and size of land. In this regard it was important to establish who actually runs and manages the farm in terms of making sure that labour is available and farm activities are done in time. As shown by Table 7.3, 57.7 percent of the women manage the farms alone as compared to only 17.3

percent of husbands reported to manage the farm. About twenty five percent (24.7%) of the farms were managed by the respondents together with the husbands (18.2%), mothers -in-law (3.2%), daughters (0.9%), and husbands and fathers-in-law of the respondents (1.4%). Women managing the farms together with the husbands accounted for 18.2 percent. These results show that, generally, women are the ones managing the farms in Mumbuni. Nevertheless, incomes from the farms, especially from cash crops, are controlled and distributed by men.

**Table 7. 3: Managers of Family Farms**

<b>Managers</b>	<b>Number</b>	<b>Percentage</b>
Self	127	57.7
Husband	38	17.3
Self/husband	40	18.2
Mother-in-law	7	3.2
Daughter	2	0.9
Husband/father-in-law	3	1.4
Not applicable	3	1.4
<b>Total</b>	<b>220</b>	<b>100.0</b>

One of the main foci of this study was to find out whether women have access to land for food farming. Questions were, therefore, asked to find out whether women have access to family land for food farming. Out of all the cases interviewed, 74 percent reported that they have access to family

land for producing food while 26 percent did not have such access. Those who had no access to family land for growing food either said that all land had been used for growing coffee or that it had been sold. A number of women whose family lands had been sold, rented and used land from neighbours or sold their labour mainly to coffee farmers in order to earn money to buy food to maintain themselves and their families.

Decisions concerning the allocation of land between food and cash crops are of critical importance to food security. It was important, therefore, to find out the amount of land women had access to for their food farming. Table 7.4 shows that 81.7 percent of the women interviewed had access to less than 0.8 hectares of land for food production while 69.4 percent had access to less than 0.4 hectares. Sixty four percent (64.2%) of cash crop farms utilised land holdings of 0.4 hectares and above.

Out of the total sample of 167 cash crop farms, 40 farms were larger than 2 hectares. It is important to mention here that the average size of land per household in Mumbuni is less than 0.8 hectares and the need to use land for cash crop growing is highly in competition with the need to use land for food crops. The study further revealed that the mean hectarage for food crops was 0.2 hectares as compared to 0.88 hectares for cash crops.

**Table 7.4: Size of Land for Food and Cash Crops**

Hectareage		None	Upto 0.1	0.1-0.2	0.24 -0.4	0.4-0.8	0.84-2	Over 2	Total
Food	No	15	50	42	60	27	23	2	<b>219</b>
	%	6.8	22.8	19.2	27.4	12.3	10.5	0.9	<b>100</b>
Cash	No	1	10	34	15	39	28	40	<b>167</b>
	%	0.6	6.0	20.4	9.0	23.4	16.8	24.0	<b>100</b>

Further investigations revealed that these hectares for food farms were usually not in single parcels but were scattered all over the area. Table 7.5 indicates that 60.7 percent of the respondents had three and above parcels of land for food farming. In comparison, 86.5 percent of coffee farms were found to be concentrated between one and two parcels.

/

**Table 7.5: Number of Parcels under Food and Coffee Crops**

Parcels		1	2	3 and above	Total
Food Crops	No.	2	84	133	<b>219</b>
	%	0.9	38.4	60.7	<b>100</b>
Cash Crops	No.	10	147	13	<b>170</b>
	%	5.9	86.5	7.6	<b>100</b>

In-depth interviews and direct observations, revealed that some of the land parcels where women grow food have very low potential, the allocation may also not be permanent and the

>



sizes are so small that they do not constitute viable economic units for the food crops women would like to produce. It was further noted that since women need more money to satisfy some of the family needs, they use some of the limited land allocated to them for food to generate income, for example, making bricks or renting out to neighbours.

The study further found that women's food farms were not only scattered but also far away from residential homes. For example, 90.9 percent of the women interviewed had food farms between 2 and 4 kilometres away from their homes while 2.7% had land over 4 kilometres away from their homes (Table 7.6). Coffee farms, on the other hand, tend to be near the homes and are easily accessible. For example, 73.3 % of the coffee farms were less than one kilometre away from home (Table 7.6).

**Table 7. 6: Distances of Food and Cash Crops from Resident's Home**

Distance (in Kms.)		N.A	Less than 1	1-2	2-4	Over 4	Totals
Food crops	No	2	6	6	199	6	219
	%	0.9	2.7	2.7	90.9	2.7	100
Cash crops	No.	9	118	14	12	8	161
	%	5.6	73.3	8.7	7.5	5.0	100

On the whole, the study revealed that cash crops are given first priority in terms of soil fertility, hectareage and distance when allocating family land. Table 7.7 shows that 82.3 percent, 83.6 percent and 84.5 percent of those interviewed reported that cash crop farms were given first

priority in terms of soil fertility, hectareage and distance, respectively.

**Table 7.7 Decisions on Soil Fertility, Hectarage and Distance by Food and Cash Crops**

<b>Priority/Decisions</b>		<b>Food</b>	<b>Cash</b>	<b>N/A</b>	<b>Total</b>
Soil Fertility	No.	35	181	4	220
	%	15.9	82.3	1.8	100
Hectarage	No	32	184	4	220
	%	14.5	83.6	1.8	100
Distance	No	30	186	4	220
	%	13.6	84.5	1.8	100

In summary, it should be pointed out here that the introduction of coffee as a cash crop in the area has brought about numerous changes in land use. As a result, the male rather than female / producers more often than not control intra-family decisions related to agricultural production. It was found that family land has been divided into two parts: food crop farms and cash crop farms. More land is converted to cash crop production and land scarcity has become a reality, thereby making women's obligation to produce food for their families a difficult undertaking. In effect, these divisions were also found to have brought about changes in the way land is controlled by individual members of the household and how decisions are made on land use. In each farm, it was found that land use organisation is based on the supremacy of the man either as father-in-law, husband or son.

While land tenure in Mumbuni is still used collectively by members of the family, pressure on land resources and on labour time resulting from the introduction of coffee, jeopardises women's use rights to land for food production. Thus, land tenure titles provided in the names of individual male members of the family have the potential for weakening and even eliminating women's customary rights to land by nullifying the corporate kinship rules that have guaranteed women's rights to land. Lack of secure rights to land for women could very well lead to negative impact on the Mumbuni household economy.

If women are the key resource in food farming, then their productivity will depend not only on improving their access to resources such as land, but also how much control they have over these resources. Where the decision of power over household resources is limited or denied, we would expect women farmers to be less efficient than other women and men who have control over productive resources and the power to decide how to use them. For example, lack of control or decision on a resource such as land may lead to the marginalisation of women and adversely affect their productivity in food crops.

### **7.3 Division of Labour and Increased Workload for Women**

The dynamics within the household, for example, roles, responsibilities, decision - making powers and incentives given to different household members, are critical to the issue of food security. If we are to understand the seriousness of women's marginalisation in terms of tenure reform, it is important to understand the domestic economy which relies heavily on the women's labour and their contribution to household subsistence. In Mumbuni. the household

economy has traditionally been oriented towards production of use value. Valid cultural categories organise the allocation of labour within the household; women's labour is allocated to food production, men's to growing cash crops and investment in capital intensive and, often status oriented, activities.

The average household size in Mumbuni is 7 members. It is usually assumed that large families are useful in agricultural households and children will contribute labour. However, it has been observed that the larger the household, the more likely it is to be poor and that the output of an extra child is not equal to his/her consumption (ILO, 1972:10).

A look at the age structure gave an indication of active household members capable of providing farm and household labour. The mean age of the respondents was 43.6 for married, 38.5 for single, 52.6 for divorced/separated and 63.9 for widowed. Out of the total number of the respondents, 153 were married, 6 single, 5 divorced and 56 widowed. Marital status was a significant demographic factor in this study since it determined one's social position regarding land.

In order to assess the increased workload for women, analysis was done on the breakdown of

labour by sex for production of food and cash crops and on other reproductive household activities.

The section looks at the disposition of household labour, the link between the amount of women's labour, the proportion of the total household products and the control of household income in relationship to her labour input.

### **7.3.1 Division of Labour by Sex in Food and Cash Crop Production**

The work of women in food production can best be appreciated if it is placed within the perspectives of the dynamics of all other activities that go on in the household. In addition to being expected to look after the welfare of children, to provide water and fuel, they are also expected to provide food for the family. Viewed in this way, this study took a holistic approach / of all activities going on within the household with the aim of assessing whether land tenure reform has increased the women's labour burden. The implications of this analysis are important given the labour availability for food production.

To determine the nature and extent of the division of labour for both food and cash crops, the respondents were asked to indicate who had performed specific tasks for both crops.

Tables 7.8 gives a picture of the division of labour among household members in food crops

**Table 7.8: Farm Labour Activities on Food Crops During the 1997 Long Rainy Season**

<b>Farm BActivities</b>		<b>Self</b>	<b>Hus.</b>	<b>Lab.</b>	<b>Fem.Chil.</b>	<b>Male Chil.</b>	<b>Others</b>	<b>Total</b>
HoeingNo		140	23	19	16	10	12	220
	%	63.6	10.4	8.6	7.2	4.5	5.4	100
Planting	No	165	15	26	7	5	2	220
	%	75	6.8	11.8	3.2	2.3	0.9	100
Weeding	No	171	6	23	9	7	4	220
	%	78	2.7	10.4	4.1	3.2	1.8	100
Harvesting	No	119	57	21	8	6	15	220
	%	54	26	9.6	3.6	2.7	6.8	100
Transporting /	No	123	17	13	27	30	10	220
	%	56	7.7	5.9	12.2	13.6	4.5	100
Drying No		140	5	15	26	19	15	220
	%	64	2.3	6.8	11.8	8.6	6.8	100

**Key:** Fem.Chil.- Female Children Male Chil. B Male Children Hus.- Husband Lab.-  
Labourers

**Table 7.9: Farm Labour Activities on Cash Crop (Coffee)**

Activities	Self	Hus	Labour	F.Child	M.Child	Others	Total
Manuring	No.	110	35	24	29	15	220
	%	50	16	11	13	7	100
Spraying	No	22	95	51	0	48	220
	%	10	43	23	0	22	100
Pruning	No	68	53	40	40	13	220
	%	31	24	18	18	6	100
Picking	No	97	22	35	59	4	220
	%	44	10	16	27	2	100
Transporting	No	97	24	24	44	15	220
	%	44	11	11	20	7	100
Drying	No	106	9	24	24	33	220
	%	48	4	11	11	15	100

**Key:** F.Child.- Female Children M.Child. B Male Children Hus.- Husband

production. In all the cases recorded, women were found to do more than half of food production work in hoeing (63.6%), planting (75%), weeding (78%), harvesting (54%), transporting (56%), drying, processing and handling for storage (64%). In contrast, husbands were found to contribute minimal labour in food production - 10.4 percent hoeing, 6.8 percent planting, 2.7 percent weeding, 26 percent harvesting, 7.7 percent transporting and 2.3 percent

drying. This implies that women provide almost all the labour in food production, with minimal help from husbands, children and others. It is also important to note that these tasks are carried out for much of the year and require almost daily attention.

Coffee production is a very labour intensive process at all stages. Table 7.9 shows that labour in coffee production was as follows: manuring was 50 percent by self (respondent herself) and 16 percent by husbands; spraying 10 percent by self and 43 percent by husbands; pruning 31 percent by self and 24 percent by husbands; picking 44 percent by self and 10 percent by husbands; transporting 44 percent by self and 11 percent by husbands; and drying 48 percent by self and 4 percent by husbands. These results show that in coffee production, husbands contribute more of their labour in spraying and pruning while women's labour is concentrated on manuring, picking, transporting and drying. It is also worth observing that Tables 7.8 and 7.9 show that women's labour is sometimes subsidised by labourers, much more so in cash crop / activities, and by female and male children. However, the study reveals that labour for both food and cash continues to be the responsibility of women.

It should be pointed out that coffee plays an important role in the lives of the people of Mumbuni. Though the coffee farms are owned and controlled by men, most of women's labour time is spent in their husbands' fields. The study revealed that women attend to different parcels of food and cash crop plots dispersed in different places, an indication of the scarcity and demand for land in the area. Table 7.10 indicates that up to 80 percent of the women interviewed attended up to 4 plots while 22.9 percent attended to over 4 plots. The implication



lor time expenditure just to get to these different pieces of land is obvious. Treks to and from each plot are often arduous and women complain that they are constantly ascending and descending when travelling back and forth from the compound to different plots.

**Table 7.10: Number of Plots Women Attend to**

<b>Number of Plots</b>	<b>Number</b>	<b>Percentage</b>
0-2	93	42.8
3-4	82	37.3
5-6	38	17.3
Over 6	6	2.8
<b>Total</b>	<b>219</b>	<b>100</b>

It was further observed during the survey that the value created by this labour is primarily / directly appropriated and regulated by the husband for the majority of women. Women have to work first on the coffee farms before they can proceed to their food farms. This was found to be a major constraint on women's food production. The unequal gender division of labour tasks and male dominance in resource control further jeopardises the family food supply.

Farming in Mumbuni is dependent on direct human labour with little technological input. Fertilisers and insecticides are used only on cash crops. The only tools women use are long - handled hoes, cutlasses and machetes. The hoes, while efficient at breaking up the hard soil, are cumbersome and heavy. The steep terrain in most parts of Mumbuni increases the labour of

farming. Most farms are on land that ranges from moderate to almost vertical slopes.

### **7.3.2 Division of Labour in Reproductive Domestic Activities**

Since women do not only use their time on farm tasks, it was considered important to take into consideration other major tasks that they perform. The nature of women's work in food production depends upon other factors such as reproductive domestic labour activities, which are fundamental to the survival of farming households. This implies that women's farm activities must be analysed within the context of the dynamics of overall household activities. Some household jobs must be done everyday, for example, cooking, fetching firewood and collecting water or food to be cooked. At the same time, farm work has to be done. It was found that if a woman is not working on the farm, she is working in the house or performing non-agricultural activities. There are many activities women were found to do, some of which only women are socialised to do, and others which cannot be postponed (Table 7:11).

As shown in Table 7.11, shows that women participated more than any member of the household in reproductive domestic activities; 86.3% took care of children, the old and sick , 66.7% fetched water, 76.1% did the cooking, 62.4% fetched firewood, 77.4% did marketing and 68.1% did washing and cleaning. Tasks that were traditionally done by men, such as percent looking after livestock, were also found to be performed by some women. About eighteen (17.8) of the women interviewed looked after their livestock. The contribution of husbands and male children's labour in household activities was found to be minimal. It can also be observed from the table that women are helped in their household tasks mostly by their

### 7.11 Division of Labour by Sex in Reproductive Domestic Activities

Activities	Self	Hus.	Hired Labour	Female Children	Male Children	Others	Total	
Taking Care of								
Children/old/sick	No. 184	0	3	4	0	22	213	
	%	86.3	0	1.4	1.9	0	10.3	100.0
Fetching Water	No.	142	1	15	25	3	27	213
	%	66.7	0.5	7.0	11.7	1.4	12.7	100.0
Cooking	No.	162	1	2	23	3	22	213
	%	76.1	0.5	0.9	10.8	1.4	10.3	100.0
Fetching Firewood	No.	133	12	34	13	6	15	213
	%	62.4	5.6	16.0	6.1	2.8	7.1	100.0
Marketing	No.	166	2	1	26	1	17	213
	%	77.4	0.9	0.5	12.2	0.5	8.0	100.0
Cleaning/Washing	No.		145	4	16	30	12	6
	%	68.1	1.9	7.5	14.1	5.6	2.8	213
Livestock	No.	38	96	32	2	29	16	213
	%	17.8	45.1	15.0	0.9	13.6	7.5	100.00

female children and less so by the male children. For instance, in fetching water, female

children contributed 11.7 percent as compared to 1.4 percent for male children, in cooking 10 percent for female children against 1.4 percent for male children, fetching firewood 6.1 percent for female children and 2.8 percent for male children, while marketing 12.2 percent for female children as compared to 0.5 percent for male children.

Our assumption here is that male children identify with their fathers and, therefore, only perform tasks which are traditionally male tasks, such as taking care of the livestock. The table also shows that all households used hired labour to ease their workload, especially in the fetching of firewood (16%) and taking care of livestock (15%), although this was found not to be possible for most women in poorer households.

The most arduous task that women were found to perform is the preparation of isio or muthokoi, a meal of dry maize and beans or pounded maize, respectively. Sufficient **pounding** for an average family of six members takes up to two hours per meal and not less than three hours to cook. As a consequence, women were found to serve sometimes only one meal a day particularly during high labour demanding times in agricultural work. Fetching water, **which** mainly done by women, was also found to be a time-consuming activity. Water is collected at least four times a day. The distance to the water sources during the dry season can sometimes be up to three kilometres away from home.

Firewood collection was found to be performed mainly by women on a daily basis. The fuel supply, which is dwindling in the area as several forests and bushes have been cleared to give

way for agricultural crops, has made this an arduous task for women. Collection of firewood was found to take a lot of women's time, particularly during wet season, since dry and suitable firewood for burning and cooking has to be searched for in different places. Firewood and charcoal are being sold in local markets and this presents an economic burden for women.

Women were also found to take sole responsibility for childcare and supervision and for daily household chores such as cleaning and washing. Usually, their daughters assisted them. Some of these tasks were found to be performed at the same time. For example, it was observed that women without family help, carried their children to the farms where they performed their agricultural duties as they watched over their children sleep under a shade, tied to their backs or play. Once in a while, a woman has to stop whatever activity she is doing to attend to the child before she can continue with her work.

The daily routine is arduous for women. By 8.00 a.m., the fire is lit, food is cooking and water is heating for bathing. Typically, enough food is prepared to last until the women return from their farms to cook the evening meal. By 8.00 a.m., women leave for their farms and children go to school. Nursing children are carried on their mothers' backs to the fields, often accompanied by a pre-school sibling who cares for the baby at the edge of the field while the mother cultivates. If men do not have steady employment, they work on their coffee farms or travel to markets and nearby villages. It was reported during focused group discussions that men spend most of their time in social relationships, discussing affairs of the compound, villages, the nation and the world.

>

By mid- afternoon the children arrive from school, which is before the time their mothers return from the fields in the late afternoon or at dusk. As soon as the mothers arrive, children are organised to help bring firewood, water, care for young babies and help with meal preparations. Cooking is a time-consuming process that can take two to three hours. A normal day for a woman ends at between 11. 00 p.m. and midnight. The only days which are exceptions to the daily routine described above are Sundays and public holidays. These are typically women's resting days, especially from farm work but not necessarily from household tasks. The household tasks are indeed multifaceted and women were found to show a great deal of flexibility in meeting the demands made on them by virtue of being producers and reproducers.

The results of this study show that labour is a constraint to women farmers as there is a lot of work to be done in the farming household. The women were found to deal with the labour problem either by hiring labourers or by using communal labour. Out of the 220 women interviewed, all reported that they were members of a work group. The use of communal labour is an example of women's survival strategy to deal with the labour problems. A typical communal group was found to consist often to fifteen members that would get together to help each other in times of high labour requirement. Such groups were either formed by kin members, those having a common residence, members of the same church or from the same socio-economic status, often such factors appearing in combination. The communal labourers were found to perform tasks that needed a lot of labour input, such as land preparation, weeding

and harvesting. Their labour is based on a rotational basis, working on each member's land on a number of specific days. Since each member must participate in working on the others' fields in order to get her field worked, it does not represent increase in labour time, though the women reported that they find that working in a group rather than alone increased their productivity. In addition, these efforts may enable a woman to adopt agricultural innovations requiring more labour, and to undertake farming tasks in a timely manner (Clark, 1985:10).

Women also use an occasional communal labour to perform a specific task. These particular groups are usually offered meals in the course of their work. The main reason of using communal labour was given as allowing women time to perform other tasks on the farm or to engage in other cash earning activities.

With landlessness or near-landlessness an increasing problem, however, women are being drawn into low paying casual agricultural labour or off- farm labour as an economic necessity. Most of the women employed as casual labourers are poor and landless (Monsted and Ruinge, 1987). Evidence from tea plantations suggests that the majority of casual labour is made up of destitute women with no access to land of their own (Nadine, 1989:10). As a result of landlessness and scarcity of land in Mumbuni, several women were found to be selling their labour. Out of the study sample of 220 , about 31 percent sold their labour to neighbouring farms in order to supplement their family incomes.

In general, this study shows that women's labour is certainly not in surplus. During peak labour

periods the labour demand on the women is quite high. This is not due to agricultural activities alone, but also to the overall demands on a woman's time as she maintains and manages all aspects of a rural agricultural household. Illness and pregnancies are other factors that add to the already strained labour requirements. The gender-based assignment of different work roles and obligations to men and women is, indeed, seen as one of the bases of women's oppression.

Educational level is an indicator not only of those economically active in agriculture but those knowledgeable in it. It is assumed that those with longer periods of education are more adjustable to new technologies and are able to experiment with new methods of farming compared to those with low educational standards or none at all. This is not to mention that higher educational standards could mean a good wage employment, which can provide money for investment in the farm such as hired labour, and buying of inputs. The average level of education of 79% of the respondents did not exceed 7 years in school. This points to the fact that the high level of illiteracy leaves women in Mumbuni with no option for seeking wage employment outside of agriculture. They are, therefore, more likely to remain in the rural area with farming as the main occupation.

The burden of the female labour is exacerbated by very limited access to labour saving technologies ( Funk, 1987:55). The development, dissemination and adoption of new and appropriate technologies can help alleviate women's time constraints if these technologies are responsive to women's needs and constraints in both agricultural and non-agricultural activities. (Nadine, 1989:21). The availability of technologies to relieve some women's time-consuming



agricultural tasks such as weeding, transplanting and harvesting continue to be lacking. The development of these and other technologies will be critical in increasing women's productivity generally, and their contribution to household food security, in particular.

### **7.3.3 Valuation of Female Labour**

Surveys done in Kenya have shown that rural smallholder families purchase about 50 percent of their food, with a higher proportion in households with less than two hectares (GOK/UNICEF, 1984:124). Since women have the primary responsibility for these food purchases, their ability to earn and control income is an important corollary to their ability to contribute to household food security. Rural women's income is most often derived from household-based activities related to food and beverages, trade, weaving and traditional medicines. For many households headed by women, these are the main sources of income for food, shelter, clothing school fees and medical expenses (Gittinger, 1990:4). The sale of / surplus agricultural produce from their individual plots usually constitutes the main source of income over which they have control. Men tend to control the income and, therefore, the expenditure from the sale of cash crops even in situations where women contribute substantial amounts of labour (World Bank, 1988:57).

Since in Mumbuni women provide the highest labour for both cash and food crops and in reproductive household activities, the next concern was to find out whether women have direct benefits from their labour. Women reported that they do not only need cash to purchase other foods and basic necessities for their families but also to pay for improved production in food

such as buying seeds. The livelihood of families in Mumbuni is derived from a combination of resources from the holding itself (sell of both cash crops and food crops), wage employment contribution from salaries earned by family members and from informal rural enterprises. Off-farm earnings were found to be an important factor in alleviating poverty. An increasing number of women were found to engage in off-farm income generating activities by trading off their labour time between farm work and off-farm work. The striking features are the amount and diversity of off-farm activities such as petty trade, including making handicrafts, and the sale of charcoal/firewood, beer, vegetable, fruits, grains and their labour on other farms. Nevertheless, women's lack of labour time, due to the heavy workload in the unpaid food and cash crop production and lack of control over their labour was identified as a hindrance to investing much labour in off-farm income generating activities.

Calculations were made of women's yearly income earned from activities they undertake. Questions were asked on women's yearly income from off-farm entrepreneurial activities. Out of the 220 respondents, over 50% (135) reported as having off-farm incomes. It was revealed that 47.4 percent were earning upto 5,000 shillings while 18.5 percent were earning between 10,000 and 15,000 shillings (Table 7.12). Nevertheless, these figures should be treated with caution, given the fact that people may not always recall the exact amounts over a period of a year.

**Table 7.12: Women's Yearly Off-Farm Income**

<b>.Income in KSh</b>	<b>Upto 5,000</b>	<b>5,000-10,000</b>	<b>10,000-15,000</b>	<b>Over 15,000</b>	<b>Total</b>
Number	64	40	25	6	135
Percentage	47.4	29.6	18.5	4.5	100

Related to their role as farmers is women's involvement in marketing agricultural produce, particularly at the local markets. As providers of food for the family, the women participated in the market as both buyers and sellers. They sold varying amounts of vegetables from their kitchen gardens, staple food crops from their main fields, as well as non-food crops.

It was important to assess direct amounts of money women receive from the food crops marketed. Out of the 220 respondents, only 111 reported to be selling their food products while 109 did not (see Table 7:13).

Table 7.13 shows that 55.4 percent of the women who sold their food crops earned between Ksh. 300 and 3,000 while 33 percent earned between Ksh. 3,000 and 6,000 per year.

**Table 7.13: Yearly Amounts Received from Marketed Food Crops**

<b>Amount in KSh.</b>	<b>300 - 3000</b>	<b>3000-6000</b>	<b>Over 6000</b>	<b>Total</b>
Number	61	37	13	111
Percentage	55	33.4	11.6	100.0

Questions were asked regarding how money from food crops is used and who makes decisions on its use. It was found that women generally control and take responsibility regarding the use of money from food crops. Table 7.14 shows that 93 respondents (42%) out of the total sample of 220 did not sell their food crops while 47.8 percent of the married women, 62.5 percent of the widowed women, 80 percent of the divorced women and 50 percent of the single women, reported having sold their food crops and had full control of the money from the sales. The money from food sales was further found to be used for general maintenance of the family to

**Table 7.14: Decision on the Use of Money from Food crops By Marital Status**

Status		N.A	Self	Husband	M-in-law	F-in-law	Total
Married	No.	71	73	6	3	0	153
	%	46.4	47.8	3.9	2.0	0	69.5
Single	No.	3	3	0	0	0	6
	%	50.0	50.0	0	0	0	2.7
Divorced	No	1	4	0	0	0	5
	%	20.0	80.0	0	0	0	2.3
Widowed	No.	17	35	0	2	0	56
	%	33.9	62.5	0	3.6	0	25.5
Total	No	93	116	6	5	0	220

buy household provisions, clothe the family, meet hospital bills and pay school fees. Women in the study area were found to have few alternatives for income-generation outside agriculture

which, as the women themselves reported, is restricted by their obligation to provide family labour.

Questions were also asked to find out how the members of the family perceive women's work and how they perceive their work. About ninety - three percent (93.3) reported that their work is perceived as important while 99.1 percent said they themselves perceived their work as important.

Further enquiries were made to find out whether the women felt that they made enough money as compared to the amount of work on the farm. About ninety- seven percent (97.3%) reported that they did not feel that they were making enough money compared to their labour input. On the other hand, 85 percent reported that if they had a chance and a choice, they would use their labour somewhere else for better returns, for example, in businesses such as selling food, running a hotel or keeping poultry or livestock, or being a wage earner.

Questions were also asked to find out the direct sources of income for women and for men.

Information of main sources of income was obtained only from women. Table 7.15 shows that the main sources of income for women in Mumbuni is from the sale of food crops (52%), followed by support from spouses (23%) and children (8.6%). The findings also indicate that hardly any woman gets income from salary, an indication that they are not engaged in wage employment. On the other hand, men get their income mainly from cash crops and salaries.

We also examined the issue of who is paid for coffee, and who takes decisions on how the money from cash crops is used. Table 7.16 indicates that out of the total number of 133 coffee farmers, only 13 of the married women, compared to 71 husbands, received direct payments

**Table 7.15: Main Sources of Income for Women and Men**

Source of Income	Women		Men	
	No.	%	No.	%
Sell of food crops	115	52.3	0	0
Cash crops	4	1.8	119	54
Business	15	6.8	25	11.4
Spouse	51	23	0	0
Children	19	8.6	6	2.7
Salary	1	0.5	59	26.8
Casual labour	15	6.8	11	5.0
<b>Total</b>	<b>220</b>	<b>100</b>	<b>220</b>	<b>100</b>

**Note:** This information was obtained from women only

from coffee. Amongst the widows, 17 received direct coffee payments although it is interesting to note that 30 mothers/fathers - in -law of the widowed women are the ones who received the payments. This may suggest that widowed women have no independent rights to the coffee

farms. It is also important to point out that male dominance leads many men to a relative sense of superiority that precludes them from participating in many agricultural tasks, while benefiting from the coffee payments and consumption of foods produced by women.

**Table 7.16: Coffee Payment By Marital Status**

<b>Status</b>		<b>NA</b>	<b>Self</b>	<b>Hus.</b>	<b>F/M-in-law</b>	<b>Others</b>	<b>Total</b>
Married	No.	44	13	71	4	1	133
	%	28.8	9.8	99.5	3.0	0.7	69.5
Single	No.	2	1	0	0	3	6
	%	33.3	16.7	0	0	50.0	2.7
Divorced	No.	2	1	0	1	1	5
	%	40.0	20.0	0	20.0	20.0	2.3
Widowed /	No.	5	17	0	30	4	56
	%	8.9	30.7	0	55.6	7.2	25.5

**Key:** Hus. - Husband F/M-in-law- Father/Mother -in-law

Married women complained that they saw little of their husbands' income from coffee because

men tend to use the money for their personal expenses. Women do not generally make decisions regarding the use of money from coffee sales.

Table 7.17 shows that out of 220 respondents, only 13 of the married women, compared to 82 husbands, made decisions regarding coffee money. Representation on decision-making on cash among the single, divorced and widowed, was higher than for married women.

**Table 7.17: Decision-Making on Cash Crop Sales By Marital Status**

<b>Marital Status</b>		<b>NA</b>	<b>Self</b>	<b>Hus</b>	<b>M/F-in-law</b>	<b>Totals</b>
Married	No	46	13	82	12	153
	%	30.1	8.5	53.7	7.8	69.5
Single	No.	3	3	0	0	6
	%	50	50	0	0	2.7
Divorced	No.	2	2	0	1	5
	%	40	40	0	20	2.3
Widowed	No.	17	8	0	1	56
	%	30.4	67.9	0	1.8	25.5

These findings suggest that the economic position of women and their access to autonomous income often depends upon their rights to land, the labour they are expected to provide for cash crops, and the level of their control over the returns from any marketed surplus. As can be seen



from these results, the gender relationships upon which women's access to resources depends have been altered as a result of the introduction of cash crops, especially coffee.

In summary, control of the agricultural products is an important consideration in examining women's land rights. Security of tenure is often the key to having control over major decisions such as what crops to grow, what technology to use, what to consume and what to sell. Given women's tendency to grow food as opposed to cash crops and to spend income on family food, security of tenure for women including hierarchical gender relations with regard to decision making must be reviewed as a key link in the chain from household food production and national food security. Thus, economic self-interest plays a significant role in intra-family gender relations which would be revealed with particular starkness in gender conflict over a critical form of property such as land.

/

#### **7.4 Benefits of Land Tenure Reform**

As envisaged by the Swynnerton Plan and the land tenure policy discussed in chapter two, there were to be two benefits of land tenure reform. The first was to make available a unit of land and a system of farming whose production could support a family at a level comparable with other occupations. The second was to provide security of tenure to encourage labour investment and profits, and also the use of title deed as collateral to get credit.

Questions asked to find out whether women have used the land they farm to get credit in general revealed that women have not used land to get credit. In fact, 95.5 percent of the

>

respondents said that they had never used the land to get credit. It is indicated in Table 7:18 that co-operatives and coffee factories provide money, but in reality they only buy for their members inputs- seeds, fertilizers and tools and then deduct the expenses from the payment the farmers receive, after they (factories/co-operatives) have sold the harvest. Generally, the existing credit systems are still inadequate in meeting rural women's needs. Due to credit institutional regulations, they are often unable to receive credit in their own names. Moreover, since they do not hold land title deeds and few have other assets, they cannot provide the collateral required by the lending institutions. Furthermore, little effort has been made to

**Table 7.18: Where Women Get Money For Farm Investment**

	To Buy Seeds		Buy Fert.		Buy Tools	
	No.	%	No.	%	No.	%
N/A	69	31.3	61	27.7	0	0
Husband	15	6.8	9	4.1	7	3.2
Coffee Factory	1	0.5	18	8.2	1	0.5
Children	21	9.6	14	6.3	12	5.5
Food sales	106	48.2	84	38.2	80	81.8
Co-operative	0	0	31	16.1	1	0
Casual Work	8	3.6	6	2.7	7	3.2
Totals	220	100	220	100	220	100

inform them of credit facilities. The minimum size of loans, the purpose for which loans are

available and repayment terms are frequently ill adapted to the farming conditions in which women are engaged. Financial institutions are often reluctant to give small-scale credit when they have little control over the supporting services such as extension and distribution networks for inputs and marketing, as well as pricing policies which most the time is lacking for food crops but which are essential factors in making the loans viable.

In Kenya, women's access to credit remain quite limited, particularly from formal sources of credit such as banks, specialised crop programmes and other financial institutions. It is estimated that rural women borrowers represent no more than 10 percent of all loanees (World Bank 1989). The Agricultural Finance Corporation (AFC) is a major source of lending to the agricultural sector. These credit facilities have been available primarily to large and medium scale farmers who are considered to be less risky and, therefore, entail lower administrative costs on the part of the financial institution. The AFC also requires the title deed or other forms of collateral, a resource that few rural women have (World Bank 1989).

Further enquiries to find out where women get money for farm investments revealed that the money mainly comes from food sales, husbands and children. Table 7.18 indicates that: money for purchasing of seeds mainly came from food sales (48.2%), and from children (9.6%); money for buying fertilisers came from food sales (48.2%); the co-operative (16.1%) and coffee factory (8.2%); while money for buying tools mainly came from food sales (81.8%) with minimum support from other sources. Little support comes from coffee sales and co-operative societies except for the purchase of fertilisers. A significant number of the respondents

reported not having bought seeds (31.3%) while most of them (66.4 %) did not use fertilisers. However, in-depth interviews revealed that some women use on their food farms the remains of fertilisers which are purchased from coffee farms.

Enquiries as to who gets extension information revealed that women are generally not targeted for extension services. About seventy percent (69.9%) reported that the extension information was directed to their spouses compared to 5.5 percent who reported that the information was given to them directly. This study also revealed that extension information is targeted to individual members of the family, mainly the heads of households, as owners of land and less by the fact that the person is available and is involved in farming. Extension contact with women farmers is not in proportion to the contribution women make to the farm production system. ,

**Table 7.19:Who Gets Extension Information**

	<b>Number</b>	<b>Percentage</b>
N/A		23.2
Self	12	5.5
Spouse	147	66.9
Son	3	1.4
Daughter		0.5
Other relatives	6	2.7

Co-operative societies are powerful vehicles, particularly in agricultural work. The societies do not only strive to distribute money accruing to their members equitably but they are also an important instrument in achieving mass participation in national development (ILO 1986:21.)

Co-operative societies play an important role in Mumbuni, particularly as they are locally based and are administered by the local people. They are also the major source of credit that the women in the area are more aware of any other credit giving institutions. This study set out to find whether women are members of co-operative societies, and if not why they are not members. Out of the 220 respondents, only 18 (8.9%) are members of co-operative societies while 202(91.8%) are not members. Reasons given by the respondents as to why they are not members of the co-operatives are: do not own land (64.1), husband is a member (27.2), family commitments (4.5%) and not aware of any (4.1%). Despite these constraints being faced by women in joining co-operatives, they are aware of what they can gain if they were to be members, which they enumerated as including getting loans, fertilisers and bonuses, marketing their food products like is done for coffee and getting technical advice.

## **7.5 Conclusion**

In this chapter we conclude that security of tenure, decision making power and issues of labour and incomes are central to understanding the impact of land tenure reform on food production at the household level. It was found that land tenure reform has not only split the family economy into subsistence and monetary sub-sectors but has also completely transformed the role of women in that economy. The introduction of cash crop farming has, thus, brought about

changes in the traditional system of land use and land controls. Despite the fact that women are involved in tilling the land and growing crops, individualisation of tenure has empowered the men in terms of decisions in land management, thereby depriving the women of the power to decide on land use. Where export oriented crops have been introduced, land traditionally assigned to women for food crop production has been directed to these more profitable crops which are almost always controlled by men. For example, coffee, usually grown by men, was found to take more arable land at the expense of food crops. Much of the food **women** produce was found to come from shrinking and fragmented farmsteads and backyard gardens. As a result, women in Mumbuni have found themselves with tiny scattered pieces of poor land for their food farming without the necessary resources to increase their productivity.

Women's work remains essential to agricultural production. If we are to understand the seriousness of women's marginalization in terms of access to land, it is important to understand / the domestic economy which relies so heavily on women's labour and their contribution to household subsistence. However, with land tenure reform, women's workload has increased substantially. Women are cultivating twice as much land and travelling long distances to farms. This labour is primarily directly appropriated and regulated by the husband for the majority of women since they have to work first on the coffee farms before they can proceed to their food farms. This is a major constraint on women's food production. The unequal gender division of labour tasks and male dominance in resource control further jeopardise the family food supply. The issue of access to land also encompasses the broader question of women's over return from land and from their labour. Legal rights to own and use land will not automatically result in

improvement in women's level of living and in their bargaining position with and outside the household if women have no say over the allocation of their own labour and over the disposition of incomes generated from the land they cultivate. The persistent intra-family gender inequalities in the distribution of resources and differences in returns to labour inputs and expenditure patterns poses a critical link to food security. Women's returns from their labour, therefore, become a very significant issue in relationship to food production and food security.

The main source of income for women in Mumbuni is generally from the sale of food crops while men get their income mainly from coffee sales and salaries. In this new mode of production, women find themselves both subordinated to household income and marginalized. Cash earned from coffee is controlled and distributed by men while food grown on marginal land remains the business of women. It is important to note that women are no longer actors in a purely household economy because they must have cash to maintain their consumption levels in the household. Nonetheless, they are unable to draw incomes from the food crops which directly fall under their control. Since food produced is generally consumed by household members, being primarily produced for subsistence, the average income from the sale of food crops is very minimal. Women's food marketing prospects are further hampered by lack of or little access to formal marketing channels. In addition, they face extra barriers as small farmers in competition with large-scale producers, insufficient working capital, poor storage and lack of transport facilities. All these contribute to high unit costs of marketing, thus reducing their profit margins. Lack of marketing information also decreases their bargaining power. Limited

access to lucrative, more distant markets, mainly due to lack of time, given the heavy workload and double/triple responsibility and, at times, to lack of control over their own incomes forces them to hide their marketing activities. Indeed as rightly reported by some respondents, market opportunities and transport facilities would stimulate women farmers to produce food surpluses and thus augment the household income and contribute to improving the food security situation.

Despite the fact that women provide more labour for both cash and food crops, the overall beneficiaries from the land are the owners of the land, the men. The result is that women's economic status has moved from one of relative self-sufficiency to one of relative dependency (Davison, 1987c: 165). While the women have lost control of the family economy, they are the ones still providing the labour for the sustenance of that economy for both subsistence and commercial agriculture. This has increased economic burdens of women in rural areas (Okoth-Ogendo, 1975:136). Failure to recognise women's economic contribution to the farming systems of the household and whether the women should control the proceeds, has an adverse effect on food production. In turn, this has led to a failure to consider factors affecting women in agriculture, how they are prepared for the tasks they perform, tools and techniques they use and the efficiency of their efforts. Incentives that women may need in food production are critical, if they have to continue in their efforts to feed the nation. Further, land tenure reform has biased all agricultural incentives, credit, co-operative membership and extension services in favour of men. The new land owner has, thus, the ultimate legal authority over land use, and its general utilisation, be it credit acquisition, exchange, lease or sale. Following this, services such as information, marketing and inputs are directed to the man. The male head of the household

>



has been empowered through title deeds to operate as a private entrepreneur, with free labour force (mainly from the wife) and ultimate authority over disposal of produce and income. With access to land, credit, co-operative membership and the extension services biased in favour of men, it is difficult to see how women can improve their food farming.

If tenure is secure, the holder can reasonably expect to use the land to its fullest advantage in order to reap a timely and fair return. Tenure enables the holder to make management decisions on how land-based resources will be used for immediate household needs and long-term sustainable investment. Lack of title to land automatically excludes women from most of the formal rural economy, including decision on land use, membership in co-operatives and credit. Lack of secure land rights further curtails access to other inputs, especially credit, necessary for carrying out productive activities. Without credit, women cannot expand their production, improve crop yields, or join collectives. Limited access to credit and to extension services further erodes the women's capacity to maintain control over their lands.

Another justification for registration of titles was that it would lead to increased production by providing security of tenure, and thereby make it worth a farmer's while to undertake permanent improvements on the land by investment on it (Republic of Kenya 1965b). In the case of a woman farmer who has no titled land of her own but depends on her husband's farm to grow food, lack of security denies her the freedom to make management decisions concerning the farm. While insecurity of tenure is an objective fact, it also affects a woman's investment decisions. Since the 'owner' of the land, usually the husband, has the ultimate legal authority

>

over land use, its use as collateral for credit and disposal of produce and use of income, the practical effect of all these on the wife is that she will not make long term investment in the holding unless she is secure in her expectation of reaping the benefits of her investment.

In order for women farmers, who are responsible for 60-80% of the food production, to use land more efficiently and thereby make a greater contribution to food security, they need access to land based resources, and economic incentives that the security of tenure provides. Control of the product is also an important consideration in examining women's land rights. Security of tenure is often the key to having control over major decisions such as what crop to grow and what technology to use as well as what to consume and what to sell. Given that women grow food and not cash crops and the tendency to spend income on family food, security of tenure for women must be viewed as a key link in the chain from household food production to national food security.

In summary, we conclude that women's access to and control over land, labour and capital has decreased in relation to men's control over such resources as a result of land tenure reform. As food prices rise, it becomes crucial that every household retains its capacity to grow its own food. The weakening of women's access and control over land, as shown in this study, has negative, even ominous, implications for future food production and nutritional levels. Unless the structural constraints, which have been created by land tenure reform, are removed, it is difficult to envisage an equitable growth and improvement of agricultural food production. Such persistent subordinate positions, of women in society are negative towards goals of

agricultural development, which affects all members of society equally, regardless of sex<sup>c</sup>  
creed.

## CHAPTER EIGHT

### CASE STUDIES OF WOMEN'S RIGHTS IN LAND

#### 8.1 Introduction

The quantitative survey for this study which was carried out from November 1996 to April 1997 was conducted to interpret the land tenure reform and its impact on women and food production in Mumbuni. A detailed analysis of the survey on women's land rights in Mumbuni has been presented in chapter six. The survey helped in identifying special cases of landless women and land-owning women from whom in-depth interviews were conducted. The landless women were identified and categorised as members of households, residing in Mumbuni with no land of their own but engaged in agricultural activities on land that has been borrowed, rented, gifted or by simply being a squatter on public land. The landless women are distinct from land owning women and from women who still have access to use rights of family land.

On the other hand, land-owning women are here defined not only as those whose names are registered in the land and hold title deeds, but also those whose claims as owners of land (whether they have title deed or not) are socially recognised as the legitimate owners by the community. A woman landowner by virtue of that ownership has the ability to decide how land is used, how its produce is disposed of, and whether it can be leased, mortgaged,

bequeathed or sold. This is distinct from women who only have use rights as they have no ability to decide on how land is used. Women can own land by inheritance, tenancy arrangements or from purchase. It is recognised however, that usually ownership rights by women are limited particularly if land is inherited from the husband as she will meet with resistance from her male relatives-in-law.

The focus of these interviews revolved around issues of the transformation of customary land tenure systems that affect women's usufruct rights, the experience of different categories of women (i.e., married, widowed, divorced, separated and single) and specific strategies women use to access land. Marital status is a critical factor in determining women's differential access to land. This chapter therefore categorises women by marital status in order to illuminate problems that different women have in obtaining and retaining land.

The case study approach conveys the dynamism of women's land relations, the actual experiences of individual women and the actual structures affecting women under land tenure reform. In-depth interviews were conducted among landless and land-owning women. The case studies are numbered and given fictitious names to protect each woman's identity.

## **8.2 Cases of Landless Women**

### **8.2.1 Cases of Divorced/Separated Women**

Access to land through the husband seems to be fairly secure for married women as long as the marriage is not threatened or dissolved. Once a woman is divorced or separated, she loses access to the land belonging to the husband. Regardless of the reason for separation/divorce,

usually a woman returns to her natal home where she becomes dependent upon her father's land to support herself and her children. Most parents are generally sympathetic towards their divorced daughters and often provide them with some land for temporary use. Testimonies in this study show that brothers, especially, are always reluctant to take care of their divorced sisters for a long period of time or give them permanent rights to a plot. Divorced women and their children are especially more vulnerable since they have to depend on the goodwill of their male relatives to access any land. For this reason women are sometimes forced to stay in bad marriages simply for the sake of having access to land. There are times when women as wives are only allowed to use family land on the grounds that they provide labour to the parents-in-law's farms. Sometimes they are forced to use different strategies, some of which are very expensive, to access some land. Widows and single women, because they lack husbands, are even more disadvantaged by existing land policies and practices that make their position precarious at best.

/

#### **Case 1: Nzilani**

Nzilani was born in Mun'gala sub-location. She went to school up to Form II but had to discontinue her education because her parents had little money which could only educate her three brothers. She dropped out of school and got employed as a housemaid to take care of her child. Nzilani got married in 1974. She has seven children, but now lives as a single parent because she divorced her husband in 1985.

After divorce, Nzilani's husband sold the land she was using for subsistence farming to pay his brother's school fees. According to her, however, this was not so as the money was actually

squandered by the man. Nzilani was forced to go back to her place of birth and use her father's land. She has found the land too small to share with her brothers and their wives. Her brothers have also not been willing to share land with her. They have consistently told her to go back to her husband.

Before Nzilani's father died, he had given her a portion of land (0.3 hectares) to use for her subsistence. After his death, however, her brothers grabbed that portion of land, claiming that their wives needed more land to cultivate.

Nzilani had to look for an alternative land to use. She leased a neighbour's land (0.2 hectares) at KSh. 150 per year. This land, the owner says, can only be used by Nzilani for four seasons. The proceeds from this land are, however, not enough to feed Nzilani and her children. She supplements her income by selling fruits and vegetables in the local market.

/

Nzilani feels bitter about her ex-husband who does not take any responsibility for their children's survival. Since she is very poor, her children live from "hand to mouth" and she cannot afford to take them to school either.

### **Case 2: Mbatha**

Mbatha's parents died when she was young and, therefore, she was brought up by an aunt. Mbatha only attended school for two years. She got married in 1974 but was later divorced. She has four children whose school fees are paid by her brothers. Nonetheless, the brothers have not allowed her access to any land which they inherited; neither will her children have

access to her father's land.

When Mbatha was divorced, she used her father's land for a while. However, after some time her brothers shared the land amongst themselves, leaving her with nothing. When she complained, the brothers told her she had no rights to their father's land for "only sons could inherit".

When this happened, Mbatha tried to go back to her husband for the sole reason of getting access to his land in order to feed the children. However, her ex-husband was not ready to receive her back. Mbatha pleaded with an aunt to give her some of her land to subsist on. The aunt agreed and gave her one half of her 0.2 ha. of land as a temporary gift. But this did not last long as her aunt's husband became very upset with this arrangement, pointing out that it is the brothers of Mbatha who should help her. Later, the man repossessed the land, claiming he needed to use it for other purposes.

Mbatha now cultivates a piece of land (0.1 ha.), which is a temporary gift from a friend. She has to depend on the goodwill of her friends in order to get access to any land for survival. The only land of her father available to her is the one that her house stands on. Since she is not on good terms with her brothers, they have not allowed her to use any land which they inherited from their father.

Mbatha's only means of livelihood is through cultivation of land. She laments that soon, the land which is given to her as a temporary gift will be gone and she and her children will have



no other means of survival. She gets additional income from selling her labour to neighbours and relatives who pay her in cash or kind. She cultivates land or picks coffee.

### **Case 3: Mukonyo**

Mukonyo was born in 1952 in Mung'ala Sub-Location. She was educated up to Standard 7 but was forced to drop out of school because of lack of school fees. She got married in 1970 to a Ugandan, but he later left her together with her four children to go back to his country.

Mukonyo had access to the same piece of land as her mother. The piece of land (0.4 ha.) is too small to feed them adequately. To make ends meet, she sells fruits and vegetables, although her main occupation is farming.

Mukonyo's biggest problem is her brothers. According to her, the brothers are not happy that she is divorced and now lives with the mother, but more so because she has to use the land which is meant for them - the sons. They tell her that she has no right to the family land and blame her for not having bought her own land while her marriage lasted.

At the time of this interview (August 1997), one of her brothers had taken over the land Mukonyo was using and given it to his wife to cultivate. Mukonyo and her mother had to look for alternative land which they got as a temporary gift. The land is only 0.4 ha. and, according to her, too swampy. Since this land is very small, she is forced to only grow arrowroots and onions and leave out maize and beans which are the staple foods in the area.

Mukonyo intends to use the leased land until the owner claims it back. She is finding life very hard because she has children but no land from which to feed them.

#### **Case 4: Koki**

Koki is 31 years old and is educated up to Form 4 level. She is separated from her husband and has two children.

Koki's main occupation is farming. When she got separated from her husband, she lost access to the land which was given to her by her father-in-law to cultivate. Back at her home, her brothers denied her use of any land, which, in fact, the brothers had inherited. With the help of elders, Koki was allocated 0.4 ha. of land which was not being used by her brothers. The brothers reacted by selling the piece of land which the elders had given her to use, thus rendering her landless. She was forced to look for an alternative piece of land. She leased a piece of land (0.6 ha.) from a friend which she later found not to be productive. Koki leased another piece of land from an aunt, which she again used for one season only for she found that it was unproductive.

At the time of this interview (August 1997), Koki had lost hope in farming as a source of livelihood. According to her, "how can you farm when you are landless and when other people can only lease to you their unproductive land?" Although she continues to till the land leased from the aunt, she does not like the arrangement as her aunt expects her to work on her other farm in appreciation. She has also heard that soon her aunt's son will build a house on the

piece of land she is currently cultivating. Although this has not come to her directly from her aunt, she knows she cannot depend on this land any more.

Insecurity caused by landlessness has forced Koki to begin looking for alternative means of survival. She has begun trading in the local market, buying and selling vegetables and fruits. She sees no future in farming.

#### **Case 5: Ngonyo**

Ngonyo lives in Mungala Sub-Location. She was born in 1954 and is educated up to Standard 7. She got married in 1983 but later divorced and has three children.

Ngonyo's main occupation is farming. She had access to her mother's land although there are problems regarding it. Since the land actually belongs to her brothers, they are putting pressure on their mother to restrain her from using it. The brothers have accused her of divorcing her husband in order to come home and bother them.

Ngonyo's brothers had already been allocated the best portion of the family land which was now being used by the sisters-in-law. She complained that the piece of land which she was using was not even fertile and very swampy, forcing her to grow only those crops that do well in swampy areas. At the time of interview Ngonyo's mother, until then the only living parent, had died about two months before and her brothers had taken away the land she had been using. Ngonyo was, thus, left landless.

gift. Since this land is too small to live on with her children, Ngonyo sells her labour to nearby farms to supplement her income. Ngonyo feels disillusioned about her life and that of her children.

#### **Case 6: Nzula**

Nzula was born in 1945 and is educated up to Standard 7. She got married in 1962 but later divorced and went to live with her mother. She has five grown-up children.

Before she divorced, Nzula had access to land which was inherited by her former husband. On this land she produced food for the family. After divorce, she lost access to this land, which was later sold off.

Nzula went back to her mother and continued farming on a piece of land allocated to her by her mother. This land is very small (0.2 ha.) and, therefore, she supplements her income by trading in grains at the local market. At the time of interview (September 1997), she had lost access to this land as her brothers had taken it away from her and given it to their own wives to use.

Despite the fact that Nzula's children are grown-up, four still depend on her for their livelihood because they are jobless. For this reason, Nzula must continue producing food although she is absolutely landless.

When her brothers grabbed land from her, she decided to lease a small parcel of land (0.1 ha.) for four years. There is no fixed amount for the lease. She is supposed to give the owner some of the harvest or to provide labour for his other farms. This, according to her, is a very expensive endeavour, as the leased land is not very fertile. In addition to this, a friend and sympathiser to Nzula's situation has given her a piece of land (0.2 ha.) as a temporary gift to grow food crops.

Nzula is absolutely desperate and she sees no future for her six children. Nonetheless, she is determined to continue selling her labour and producing food crops as long as she has a patch of land to use for feeding her family.

#### **Case 7: Mutheu**

Mutheu was born in 1952 in Utooni Village, Kiandani Sub-Location. She received education up to Standard 7. Mutheu was married in 1973 but got a divorce after two years. She is now a single parent of five children of school going age.

After divorce, she lost access to her husband's' land for food production. Mutheu and her children live at her parent's home. For six years, she used a small piece of land (0.2 ha.) which, until then, was used by her mother. The rest of the parent's land had been sub-divided and inherited by her married brothers. This piece of land which Mutheu used for some time after her divorce was to be inherited by a younger brother when he got married. Indeed the younger brother got married two years ago at the time of this interview, and Mutheu lost all access to

her father's land. At Mutheu's natal home (birthplace), she has no rights to inherit her father's land, according to Kamba customs.

Mutheu had to look for alternatives to continue feeding her family. She got 0.6 ha. of land leased to her by a neighbour, on which she grows food crops and sells some of the produce to feed her children. The land has been leased to Mutheu for two years at KSh 700.

Mutheu remains very insecure, first because she is landless and, second, because after the two years' lease of the land she is presently using, the owner of the land may not necessarily renew the lease. What Mutheu does not like about the leased land is that the owner expects her to give him some of her harvest and sometimes to provide labour to his other farms during land preparation and weeding. This is quite an expensive commitment which, in Mutheu's words, 'takes a lot of my energy, considering the fact that I am already paying for the lease'.

/' /

However, Mutheu still has a lot of hope. According to her, if it gets worse and she cannot get access to any land at all, she will forget about farming altogether and simply sell her labour to the nearby farms, although she would prefer working in town.

Still, Mutheu feels that if only she had land, she would not have any problem. She blames her former husband for dumping her and the children without giving them any support. Her greatest worry is for her male children who, according to her, will one day get married but with no place to settle, since her mother and brothers cannot allow her sons to live on the land they have inherited.

### **Case 8: Mwende**

Mwende was born in 1960 in Mungala Village. She attended school up to lower secondary, but had to drop out because of lack of fees, since the little money the parents had could only educate her brothers. She soon got married but later separated from her husband. She has five children, all of whom she lives with at her father's home.

Mwende has been a part-time farmer. When she left school, she was employed as a nursery school teacher. However, her income could not adequately meet her needs and, therefore, she had to supplement it with farming. Mwende got married and had access to the land her husband had inherited. Later, she separated from her husband, and so lost access to that land. She afterwards heard that he had leased a portion of that land and sold the rest.

When Mwende went back to her parents, she had to use family land despite the fact that it was small and her brothers were not too willing to share it with her. The land apportioned to her by her father was later taken away by her brothers when the old man died. She now depends on a portion of land which her mother has been using. She has also leased 0.1 ha. of land from a friend for two years. This land is about two kilometres away from her home.

Mwende has to continue feeding for her five children without the support of her husband. She has to supplement her meagre income from teaching with food production to feed her children. Her mother is getting too old and when she dies, she fears that her brothers will throw her out to avoid conflict between her children and her brothers' children. Mwende has no hope of

reuniting with her husband who does not care for them in any way. Without land, she sees no future for herself and her children. She knows she has to buy land, but she has not been able to save any money since all the money she makes simply goes into feeding her children and her old mother.

**Case 9: Kamene**

Kamene was born in 1963 in Kusyomvomo village of Kiandani Sub-Location. She received education up to standard seven. Kamene got married in 1983 to an only son of the family who had inherited all the family land and, therefore, had access to about 4 hectares of land for her use. Unfortunately, in her fourth year of marriage, her husband suffered a severe mental illness, which made her seek divorce as the man turned consistently violent against her. After the divorce, she lost both access and use of the land her husband had inherited because she felt insecure using it.

/

Kamene has five children to feed. When she went back to her parents, she was temporarily allocated 0.6 ha. of land for use. However, this land belongs to her mother and she can only use it until such a time that the brothers need it.

Kamene has to supplement her income by selling vegetables and fruits, which she gets from a friend on credit and pays later after selling. She hopes to save some money from this venture to buy land of her own in the near future. However, at the time of the interview, Kamene had no savings since most of the money she made went into feeding her children.



In the meantime, Kamene had information that her former husband has sold most of the land he inherited. Kamene had been planning to approach the elders to enable her sons to inherit some of their father's (her former husband's) land. She now fears for herself and her children. 'Without land, the future is bleak', says Kamene.

### **Case 10: Ngii**

Ngii was born in 1934 in Kiandani sub-location. She has two sons who are both handicapped. Ngii is illiterate because she never went to school. She was once married, but she divorced when her husband married another wife and neglected her. The land she was using for her farming had been given to her by the husband. When the husband re-married, a parcel of this land was taken away from her and re-allocated to the second wife while the rest was sold to get money to build a house for the co-wife. This is what led Ngii to quit her marriage because, according to her, "if your husband cannot provide you with land, then what else is left?"

After divorce, Ngii continued with her subsistence farming on a portion of land (0.1 ha.) which was given to her by a neighbour as a gift. This gift of land is used by her on condition that she also offers her labour freely to the owner of the land. Despite the fact that Ngii does not like this arrangement, she has no other choice but to continue with it. Her landlessness makes her feel very poor and helpless.

### **8.2.2 A Case of a Single Woman**

An unmarried woman without children has the right to remain in her father's compound where she cultivates with her mother, or she may be given a temporary plot of land to cultivate. It is

assumed that she will eventually marry away. Although it is now legal for daughters as well as sons to inherit land, in practice fathers continue to transfer land to sons. It is assumed that a daughter will marry and gain access to cropland as a wife.

In cases where a woman is unmarried but has children, the situation is economically precarious. If she remains at home, she will contribute her labour to her mother's production unit. In many cases, parents sympathise and give access to portions of family land to daughters who are not married but have children. That is, occasionally a father will give his daughter a plot of land, though he is reluctant to do so because it means in the future there will be less land for his sons. Nevertheless, this land given to unmarried daughters is never legalised. Once the parents die, brothers have the habit of taking away the land from their sisters like it happened in the case of Wayua.

#### **Case 1: Wayua**

Wayua was born in 1938 in the hilly areas of Kiandani Sub-location. She was educated up to Standard 4, and is a single parent with five children. Wayua had access to her father's land on which her house is built. However, in 1969 the portion of land which she was using for subsistence was sold by her brothers who claimed that women have no inheritance rights to their father's land. The brothers also accused her of not wanting to get married in order to bother them with her children. The portion of land she was using was, therefore, sold by her brothers without consulting her. According to her, 'I woke up one morning to go to my land, only to find that I did not have access to it any more as it had been sold'.

Wayua is a subsistence farmer who grows food crops such as maize, beans, peas and vegetables. After her ordeal with her brothers over land, she had to find other ways to access land for survival. At the time of this interview ((August 1997), Wayua was using three different plots of land to grow food. The first plot had been leased from a neighbour. The second plot which Wayua is using illegally belongs to Machakos Municipality. Her eldest son bought the third plot. However, all these pieces of land have one problem or another in terms of security.

The leased land is small (0.1 ha.), and the owner keeps threatening her with withdrawal of the lease. According to her, 'I have neither the security nor the peace of mind using this land'. In addition, the lease is becoming too expensive. Originally valued at Ksh 50, the lease had increased to Ksh 269 at the time of this interview. Wayua feels that the owner of the land is taking advantage of her situation since he occasionally comes to her house to ask for food or to borrow extra money on top of what she pays for the lease. She wonders whether at this rate it may not be cheaper to buy land.

The land belonging to the Machakos Municipal Council is the biggest, measuring 0.2 hectares. It is also the most fertile piece of land on which Wayua grows food. However, the land lacks security of tenure since the council is not even aware that Wayua is using this land and it can be claimed at anytime without notice. Wayua reported that she prays everyday over this land so that the council does not re-claim it. Her security over this land, according to her, 'is based on God who has made the council not claim this land for this long.'

interview because it has a problem. The original owner who sold the land took changed his mind after he had long been paid, claiming that the money given to him was too little and therefore he needed more money. Wayua had stopped using this land because the man had constantly been threatening her.

Wayua now feels hopeless over the land issue. She was wondering how anyone could survive without land. According to her, a woman and her children need land to grow food in order to survive. She declared, 'I have to do something at least for the sake of children if they are to have any hope in life, because without land, I seem to be heading nowhere'. Wayua is, thus, determined never to quit the land belonging to the Council whether they claim it back or not.

### **8.2.3 Cases of Married Women**

It is common to find that land which has been allocated to a wife for farming can sometimes be re-allocated to another wife, particularly when the relationship between the first wife and the husband gets sour. This means that land given to a married woman by the family of the husband for use is not permanent, and can be re-allocated to other people and to other uses depending on the whims of the husband.

On the other hand, when husbands do not inherit land from their families, married women become landless since women generally use land which belongs to the husband. Lack of access to family land could lead to women abandoning farming completely and taking up alternative employment.

Married women, particularly in polygynous marriages, express concern that the amount of land allotted them by husbands for cultivation of food crops is barely sufficient to meet their family needs. First, the amount of land allotted to sons by a land-owning father has dwindled with time and often the sons, who are the husbands of these women, do not have the necessary capital to purchase additional land. Second, the practice of polygyny means that the husband's land must be sub-divided between wives competing for available resources within the family. Finally the precedence given to cash crops, such as coffee, means that smaller portions for the family's land are allocated to food production.

The sub-division of land among male members of the family has thus created a situation in which married women are accessing uneconomic plots of land inadequate for producing enough food. The subdivision of family land among sons is taking place without proper legalised arrangements and provision of title deeds. As a result, families often get entangled in land feuds. Women who are landless are often forced to become squatters on the other people's lands, as happened to Kalondu (Case 3).

The title deed in the name of an individual member of the family, usually a man, has resulted in landlessness for women. Men are beginning to use these title deeds to dispose of family land without consulting the other members of the family who have got interest in the same land. This is what happened to Ndinda, Katunge, Mueni, Kiatu, Kalekye and Mwikali (Cases 4-9).

### **Case 1: Katini**

Katini was born in 1952 in Kiandani Sub-Location. She is educated up to Standard 3 and is married with six children. She is a farmer and supports her family through her hard work. Her husband's income is too little to sustain the family.

Katini was supposed to have had access to the land her husband should have inherited from his family. However, a problem arose because most of the land still belongs to her father-in-law, who grows coffee on the 1-hectare piece of land. Katini's parents-in-law expected her to provide her labour freely on the coffee farm, although all earnings from the crop went to her father-in-law. She stopped working on the farm, which soured relations between her and her parents-in-law. She was refused access to the other 0.2 ha.- piece of land originally allocated to her, and on which, until then, she used for growing food.

Katini had to find other alternatives, which proved equally problematic. She and her husband leased land from a neighbour but after using it for a season, the owner claimed it back. She leased another piece of land, but it was too unproductive, and after using it for one season, she abandoned it. She leased yet a third piece of land on condition that she shared the harvest with the landowner, besides working on his other farms. She used this land only for one year because the terms were too costly.

At the time of the interview, Katini had finally got a 1-hectare piece of land leased to her for three years with a possibility for renewal. Unfortunately, the land is the subject of a pending

court dispute over ownership with another man. Continued use of the land by Katini will depend on whether or not the present owner wins the court case. According to Katini, land is the most important source of livelihood, particularly in the rural areas.

### **Case 2: Ndunu**

Ndunu was born in 1965 in Kiandani Sub-Location. She went to school up to Standard 7, but had to discontinue her education due to lack of school fees. Later, she became a mother and had to get a job as a housemaid in order to maintain the child.

Ndunu got married, and at the time of this interview, she had four children. Her husband is working as a watchman but, according to her, earns too little to maintain the family. She is a full time farmer on a portion of land (0.2 ha.), which was given to her by her husband's uncle. Whatever Ndunu gets from this piece of land is not enough for her family. To supplement her income, she has to sell some of what she produces from this farm although it is never in surplus and also has to sell her labour to the nearby farms where she gets paid in cash or food.

When Ndunu got married, she had access to land that belonged to her father-in-law who later sold all that land, leaving her and her husband landless. He denied his son inheritance rights to the land, claiming that it would be taken away by the Municipal Council even if his son inherited it. According to the father, it was better to dispose of the land immediately and buy land elsewhere. However, after selling the land, he never bought any other land. Ndunu's husband, therefore, never inherited any land from his father. The couple now lives on an uncle's land which is, however, only a temporary gift that can be taken away from them at any

time. If this happens, Ndunu will be landless even in terms of access.

Asked what she intends to do, she replied that she would rely on other means of livelihood when she loses access to the land she is now farming. She plans to settle down in the slums of Machakos Town, forget about farming and only sell her labour in exchange for cash. This, according to her, is the only way she will be able to raise her children.

### **Case 3: Kalondu**

Kalondu is a married woman aged 65 years. She only managed three years of schooling, after which she was withdrawn in order to help her mother with household chores.

Kalondu got married in 1945 and has six grown-up children. She is a subsistence farmer, and supplements her income by selling vegetables and fruits in the local market. When things get hard, she also sells her labour to neighbours for cash.

Kalondu originally farmed her husband's land, which is about 0.4 hectares. According to her, her father-in-law had a big piece of land (about 2.8 hectares) which had to be sub-divided among his seven sons. In addition to the inherited land, there was a portion of land which she tilled for about 10 years. Her husband claimed the land was given to him by clan elders. However, at the time of this interview (September 1997) the sons of a former chief who had title deeds for it had taken the land. Kalondu's husband had no documents to show the land belonged to him. Her brothers - in - law, however, claimed that her husband had sold the land. Kalondu suspects this could be true, as her husband is a drunkard and could sell anything to buy alcohol. This means the only land she has access to now is that on which her house stands.



At the time of interview, Kalondu had began growing food crops on a piece of land (0.2 ha.) belonging to the Machakos Municipal Council. However, she does not know for how long she will use this land since the Council may claim it at any time.

Without land Kalondu sees her life full of misery. She wonders what her sons will inherit and where they will build their houses. According to her, the land on which her house stands, and which she hopes has not been sold by the husband is too small to be subdivided among her five sons. To sub-divide it, according to her, will only bring hatred among her sons.

#### **Case 4: Ndinda**

Ndinda was born in 1963 in Mung'ala village. She is educated up to Standard 7 but dropped out of school due to pregnancy. She later got married to the father of her child and was allocated land by her father-in-law for use to feed her family. At the time of the interview, she had three children.

For a long time Ndinda grew food crops on the piece of land (1 hectare) allocated to her by her father-in-law. However, at the time of the interview, she could not maintain her family of three children, parents-in-law and some of her unmarried brothers-in-law on the food she produced. This is because when her husband lost his job, he sold all the land she previously cultivated. The land was sold in 1986 without any consultation with her, and the money used on her husband's personal entertainment. She now works on neighbours' farms to feed her children.

Ndinda's father-in-law, out of sympathy, allowed her to use a piece of land belonging to one of his unmarried sons. Ndinda has to continue producing food for the extended family even though she has no land of her own. She will, however, soon be landless when her brother-in-law gets married. Besides her brother-in-law's land, Ndinda has leased some land from a neighbour about two kilometres away from where she lives. However, she does not feel secure using this land for she has been unable to pay Ksh 200 to the owner as per their agreement. The owner is bound to reclaim the land anytime.

Ndinda also fears for the land belonging to her brother-in-law because they are not on good terms and he may repossess the land anytime. She feels that she has been neglected by the community in general, but blames her husband for selling his inherited land without thinking of her and their children's future.

#### **Case 5: Katunge**

Katunge was born in 1965 in Kiandani Sub-Location. She received education up to Standard 7 and could not continue due to teenage pregnancy. Katunge is married and has a child. Her main occupation, like her husband's, is farming. When she got married, she had been allocated land by her father-in-law, who later took back the land and sold it because he wanted the money to educate some of his sons. Neither her husband nor herself were consulted over the sale of the land. This left Katunge and her husband landless.

Katunge tills a piece of land (0.4 ha.) which was leased to her by one of her neighbours who is too old to farm. The sons of the landowner live in Nairobi and do not need to use the land. On this land, she grows food crops some of which she sells at the local market.

Without land of her own, Katunge feels very disillusioned. She feels that she, her children and husband have no secure future. 'Without land, there is no food', she says. She is determined, however, to continue producing food on land that has been leased to her until the rightful owners come to claim it.

#### **Case 6: Mueni**

Mueni was born in Kiandani Sub-Location. She is 52 years old and married. She did not go to school since her parents did not believe in educating a girl. Mueni has seven children, and her main occupation is farming. It is out of the work she does on the farm that she is able to feed her children since her husband does not support the family financially.

Mueni had access to land which belonged to her parents-in-law but which her husband inherited. Unfortunately her husband has sold most of this land which he inherited. Now all that is left for them is the patch of land where her house is built.

Mueni's husband sold most of the land in 1982/83 without consulting her, claiming that he needed money to pay school fees for the children and also to construct a better house for the family. However, according to her, he did neither of these and instead went away for two years

and spent the money alone.

Mueni was forced to look for alternative means of survival for herself and her children. Her sister has given her a piece of land (0.2 ha.) as a temporary gift. It is not clear how long she will use this land. Besides farming, Mueni sells her labour to neighbouring farmers who pay her in kind or cash. Since she cannot finance her children's education, none of them goes to school. Instead, they have joined their mother in selling their farm labour. Mueni feels absolutely disillusioned about her landless status.

### **Case 7: Kiatu**

Kiatu was born in 1943 in Manyatta village. She attended school up to Standard 7 and because her parents did not believe in educating a girl, she was forced to discontinue her education. Kiatu got married in 1973 and has four children. She is a full-time farmer and sells part of her harvest to supplement her income. In 1988, she tried to get a job as a housemaid, but her husband opposed it, and so she went back to farming.

When Kiatu got married, she was allocated a piece of land (1 hectare) by her father-in-law to use for growing food. She used this land for about 10 years, but when her father-in-law died, her husband decided to sell it. He had consulted with her, trying to convince her that the land was infertile and that they needed to sell it to get money to buy some fertile land elsewhere. He sold the land in 1982 to his Asian employer but, on receiving the money, he neither informed her nor bought an alternative piece of land. Up to now, she does not know what her husband used the money on.

After the sale of land and for about three years, Kiatu used a piece of land (0.6 ha.) belonging to her brother-in-law. Later her brother-in-law got married and took back his land, and so she was forced to look for other alternatives. At the time of the interview in September 1997, Kiatu was illegally using land that belongs to the Municipal Council of Machakos. This land is not fertile and parts of it are planted with trees, but Kiatu has no choice. She has to continue producing food for her family even though she has no land of her own.

In addition to the municipal land, Kiatu has a portion of land (0.2 ha.) leased to her by a neighbour, which she pays in kind by offering her labour and other services. She does not like this arrangement since there are too many conditions attached to the leased land but, according to her, she has no other choice. She, therefore, has to continue fulfilling these conditions if she has to use the land.

/

Kiatu generally feels hopeless and poor. She thinks that probably, and soon enough, they might be forced to migrate to the slums of Machakos town since the portion where their house is built belongs to her brother-in-law who has told them to leave. Her brother-in-law no longer trusts his brother since he sold his family land and might sell theirs too. But Kiatu blames her husband for being irresponsible, and sees no future for them and their children.

#### **Case 8: Kalekye**

Kalekye was born in 1957 in Mung'ala Sub-Location. She is educated up to Standard 5. She got married in 1970 and has five children. Both herself and her husband are full-time farmers.

When Kalekye got married, she had access to 0.6 ha. of land which her husband had inherited from his father. His husband later sold this land, claiming it was too close to the main road, and that some day the government might appropriate it for development. However, she was opposed to the idea of selling the land, but the husband promised to buy an alternative land elsewhere. The husband eventually sold the land, anyway, but without her knowledge. After selling the land, he bought one cow and 'boozed' the rest. The only land the family now has is the patch where their house stands.

Kalekye had to find other alternatives. She and her husband got land on a three-year lease, for which he agreed to pay Ksh 1000. After the three years, the husband had paid nothing and the owner of the land took it back with all the crops that she had grown on it.

At the time of interview (September 1997), Kalekye had access to two different portions of land, one leased from a friend and the other given to her as a temporary gift by a relative. Both pieces are very poor and unproductive. It is from these portions that she grows food to feed her family. Occasionally, she is forced to sell some of her harvest at the local market, although the food she grows is hardly enough to feed the family. She sometimes sells her labour to the neighbouring farms for cash in order to make ends meet. Her husband occasionally works at construction sites. Kalekye feels that without land, her future and that of her children is insecure.

### **Case 9: Mwikali**

Mwikali was born in 1962 in Kiandani Sub-Location. She attended primary education up to Standard 7 and discontinued it in order to help her mother with household chores. Mwikali is married with four children. Her main occupation is farming. When she got married she had access to the land that her husband inherited. However, in 1988 he lost his job and decided to sell the land. Mwikali was not consulted, and the money was used by her husband without her knowledge.

Later, Mwikali's father-in-law allocated her another piece of land for use, but it was later sold off. The land which she was using at the time of interview was given to them out of sympathy as a temporary gift by her uncle. She does not know how long the uncle will allow her to use the land. Nevertheless, this land is too small (less than 0.2 ha.) and Mwikali has to find other means of livelihood. She sells her labour to neighbouring farmers and uses the money she gets to buy vegetables and fruits, which she re-sells at the local market.

Mwikali does not know how long she can depend on charity regarding land. Even though her uncle has given her land, she wonders what her children will depend on in the future. 'How can I continue surviving without my own land?' she wonders. Mwikali knows that life is increasingly becoming tougher, and 'One day', she says, 'my children will go without food since I shall have no land on which to produce it'.

### **8.3 Cases of Women who Own Land**

For women who own land, questions were asked to find out how the land was acquired, whether it is registered in their names, whether it is owned in trust for daughters and sons, what they feel about ownership of land by women and the advantages they have as landowners.

Of the cases presented here, only one woman owns land by purchasing and four women have inherited the land from their natal homes. The rest of women landowners are widows. The main paradox about women who own land, as shown in the cases presented here, is that while most of them (four out of five) have inherited land as daughters, strongly believe that women should own land and also see the advantages of owning land, they have no intention of transmitting their land to their daughters but to their sons. This is definitely a contradiction. In-depth interviews and focused group discussions revealed that Mumbuni people are particularly hostile to the idea of daughters and sisters inheriting land, because once they get married the land may pass outside the patrilineal descent group. When a daughter inherits land, it is commonly regarded as a breach of village customary law, which has always held that no wife or daughter could inherit land. For this reason, women who own land are scared to go against the customary law of land ownership by male descent and therefore only transmit the land to their sons, except in exceptional cases. Discussions with groups also revealed that in most cases, before a daughter officially gets land from her natal home, strenuous efforts are usually made by the male members of the lineage to prevent it. Thus, daughters' inheritance of land can meet with strong social disapproval and set undesirable precedence. This links with gender structuring in land ownership which excludes persons who are perceived not to be



permanent members of the village (as daughters many out) and accounts for the fact that the male members of the community have been able to maintain almost complete control of Mumbuni land.

On the other hand, there are a few cases where some women share title to land with their husband, and some widows also inherited land from their husbands without being contested by anyone. A widow's claim to her husband's land (as noted in chapter six) is often viewed with less antagonism than that of a daughter, since with a widow there is a greater chance of land remaining within the clan. She can be made to forfeit the land if she remarries outside the clan or forced into leviratic union with the younger brother of her deceased husband. Nevertheless, many widows do not always get their husbands' land without problems. Male relatives of the deceased husband often create problems for the widows. Whenever a widow has not voluntarily given up her right, various forms of intimidation are experienced, threats to kill and beating are common and murder not unknown. During land adjudication, government officials, including village elders (males) play a crucial role in determining whose claims get registered and they tend to favour customs which give priority to male heirs over existing law.

### **8.3.1 Ownership with Title Deeds**

#### **Case 1: Mbeke**

Mbeke was born in Misiani, Kangundo Location. She is 81 years old, and did not go to school since, in those days, girls were never taken to school by their parents. The girls remained home to help with household chores. Mbeke is a widow and has 10 grown-up children. Her husband was a military policeman, who died in service during the Second World War.

Mbeke's main occupation is farming. She does this with the help of workers employed for her by her children. Part of the land she farms was inherited by her husband, while the other portion was bought with shares from a co-operative society. When her husband died, and since her children were still young, all the land that was legally owned by the husband passed down to her. However, the mother-in-law wanted to take some of this land from her. but with determination and through the help of village elders, she managed to secure the land her husband had left. The 2.4 hectares of land registered in Mbeke's name is held in trust for her sons. At the time of the interview, she had already sub-divided the land amongst eight of her sons and two of them already had registered the land in their names. The rest of the land is still in her name.

When asked why she did not allow her two daughters to inherit some of this land like their brothers, Mbeke replied that daughters should be given land where they are married. According to her, only sons should inherit land belonging to their father because once they get married, their wives can have land to grow food and feed their families. Mbeke strongly believes that a woman should have access to her husband's land. She knows the advantages of owning land, the greatest of them, according to her, being her ability to be able lease some of the land for cash.

Mbeke also thinks that she has an advantage as a landowner over those who are landless because, 'I produce food crops (e.g., maize, beans, peas, cassava and arrow-roots) and therefore, I do not purchase most food like landless people'. However, Mbeke does not wish to own any more land because, she says, she is too old and cannot even use all the land she owns. Nevertheless, she feels that her sons might need more land.

## **Case 2: Kamene**

Kamene was born in 1927 at Manvatta village of Kiandani Sub-location. She went to school up to Standard four. Kamene is a widow with two children and six grandchildren. She is a subsistence farmer who supplements her income through selling vegetables and fruits at the local market.

Kamene has 1.5 hectares of land in her name. This land came to her when her husband died. The land was not inherited but bought by her husband before he died. When the husband bought the land, it was registered in both their names. Kamene uses 0.8 ha. of the land to grow coffee and 0.4 ha. for food crops. The remaining piece is leased to a sister who needs it to feed her children.

However, according to Kamene, she owns this land in trust for her only son, who will inherit the land despite the fact that she also has a daughter who is a single parent with six children, all living with her. When asked what would happen to her daughter and her children, she stated that her daughter had no right to inherit the land. She cited Kamba customs which only allow sons to inherit land - daughters inherit land when there are no sons. Despite the fact that her daughter is not married. Kamene insists women should have access to land where they are married. In spite of customary dictates, Kamene still thinks that women should own land since they are the ones most responsible as parents and they are the ones who provide for the children.

What advantages does she have as a landowner? Kamene said that she gets food and cash from the land. She knows she can get credit using land as collateral, although she has never done so. She has no intentions of selling the land because her son will inherit it.

Kamene would like to have more land, which she could use to plant more food, or lease for cash. This wish has led her to buy shares in a co-operative society which, according to her, may one day help the son to buy more land.

### **Case 3: Mbuluku**

Mbuluku was born in Misakwani. Kiandini Sub-Location. She is a widow with six grown-up children. She is also a farmer.

Mbuluku owns 2 hectares of land, of which one hectare came to her when her husband died. She sold some of her cattle to buy about 0.4 ha. of land. She also bought shares from Katelembu Co-operative Society, which bought land for its members, giving out 0.4 ha. to each member. She grows coffee and food crops, besides keeping livestock. She has also given out part of the land as temporary gifts to two of her daughters married nearby to landless husbands. Despite this, most of her land has already been sub-divided for her sons. Although her daughters are using the same land, they will not inherit it.

Mbuluku believes women should own land since they are the majority in farming and also because they have the responsibility of feeding the family. According to her, 'Women also have a great attachment to their children and therefore they take good care of land in trust for

their children until they become adults, while most men sell land and spend the money carelessly.'

Mbuluku is aware that as a landowner she can get credit although she has never done so. Sometimes she leases the land for a period of time and gets cash payment. She thinks that as a landowner, she has an advantage because she has the freedom to use the land in any way; she can lease it, give it as a gift and allocate it for use to grow different types of crops. She has no intention of selling the land and, instead, has bought more land. In her words, 'Land is never enough'. She wants to own more land - even up to 40 ha.

#### **Case 4: Mumbua**

Mumbua was born in 1932 in Mathanga village in Kiandani Sub-Location. She is a widow with 10 children, and a farmer by occupation. She owns about 0.8 ha. of land, which was inherited by her husband. This land, according to her, is not enough for her farming. She has, therefore, leased 0.6 ha. from a neighbour. Mumbua also inherited 0.8 ha. of land from her father, as a permanent gift when she got married although she does not have a title deed for it. This land is 20 kilometres away from where she lives and therefore she can hardly use it effectively.

Mumbua uses most of the land she owns to grow coffee and rear cattle. She also grows some food crops in some portions and has also leased out a portion of the distant land. According to her, she owns the land in trust for her sons, in spite of the fact that her daughter is separated from her husband and is also using some of this land to feed her children. She says that she will allocate the land only to her sons by sub-dividing it among them. Despite the fact that she

herself inherited land from her father, her daughters will only have access to the land she owns with permission from her sons. According to her, all the land she owns belongs to her sons.

In spite of cultural constraints, Mumbua is, however, convinced that women should own land as they can care for and make right uses of it. According to her, 'Women are more active farmers than men, and they should own land in order to exercise their abilities freely'.

As a landowner, she knows of advantages such as possibilities of getting credit, although she has never utilised this advantage. The land provides her with food and cash and she is also able to use it freely. She intends to sell some of her land (particularly the one which she inherited from her father) in order to buy more cattle. She wants to buy more land where she lives so that her sons can inherit bigger pieces of land.

#### **Case 5: Syokau**

Syokau was born in 1916 in Utooni village. She is a farmer who earns her living by producing food crops, selling some of it and also as a traditional birth attendant.

Syokau has never been married, but she has a daughter who has five children. She was the only child of her parents and therefore the only heir to her parents' land. Thus, when her parents died, all their 1.8 ha. of land passed down to her. She later bought 0.4 ha. of land and so, altogether, she now owns a total of 2.2 hectares of land. She uses her land for coffee and food crops. At the time of the interview, she was thinking of leasing out some of her land for cash.

Syokau owns her land in trust for her daughter and her grandchildren. According to her, women should own land 'for they are children like any others and should have the same rights'. She was of the view that even married daughters should inherit family land so that they can choose whether or not to marry.

Syokau is aware of the advantages she has as a landowner. She got credit from the co-operative society, and she can allocate land for food and cash crops without consulting anybody or lease it to pay school fees for her grandchildren. Her advantage as a landowner is that she gets food and money from the land. She intends to own more land because, "land is an important wealth and it is through land that one can get rich".

#### **Case 6: Ngundu**

Ngundu comes from Kyambuko Village, Musakwani Sub-location and got married to Mulili from Kyambuko Village. She was born in a poor family, and never went to school. Today, at 70. Ngundu knows the trauma of being a widow at an early age. Fending for a total of eight children (5 boys and 3 girls) was not an easy task, nor has it become any easier today.

Ngundu fought all odds and has now inherited a piece of land from her husband, though her brothers-in-law confiscated a large portion. It is on this piece of land, which is registered in her name, that she grows crops. However, the land is too small, only 0.4 hectares and this, according to her, is not enough to feed her big family. To supplement the family income, she runs a small business in Machakos town where she sells fruits and vegetables.

The land which Ngondu owns fell under her own name some 24 years ago when the survey department confirmed her as the legal heir of the land after the death of her husband. This was after a long struggle with her brothers-in-law who claimed that they had bought that land from her deceased husband at a cost of Ksh. 80. Their line of argument was that they used to support their brother when he was alive and that there were some moneys they had lent him and which he never paid back. They, thus, each took a portion of her land as compensation. Fearing to jeopardise family relationship, Ngondu did not take the case to court. All the same this has caused poor relationship between Ngondu and her brothers-in-law. She feels extremely sad when she sees her land being tilled by her brothers-in-law who never assisted her in any way. According to her, if she had all the land which her husband left behind, she would have educated her children and grown coffee to supplement her income. Nevertheless, she is waiting for her children, especially male ones, to be financially stable so as to put up a case over the land taken away from her by the brothers-in-law. She has great hope that, 'One day. justice will be done'.

Ngondu stated that the small portion of land she owns is in trust for her sons. Though she was victim of family land feuds, she still maintains that women should only own land when they are married. She also recommends ownership of family land by those women (daughters) who totally fail to get their own husbands.

Ngondu sees the advantages of owning land in that. 'I have something I can call my own. I am assured of a proper burial place, I have built my own house on my land, my children have



something to inherit and I have been feeding my family using the land'. She also knows that she can use the land as a collateral to get credit although she has never done so.

She, however, thinks that the land she owns is too small. Her wish is to have more land which would enable her to increase her income by growing more food crops and having her dream of planting cash crop (coffee) come true.

Ngondu would like to share her experience with other women as a widow and a landowner. She tells women to be alert regarding land issues, especially when their husbands die and their brothers-in-law are involved. She also warns that women should discuss land issues with their husbands and not wait until things change as they did for her.

#### **Case 7: Wanza**

Wanza was born in Manza Village, Mung'ala Sub-location. She is 46 years old, single and with two children, a son and a daughter. She is a small-scale farmer and grows food crops on land she was given by her father. She has also erected her house on the same land and makes bricks for sale during dry weather spells. She also keeps livestock on the farm. Wanza is a member of Moanza Women's Group, which plants seedlings for sale. However, she reported that incomes earned from both the group and her farm is not enough for her family.

According to Wanza, her physical deformity from childhood greatly contributed to her not getting married. Her father gave her land as a gift which is now registered in her own name. She brags that nobody can deprive her of that land even in the absence of her father for that

would be a curse to the person who takes that land. This land, she said, is solely held in trust for her sons but her daughter is assured of a small piece of land if she fails to get married. To her, women should only own land when they are legally married or when a daughter has not been able to get married due to deformity or acute family feuds where a married woman has been forced to leave her husband.

Wanza feels that as a landowner, she has something which she can call her own. She proudly asserts, 'I have full control of my land and can use and invest on it, in anyway I choose'. She, however, has not got any credit from the land.

Wanza has a piece of advice for the womenfolk. She says that womenfolk should strive to own land, especially the unmarried working women who should buy their own land which they can have full control of and where they will be buried.

#### **Case 8: kanini**

Kanini comes from Kathuma village, Misakwani sub-location. She is a widow of 50 years old and a mother of five girls. Kanini's main occupation is farming. She grows both food crops and coffee. She also used to operate a small business which she discontinued due to her workload on the farm and financial commitments and family burden. The land which Kanini owns was inherited from her deceased husband. She feels that only divorced or single women should be given land by their parents. Other women who need to own land should buy it. According to her, her unmarried daughters will inherit the land she has.

Asked about the advantages she enjoys as a landowner, she proudly responded, 'I have land I call my own. therefore I have the prestige of owning a property. I use the land for my livelihood and I have a place where I shall be buried. My house is also built on my own land and that is something.' Though she feels advantaged in this manner Kanini has neither used her land to get credit nor leased it. She feels that the land she owns is small. She would not mind having more land which would increase her income by growing more food and cash crops.

Taking land as the best asset that a person can ever own, Kanini advises women to strive to own land where they can build their own houses and grow food and cash crops to feed their children.

#### **Case 9: Kinyai**

Kinyai, now 65 years old, was educated up to standard four. She comes from Kasinga Sub-location and is a widow and a mother often (four sons and six daughters).

Kinyai is a small-scale farmer with a yearly income of more than Ksh. 40,000. She grows food crops and coffee. The land which she owns and tills is inherited from her deceased husband who had bought it from a neighbour. Part of the land was registered in her name (the farm and the homestead) while the rest (town plots) was under her husband's name. At present she uses all her land for farming purposes. Since her husband is dead, she now has the responsibility of taking care of the land. However, this land is owned in trust for her children, especially her sons and also those daughters who fail to get married.

Kinyai welcomes the idea that women should own land, 'to support themselves'. According to her, those who are married should own land together with the husband while those who are single should buy their own land if they have the money to do so.

Having full authority over the land makes Kinyai feel privileged. According to her, she has the final say in whatever activity to be undertaken on the land. She has leased part of the land which is under fodder grass to the neighbours at the rate of Ksh. 200 per month. She has, however, not used the land to get credit nor has she sold any part of it. Nevertheless, she still feels that she has an advantage over those who do not own land. 'I am proud to have land which I call my own. I can lease it and do whatever I want to do with it.'

Kinyai advises married women everywhere to negotiate with their husbands and jointly own family land. To unmarried women, her advice is that they should strive to buy their own land if they are in a position to do so.

#### **Case 10: Mbulwa**

Mbulwa comes from Lyuki village of Enzai Sub-location. Mukaa location of Makueni district. She is married in Ivumbuni Village, Mung'ala Sub-Location. She is 75 years old, and is a widow with eight children (3 sons and 5 daughters). Her major occupation is farming.

The land Mbulwa tills is from her deceased husband who inherited it from his father. Her husband was polygynous and, therefore, land surveyors had to give each of his wives a piece of land. The land was equally shared among the two wives. Mbulwa has the land registered in

her name, and it is on this land that she grows food crops, vegetables, keeps livestock and plants trees.

The land she owns is, however, in trust for her sons. She thinks that women should own at least a portion of land, kivumbu, which they call their own. According to her, women should own land through buying or getting married. Mbulwa sees the advantages of owning land in that she is the one who will allocate portions of land to her sons and thereby earn their respect. She is also assured of a burial place. However, she has never used the land to get credit. She has neither leased the land nor sold any piece of it. Mbulwa advises women to strive to get their own land and to take care of it and not to sell it, especially those women who have inherited land from their husbands.

#### **Case 11: Malinda**

Malinda's birthplace is Katisaa Village of Kiandani Sub-Location. She is married in Mung'ala sub-location, and is a mother of seven (6 daughters and one son). Together with her husband, their main occupation is farming. The land is jointly registered in both their names.

Malinda is not without problems, however. In the family, there are two bothers-in-law and one brother to the father -in-law who has ten sons. The issue of land sub-division among members of the family had to be resolved in the event of land registration. The family could not solve the sub-division of the land amicably among themselves and therefore they had to resort to the law. That was in 1974 and this hindered her land from being surveyed for some time. However, after ten years the case ended and her husband and his brothers were granted their

rightful portions of land. Malinda feels that the land case took too long and this contributed to her being behind economically, given the fact that she was not able to use the land all that time. She laments that if she had the land, she could have educated her children without difficulty, especially with the income from the farm, built her home early enough and settled to do other things.

Malinda, who boasts of earning more than Ksh. 40,000 from the farm per year, not only condemns land feuds but also feels that her family relations have been wrecked. Although the feud is over, she told us that things have not been the same. The family members (husband and cousins-in-law) promised to bury the hatchet but 'it still sometimes rears its ugly head?', she says. Malinda feels that something should be done early enough in case of land conflicts so as to save time and resources.

#### **Case 12: Mbula**

Mbula comes from Kasinga sub-location. She is 68 years old and told us this story regarding the land she owns:

The land I own is inherited by me from my father. My father also inherited this particular piece of land from his parents. My father has given my brother and I land. He allocated me this portion of land because I was the only daughter. In addition, I was closely attached to my father and so he treated me the way he did my brother. That is why, when I got married, my father still gave me a portion of his land to own and use. The whole land, however, is registered in the name of my elder brother, but there is a boundary showing his part and mine. Although I can say the land is under my brother's name, I have that portion that is particularly mine and nobody except my offspring can claim a part of it. I use this land for growing food crops (maize, beans and cassava), plus vegetables (sukumawiki, onions, and tomatoes) and keep both goats and cows. I also keep some chicken. It is on this land that my husband, our children and myself have settled.

Despite the fact that Mbula has certain rights to her father's land, her land is owned in trust for her sons but not daughters. According to her, daughters will only inherit her land if they remain single. But, on second thought, she said that she could also give a piece of land to a daughter who is very close to her, as a gift or present. She observed that women should only own land if they do not have husbands (widowed, unmarried or divorced), 'For land should only be owned by men according to Kamba customs'.

Mbula sees advantages of owning land in that she and her children have a burial place, she can grow food crops, vegetables, trees and even built houses for the members of her family, and she can do any development on the farm without consulting anybody. For example, she authorised the digging of a borehole in her home, for which she did not have to consult anybody. However, she has never used the land to get credit. She fears that if she used the land to get credit she may lose it. She has neither leased the land nor sold it, because her land is small. Mbula would like to own more land to increase her income and settle her children in a more spacious place.

On land ownership, Mbula advises that, 'Let women strive to own land and have that land registered in their names. Those who have money should buy their own land. If their land is productive enough, they could use it to acquire loans to develop such land or for any other valuable investments.'

### **Case 13: Ndindi**

Ndindi comes from Kisooni village. Mung'ala sub- location. She is 52 years old and has 6 children (2 daughters and 4 sons). She was once married, but is now separated from the husband. She is both a teacher and a farmer.

The land Ndindi owns was purchased by her from a neighbour. The land, therefore, belongs to her and the registration is in her name. She uses this land for growing food crops (maize and beans), vegetables and fruit trees (mangoes, avocados and bananas) and has built her own home on the same piece of land.

Ndindi's land is not owned in trust for her children. Her children, according to her, should buy their own land. She strongly feels that women should own land for it is they who tend the land.

Ndindi believes she has many advantages as a landowner and reports, 'I make all farm decisions without consulting anybody, I have my own trees. I can also sell my land products without interference and I have a place for burial'. Nevertheless, this land has never been used to get credit, and because it is only 0.8 ha. she does not lease any of it. She would like to own more land to increase her income by growing cash crops like coffee, or rear animals like goats and cows, thereby diversifying her risks.

Ndindi advises that women should work hard to own their own land, even if it means buying it. The decision to purchase land should lie solely with the woman and not the husband. She adds.



"Daughters should also inherit land from their parents like sons. What a pity if a daughter is born in a family growing cash crops like coffee only to get married where the family does not have these crops. It is, therefore, the responsibility of every parent that daughters inherit land, whether they are married or not<sup>1</sup>.

#### **Case 14: Ndunge**

Ndunge was born in Mun'gala village and is married in Kiandani sub-location. She is 50 years old and is a widow with four sons. Ndunge's main occupation is farming. She is also a small-scale business woman.

The land Ndunge owns was inherited from her deceased husband. Since the land was surveyed after the husband's death, it is now registered in her name. This land is, however, owned in trust for her sons. Once they grow up, she will sub - divide the land equally among the four of them. At the moment, she uses the land to grow food crops (maize and beans), vegetables and fruits.

Ndunge believes that women should own land so that they can be in a position to command each and every activity on the farm without any interference. To tend the land effectively, women should own it'.

Asked what advantages she sees as a land owner, she answered. 'I grow my own vegetables for sale. I make bricks for sale, I have a place I can call home and build houses for my sons, and I have a burial place'. Ndunge, however, has never used her land to receive credit. She has

neither leased nor sold any part of it for much of the land is unproductive. Ndunge wishes to own more land to increase her production on the farm. She observed that if she had more land, she would keep chickens and high grade zero-grazing cows and sells the milk to the nearby institutions. She would also like to own more land so that she could be in a position to allocate all her sons big portions for both settlement and farming.

Ndunge advises other women to strive to own a piece of land which they can use to grow food crops, make bricks for sale or rear cows and thereby earn a lot from the land. To those with small pieces of land she advised that they should try to apply fertilisers or manure so that they can harvest much food. To women with money, she advised: 'Buy land for yourselves', while those who own land with coffee should look for credit to develop the land. Finally, those who own land that is unproductive should 'Sell and buy productive land'.

#### **Case 15: Ndune**

Ndune is a widow of 73 years old. She comes from Misakwani Sub-Location, Mwanyani village. She has one son and her main occupation is farming. She also sells some of her food products in the local market. The land Ndune owns is inherited from her deceased husband. It was registered in her name since her husband had died. The land is 2 hectares. She uses this land for growing both food crops and coffee. From this land, Ndune has neither received credit leased nor sold a portion of it.

Ndune sees the advantages of owning land as being able to have a home, rear livestock, and

grow food crops and coffee. She, therefore, advised women to strive to own land of their own on which they can build their homes and raise their children.

Let women stick to their husbands so that they can inherit land through them (husbands) for the Akamba do not allow a woman to own land except through the husband. Those women who have money should seek to invest in land other than in motor vehicles for if they invest in land they will never regret. Let those women who have money seek to buy more land which they can allocate to each child, regardless of sex.

### **8.3.2 Ownership Without Title Deed**

Once a man dies, his wife's access to land may be at risk. In the past, traditionally, when a man died the deceased's younger brother re-married the widow which ensured her continued access to the family land. However, the case of Minyiva (Case 1), shows that nowadays women have no guarantee on land they use after the husband dies. At worst a widow may find her use rights threatened by the deceased husband's male relatives, neighbours or, in some cases, by her husband's grown sons who have inheritance rights where she has none.

/

#### **Case 1: Munyiva**

Munyiva is 68 years old. She comes from Miskawani sub-location, Kasang'a village. She has 3 daughters and 6 sons and is a widow. Her land belongs to her deceased husband. However, the land has a pending court case. Problems began with a neighbour immediately her husband passed away. The neighbour claimed that part of her husband's land belonged to him despite the fact that there is a boundary between the two pieces of land showing his part and Munyiva's part. It is during the survey that the neighbour began to claim part of her land. Munyiva reported the matter to the elders but this failed to resolve it. Now it is a court case and final judgement is expected any time. Munyiva said, 'I hope that the court will be fair enough to

give me back my land. May God intervene on my behalf so that I can get back this land which is truly mine'.

According to Munyiva, the land case has affected her economically in that the little money she gets from coffee goes to the case and she cannot also engage in other economic activities. The feud has also contributed to the lowering of her farm produce since the land now lies idle.

The rest of Munyiva's land is registered in the name of the husband although he is long dead. She, therefore, owns the land in trust for her sons and grandchildren. This land is 2.6 ha. and she has apportioned each of the sons a piece.

Munyiva uses her land for growing food crops, coffee, vegetables and fruits like bananas, avocados, and mangoes. When asked about the advantages of owning land she stated, 'I have a burial place and I have my own coffee although coffee is a man's crop'. She can also use the land without consulting anybody. She has, however, never used the land for credit, leased it nor sold any portion of it. Nevertheless, she would like to own more land so that she could allocate bigger plots to her offspring. By owning more land Munyiva believes that she also could diversify her production from the farm. However, she believes that women should not own land at all except through their husbands.

### **Case 2: Nthambi**

Nthambi comes from Kyengai village, Mung'ala Sub-Location. She is 46 years old, was once married but is now divorced. She had two children (a daughter and a son), but the daughter

died and left six children.

Nthambi is a small scale-farmer and a business woman. The land she owns was inherited from her family. When the father died, he left the land to her mother who later divided it between Nthambi and the elder brother. She reported that. The reason for giving me this land is because I had divorced my husband and I needed to raise my own children. Nevertheless, the land is not registered in my name, although there is a boundary that shows my portion from that of my brother. Nthambi uses the land to grow food crops like maize, beans, cassava, mangoes, bananas and vegetables like sukumawiki and tomatoes.

Nthambi also stated that land is not held in trust for her children since she believes that one day she has to go back to her husband and then her land will revert to her elder brother. If that happens, then she hopes that her children will inherit their father's land.

/ .

Nthambi realises that the rights to the land she has are limited since the title is in the name of the brother. This is why she intends to go back to her husband and have her children inherit their father's land. She has never used the land for credit, leased or sold any part of it. Nthambi strongly believes that women should own land because they are the ones who use it for feeding their families. According to her, single and divorced women should go out of their way to own land, which they have full control over to use as they wish in the best way. She observed that if she had full rights over her land, she would have planted coffee trees, received some credit, and made improvements on the farm, thereby increasing her income.

Nthambi sees the advantages of having land in that, when there is sufficient rain she gets enough food crops to last her till the next season. 'I do have a place to build my house and can call home'. She also gets additional income from the sale of fruits, especially mangoes.

Nthambi's advice to other women is to strive to own their own land and seek land titles in their own names. By owning land, she observed, women would have a burial place. She warned that those women who have money should seek to buy their own land rather than waiting for men to buy land for them. Women who own land should use such land in acquiring credit which they can use to develop such land or try to invest it in other viable projects.

#### **8.4 Conclusion**

These case studies reveal the following insights regarding women's land rights. The cases reflect on the fact that land which, historically and by custom has been controlled by men through the patrilineal inheritance system, remains substantially in their control today. Most of the family lands are ancestral property, that is, property inherited from the father, paternal grandfather or paternal great-grandfather. A community of interests and rights was recognised in the joint family property, held by generations of members - the man, his sons, and sons' sons. In practice, only men can own or hold land while women cannot own land. With regard to women's inheritance rights, it is said and believed that daughters are not allowed to inherit land from their parents. The inheritance rules, thus, reflect the notion of patrilineal land control.

Women's access to land is often dependent upon their relationship to men and their marital

status. Marriage seems to be the only way to acquire some access to land, yet many women dissolve

their marriages, thereby losing access to the land. Thus, the position of married women in these cases regarding land appears totally dependent on the relationship with the spouse who owns the land. Women acquire land either as wives or by virtue of kin links while men, on the other hand, are direct holders or heirs to land.

The inheritance rights of widows to the properties of the deceased husband do not exist in principle. Registration of titles in the name of the husband, however, offers some possibilities for widows to safeguard their rights, although they are granted only usufruct rights on behalf of their children. Land in the hands of widows tends to pass to male heirs in the next generation.

On the other hand, a daughter's ability to successfully claim a share in land that belonged to her parents, if she is not given voluntarily by her male relatives, very much depends on the legitimacy of her claim, and whether it is considered valid by members of the household, as for example, when a daughter is physically disabled and may not seek marriage.

In the absence of personal rights to land, the divorced, separated and widowed women face gross injustice. It is evident from the cases presented in this chapter that most often the above mentioned categories of women are forced out of their livelihood by their in-law male relatives and are often forced to seek alternative means of supporting themselves and their children.

Nearly all land in this study is registered in individual male elders' names, and when the elder dies, little effort is made to legally transfer titles. Consequently, widows, their daughters-in-law and sons continue to cultivate the deceased man's land without transfer of title. It is important to point out that once the man dies, the wife's continued access to land is often threatened by the male relatives of the husband. Widows are generally powerless in protecting their usufruct rights in the face of adult male husbands' relatives, who may want to take the land. Frequently, they find that the land they had access to while their husbands were still alive is suddenly taken from them when the husband dies.

The cases also show that separated and divorced women return to their natal homes, where they become dependent on their fathers' or brothers' lands. These categories of women were found to form production units with their children and mothers, if the mother was still alive. Mothers and, occasionally, fathers grant women usufruct rights to small plots or gift them some land, but without ownership rights. Once the parents die, daughters are often thrown off the land by their brothers. Lands allotted to daughters in their natal homes for their livelihoods are never sufficient for their needs and, most of the time, they are forced to sell their labour off the farm.

Legally, daughters as well as sons should inherit land. The cases show that, in practice, fathers continue to transfer land to their sons. Occasionally, a father will give his daughter a plot of land to cultivate, though he is reluctant to do so because it means in future there will be less land for his sons. Girls do not inherit land, they are expected to marry away. In cases where a daughter remains unmarried, her situation regarding land becomes precarious. She must



depend upon her father or brother to provide her with land for cultivation. Brothers are, however, reluctant to share their inherited land with their sisters and, most often, daughters are forced to contribute their labour to their mother's production unit if she is still alive.

Polygyny was found to mean that land must be sub-divided between wives competing for available resources within the family. Frequently, as evidenced from these cases, land already allocated to a woman can easily be re-allocated to a co-wife by the husband, leaving the first wife with no source of livelihood.

Several women in these cases have advised women to purchase their own land from their own resources. However, the case studies show that only a few women had purchased their own land. Cases of women purchasing land were found to be few, and the plots purchased were also small.

/

The precedence given to the cash crop (i.e., coffee) means that only small portions of the family land are allocated to food crops. The traditional protective measures for women's land use have been eroded, thereby allowing men to sell land without the consent of their wives.

One of the striking features of these cases is the vulnerability of women's customary rights in land to outside forces over which women could exercise little direct control. These include changes brought about by land tenure reform, the growing scarcity of land and women's lack of juristic authority in traditional public forums such as councils of elders. This means that in all decisions regarding land, women largely remain takers and not makers of the decisions that

deeply affect their lives.

In sum, there are several basic inequalities faced by Mumbuni women regarding rights in land. A woman's access to land is essentially dependent on marriage. Men inherit land mainly as sons and their rights are not conditional, like the women's, upon their marital status. A woman's right of disposal over what she inherits is restricted in ways that men's are not. Few women obtain credit. Divorced women, legally separated women and widows cannot automatically claim the husband's share in land. There is a case here for establishing equal rights for both spouses in the ownership and control of land by either spouse after marriage, and for an equal division on divorce.

## CHAPTER NINE

### SUMMARY, CONCLUSIONS AND RECOMMENDATIONS

#### 9.1 Summary and Conclusions

In order to summarise the findings of this study it is worth our while to revisit the questions that were addressed by the study. As pointed out in chapter one, this study set out to answer five questions, namely:

Has land tenure reform enabled women to own land?

What are the negative and positive aspects of land tenure reform as regards women's ownership of land?

How does land tenure reform affect women's decision-making power in agricultural production?

What is the impact of land tenure reform on the division of labour at the household level?

Have women benefited from the objectives of land tenure reform?

On the basis of the above stated questions, this study drew the following conclusions:

1. Regarding the question of whether land tenure reform has enabled women to own land,

land, at least for the duration of the woman's lifetime.

It is also important to note that widespread disinheritance of women as daughters is a critical gender disadvantage which cannot be made up even if women's rights as widows are fully recognised. Once disinherited as daughters, most rural women for the major part of their lives would have no land of their own. This places women in a significantly weaker bargaining position vis-a-vis men, both within and outside the family.

A woman in a situation of divorce can be extremely vulnerable. Since community properties are all being registered under individual male names, divorced rural women are easily being left with little or no economic support. In such context, inheritance of land as a daughter would make a critical difference to her ability to sustain herself and her children.

/

What this means is that land reform has only served one section of the society, and it has been dominated by male individualised ownership. Together with kinship arbitration in case of conflict, the scarcity of land in general, and the periodical demands for cash, are all likely to increasingly limit women's access to land through outright disposal of such land and of the produce from such land by the individual owners. This new temptation which removes the very security the tenure programme was originally set up to strengthen, has created landlessness for members of the family whose

be a source of economic security. Widows with title deeds in their own names were advantaged in that the relatives of such a widow's deceased husband could not interfere with her piece of land, at least as long as she was alive.

Although prevailing inheritance and land tenure systems are disinheriting women from private land, this has been compensated for, to some degree, by access to public land for fodder, firewood, building material, medicine and herbs. The study, however, found that communal lands are increasingly being privatised into individual hands and titles given to individual owners. The privatisation of communal land is in favour of males, thus eroding the women's community land rights.

The rights bestowed on the individual titled owner have several elements: the ability to allocate, lease, mortgage, sell for cash or dispose of by will. How much land and of what quality is allocated to women depends more on their husband's priorities in terms of how and for what he wants to use the land. This means that women's agricultural priorities are subordinated to those who have land ownership rights (the men), who alone have the right to allocate depending on what they want to use the land and how they want to use it. Trends show that men are increasing allocation of land to cash crops while land for food crops is diminishing. Freedom to mortgage or sell the land can prove critical in an economic crisis, and important even in non-crisis situations where land may be needed as collateral for loans. This right also gives the owner extra leverage and a stronger fall-back position than is the case with usufruct rights. The case for women, especially poor rural households having ownership and control of land of their own rather than mediated

through male relatives, rests in the fact that they can better serve to reduce their and their children's risk of poverty than in the case of rights granted only for men. As demonstrated in chapter six, resources under women's control tend to be used in greater measures for the family, especially for basic needs, than the resources under men's control.

Losing rights to land for women goes along with losing access to the loans they might get since lending institutions require collateral, which they normally take in the form of land title, particularly for agricultural credit. It is men who hold titles and, therefore, it is men who can get loans. Although women can use their husbands' titles, the common practice is that husbands are already using the titles themselves. Any future farm credit that depends on land mortgages is likely to remain firmly in the hands of men. Further, any land secured credit in the hands of men will threaten the land rights of related women. On the other hand, the individuals with titles (mostly men) are already selling land, which was once or, ostensibly, still is, family land. As there is ready cash for purchase of land, there is a trend that poor people are already raising money sometimes simply for plain subsistence. The people found to be most threatened are women and children with little or no off-farm income, who depend on land for their livelihood. The assumption that the household is a unit of congruent interest whose members equally benefit from available resources is refuted by evidence from this study. This underlines the fact that there is a greater need to allocate women independent resources.

3. On the effects of land tenure reform on women's decision-making power in agricultural

production, the study found that women remain disadvantaged in respect of freedom to manage and use family land. On each farm, it was found that land use organisation is based on the supremacy of the male members of the household, either as father-in-law, husband or son. This was found to be particularly linked to the introduction of coffee as a cash crop in the study area, a crop which has brought about numerous changes in land use in the way land is controlled by individual members of the household and how decisions are made regarding its use. As a result, males rather than females more often control intra-family decisions related to agricultural production. More land has been converted to cash crop production making women's obligation to produce food for their families a difficult undertaking. Land traditionally allocated to women for food crop production is being re-allocated for cash crops. The cash crops are almost always under the control of men and are given first priority in terms of soil fertility, hectareage and distance when allocating family land. Women are left to grow food crops from shrinking and fragmented farmsteads, backyard gardens and poor soils without the necessary resources to increase their productivity. Where decision-making power over agriculture is limited as found in this study, we would expect women farmers to be less efficient than the men who have control over the land and the power to decide how to use it.

Most of the households in Mumbuni remain primarily subsistence oriented, although the level of subsistence has changed drastically in the past several decades. Cultural categories organise the allocation of labour within the household: women's labour is allocated to food production, men to growing cash crops and investment in capital intensive and often status oriented activities. Relative male-female contribution to the

household essentially remains the same, although the coming up of a market economy has increased exponentially the amount of cash needed to reproduce the household and has, thus, increased the demands on both female and male incomes. The increasing tendency to view land as a commodity, the growth of cash crop production and the spread of Western education along with forms of employment, has re-channelled access to resources for both sexes and have re-shaped household relations of production as well as investment strategies of both sexes. As a result, these changes have not only split the family economy into subsistence and monetary sub-sectors but has also transformed the role of women in that economy.

In Mumbuni, male workers predominantly migrate from rural areas. This means that women's dependence on the rural agricultural sector remains greater than men's. Granting titles to women currently operating farms as de facto female heads, particularly due to male migration or as widows cultivating the deceased husband's lands without a formal transfer in their names, would raise output by increasing the possibility of getting credit, buying inputs, as well as increasing their incentive and ability to make long-term improvement of that land.

One of the justifications of registration of land title is that this would lead to production via increased security of tenure which would makes it worth a farmer's while to undertake permanent improvements and investment of the farmer's own capital. However, according to this study the woman farmer has no titled land of her own and has to depend on her husband's farm for her food farming. Lack of security on



land denies her the freedom to make management decisions concerning the farm, since the owner of the land has the ultimate legal authority over its use and its utilisation as collateral for credit. The practical effect of all this on women farmers is that they cannot make long-term investments in the holding unless they are secure in their expectation of reaping the benefits of their investment.

The domestic economy continues to rely heavily on women's labour and their contribution to household subsistence. However the study found that due to land tenure reform, the women's workload has increased substantially. Women are cultivating twice as much land without modern technological support while their labour is primarily directly appropriated and regulated by men. The majority of the women have to work first in their husbands coffee farms before proceeding to their food farms. This unequal gender division of labour tasks and male dominance of family labour further jeopardises household food supply. Since food and cash crop farms are dispersed in different places, women are forced to travel long distances to the farms. Further, women combine agricultural work with reproductive domestic labour and off-farm activities, which are fundamental to the survival of farming households. The burden of female labour was found to be exacerbated by the very limited access to labour saving technologies.

Whether women directly benefit from their labour is a critical issue in regard to food production and food security. The study found that women have few alternatives to generate incomes outside farming as a result of the workload they experience in

providing family labour. While the main source of income for women generally comes from the sale of food crops, men get their income mainly from coffee sales and salaries. Since food produced is generally consumed by household members, the average income from the sale of food was found to be very minimal. In many cases, the main obstacle for rural women in raising productivity above the family's subsistence needs is lack of marketing outlet which is, more problematic for women than for men. Unless there are infrastructural facilities, such as feeder roads, that link areas to markets, farmers, including women farmers, have no incentive to produce surpluses. Women's food marketing prospects are further hampered by little or no access to formal marketing channels, extra barriers they face as small farmers in competition with large producers, insufficient working capital, poor storage and lack of transport facilities. Export crop marketing systems often bring marketing services directly to the village, while the marketing of food crops continue to rely on informal arrangements with private traders or on the producers own effort to transport her output to local or urban markets. Cash earned from coffee is generally controlled and distributed by men. In this new mode of production, women find themselves both subordinated to the household income and marginalised. As a result, the economic burdens of women have increased. Failure to recognise women's economic contribution to the farming household has an adverse effect on food production. Incentives and benefits that women may need in food production are critical, if they are to continue in their efforts to feed the nation.

5. One of the main purposes of land tenure reform is to confirm to the modern law

ownership to facilitate the use of credit as a basis of land collateral, directing services to the individual owner, thereby leading to greater production efficiency and greater increases in household income. These objectives should apply to women as well as men, and the gains should be as intended for women as much as for men. This study examined whether women have benefited from these objectives. It was found that land tenure reform has biased all agricultural incentives, credit, co-operative membership and extension services in favour of cash crop production and the men who are land-owners. *The* new land-owner has, thus, the ultimate legal authority over land use, and its general utilisation, be it credit acquisition, exchange, lease or sale. Following this, services such as information, marketing and inputs were found to be directed to the male landowner. Control over agricultural technology and male bias in the dissemination of information and technical inputs disadvantage women farmers and increase their dependence on male mediation. Women have generally not benefited from the objectives of land tenure reform since they have not acquired the rights, which would enable them to become beneficiaries of the reform. Unless these structural constraints which have been created by land tenure reform are removed, it is difficult to envisage an equitable growth and improvement of agricultural food production. Such subordinate position of women in society is negative to the goals of agricultural development, which affects all members of society equally, regardless of sex or creed.

Land tenure reform has carried with it the implicit assumption that the household is a primary unit of production, management and earnings, forgetting that there is always a

sexual division of labour as well as sexual division of management of certain crops, plots and the rights of appropriation over produce. The household is, indeed, a focus of competing interests, rights, obligations and resources, where members are often involved in bargaining, negotiating and possibly even disagreeing. In this context, unequal relations of production between men as husbands and holders of power and their wives, as well as between household and other members who depend on them, may often lead to many conflicts and diverging interests. These gender relations at the household level will not only affect women's access to land, but also the conditions under which women are able to use land. If land tenure reform only benefits the heads of households (the men) and information and services are delivered only to the men, this is bound to have a negative impact on women and food production. If men are the direct beneficiaries of land tenure reform and women have been placed in a subordinate position to their husbands who are confirmed as the custodians of household resources, this will definitely affect agricultural production because women largely provide the labour in this sector.

Given the intensive agriculture brought about by the land tenure reform, there is greater competition for women's labour between the marketed sector (cash crop production) and the non-marketed sector (food production and family maintenance). As a result, women are faced with difficult choices where to concentrate their labour. Furthermore, an increasing number of households in the rural areas are now being headed by women. Moreover, as the kinship support system crumbles the incidence of marital breakdown rises, an increasing number of women even those born and married into affluent rural households, would be vulnerable to

poverty and destitution. Given this backdrop, the overall objectives of poverty alleviation could also be better served, in many instances, by directing economic resources to women than to the male household heads alone. Among the economic resources, land occupies a special place as a productive asset and a potential income stream. Land was found to provide a source of economic security in a number of ways, through the production possibilities it offers, as mortgage and as a saleable asset during a crisis. Among the poor rural households such as those in Mumbuni, a small plot of land is often likely to be just one element as a source of income, but a critical one, in a diversified livelihood system. Land provides an important livelihood supplement to wage earnings by enabling members of the household, especially women, to raise food crops, trees, fodder, keep cattle or poultry and, sometimes, undertake non-farm activities. A small farm, therefore, unless totally barren, could be significant in reducing a person's risk of poverty.

Unless differential gender relations change as a result of land tenure reforms, the level of agricultural production may force women to commit resources and labour outside the productive unit or, alternatively, may not allow women to take full advantage of the resources they have. Indeed, it is a folly on the part of the government to believe that they can increase the productivity of agriculture by providing a natural incentive structure for men while depending on traditional constraints to mobilise a constantly increasing amount of the unremunerated female labour. Although women are altruistic, they are not foolish and they will not devote their total energies to their own economic disenfranchisement. Independent land rights for women, especially poor rural households, can better serve to reduce their and their children's risk of poverty than the rights granted only to men.

Women's key roles as producers and providers of food for the family as well as their responsibility for managing household resources and ensuring the wellbeing of children, need more support on several fronts. These include: reorientation of agricultural policies and programmes to increase women's economic productivity; alleviation of burdens imposed on women by their traditional role in providing food, fuel and water for the household; and increased participation of women in decision-making.

One of the central premises of this study, as pointed out in Chapter One, was that gender relations and women's economic, political and social positions are the outcome of processes of contestation and bargaining. This will involve elements of both cooperation and conflict at different levels, the household, the community, and at the national level. However, Agarwal (1994:477) has noted that women's ability to improve themselves has been seriously circumscribed by a historical process that has entrenched inequalities in the distribution of property, in the cultural construction of gender, and in the exclusion of women from processes of public-decision making, thereby relegating them to the role of takers and not makers of law, social norms and rules. In these circumstances, change is inevitable, but it requires simultaneous struggles over property, over norms governing gender roles, behaviour and attitude in public institutions that make and maintain the laws. This will mean contesting the existing hierarchical character of gender relations, within and outside the household, based on the highly unequal access of women and men to economic, political and social power. The great importance attached to land ownership in rural Kenya makes for a deadlock, which will be difficult to break. Nevertheless, in the context of limited economic opportunities in rural

areas, ownership of land is a critical entry point for challenging unequal gender relations and power structures among rural communities.

Lack of land tenure rights is only one aspect of women's subordination; change of tenure and granting women absolute ownership rights will not effect any great change in their status. This, indeed, would have considerable positive effect upon their lives. It is also important to consider ways in which women's oppression and insecurity can be relieved, not just for humanitarian reasons, but also because of the effects it has upon agricultural production. This study has attempted to identify ways in which women can best be supported to carry out these changes. It is our belief that these changes are important not only for advancement towards the liberation of women, but in order to generate many benefits that the changes would bring about not the least of which is the increased potential of women in food production.

## **9.2 Recommendations**

We recall what we stated in chapter one, that the objectives of any agrarian reform are to promote equity, create employment, raise productivity and increase incomes of the poor. These objectives ought to apply to women as well as men. Land tenure reform should favour not only the masses of rural populations but women in particular who represent well over half the agricultural labour force, with an increasing number becoming de jure and de facto household heads, and who continue to use land as their primary source of existence. Since women must continue to feed the nation, their land rights pose a problem for everybody and not only women.

Today the official Kenya government policy is to achieve the extinction of the customary tenure, through systematic adjudication of rights and registration of titles, and its replacement akin to the English freehold tenure system. This simple assumption that customary land tenure is inherently insecure and that salvation lies in its replacement with a regime of individual property is clearly untenable (Okoth-Ogendo, 2000:129). In continuing the search for tenure security, there is scope for formal recognition which will safeguard customary use under modern title. Nevertheless, some bridges need to be built between the old and the new, especially since customary rules and authority continue to play a very important role in rural areas. Adherence to a straightforward and implementation of statutory law may generate a new set of problems and tensions. Ill-advised registration of landholding rights may only end up strengthening the male dominated status quo. Thus, rather than seeking to override, dismantle or ignore the customary legal systems, an adaptation of the rules could be encouraged within the rural community institutions(Hilhorst, 2000:196). There is therefore need to gain better understanding of different rights in land and scope for recognising prevailing social relationships through tenure reforms. However, the process of integrating must not assume that customary land tenure is static and immune to change. Customary regimes are changing all the time, and should change. For example, the position of traditional elders who administered land may also have a useful social function if retained, but should change to include women and the youth in their composition.

A more bottom-up approach to land reform will prove more workable, legitimate and more likely to serve the interest of the majority. Many of the problems may arise from inadequate or inappropriate attention to local realities and rights, particularly as they affect the most



customary rights. In light of the conclusions, this study recommends the following:

### **9.2.1 The Government**

As a first step, the government should act upon two things:

Create a policy environment, which effectively empowers women through legal means.

Appoint a gender-sensitive Land Reform Commission composed of equal numbers of women and men.

Appoint gender balanced land control boards from the grassroots to the national level.

Create an institutional channel through which women can voice their complaints and concerns over land.

### **9.2.2 > The Land Reform Commission**

Legal inequalities in relation to women's land rights stem broadly from two sources, namely, inheritance laws and land reform related legislation. There are several conditions in which the rights of women in land are generally at risk, unless direct protective measures are included in the law. The Land Reform Commission should recommend:

A joint husband-wife ownership of the primary household estates, including the house and farm. This would be the most natural framework of land reform and would promote equity and efficiency. Such ownership could apply within any tenure system, whether freehold or customary and provisions made when land is being registered.

The revision of family law and abolition of the law of succession, which gives sons certain property rights that daughters do not have. The law should guarantee daughters' rights to inherit land and provide guidance in handling land inheritance.

### **9.2.3 The Women**

In the final analysis, whatever opportunities exist for supporting programmes which address the underlying cause of women's marginalisation (policies, new constitution and laws) will not automatically guarantee that women's concerns and interests are taken on board. Given the widespread gender insensitivity, resistance to gender considerations and the tendency to trivialise these concerns among high level political leaders, organisations and individuals who seek gender equality must consistently exert pressure by drawing attention to gender concerns. It is in this context that the initial efforts must be undertaken by women themselves to make the issue of their land rights visible and to challenge the patriarchal status quo.

/

The social construction of gender is a result of contestation and bargaining, and focuses on some of the ways in which an increasing number of women and women's organisations are now beginning to challenge established norms and representations about appropriate gender roles and behaviour. This is linked to women's movements all over the world initiated in the late 1960s in which increasingly women began to articulate their gender interests in a group-overt form in addition to identifying their common interests.

In Kenya, over the past two decades the women's movement has been strong in expressing resistance to gender oppression, raising public awareness about issues such as persistent

gender injustices in social practices, domestic violence, women's legal rights, and so on. The leverage that gender-progressive groups have in bargaining with the State depend on a variety of factors: their ability to sway public opinion or to disrupt administrative functioning (through agitations); the political pressure they can build up in various ways, with implications for voting patterns; the attention they can get for their cause through the media; their ability to deliver programmes which State agencies are unable to deliver by themselves; the existence of pressure for gender-sensitivity from international aid agencies; and so on.

Land rights for women are unlikely to be granted unless women collectively demand and agitate for them. The women themselves, therefore, must rise and take up the necessary actions if they are to gain effective land rights. However, before women take action, many questions need to be addressed, for example, what legal reforms are necessary and whether a greater female presence in the public decision-making bodies would necessarily help promote rural women's concerns.

It is, therefore, recommended that:

National women's organisations should monitor and if, necessary, intervene on behalf of other women, in the formulation of land tenure policy, which will take into consideration the suggested recommendations to the Land Reform Commission.

Women's NGOs should make it a priority to have a vertical link at the grassroots level and to mobilise them to participate at all levels in order to contribute to the success of land tenure reform. Women's organisations must organise forums to facilitate, design

and implement the reform to ensure feasibility of women's economic contribution and benefits.

## REFERENCES

- Agarwal, Bima 1994 *A Field of One's Own: Gender and Land Rights in South Asia*. Cambridge: Cambridge University Press.
- Allot, A. 1958 Towards a Definition of Absolute Ownership. *Journal of African Law*, 5 (2): 99-102.
- Aidoo, Agnes A. 1988 Women and Food Security: The Opportunity for African Development. *Journal of SID*, 2/3:56-59.
- Barnes, Carolyn 1983 Differentiation by Sex Among Small-Scale Farming Households in Kenya. *Rural Africana*, 15/16: 41-63.
- Beneria, Lourdes & Gita Sen 1986 Accumulation, Reproduction, and Women's Role in Economic Development: Boserup Revisited. In *Women's Work*. E. Leacock & H. Safa. South Hadley, (Eds.) pp. 141-157 MA: Bergin & Garvey.
- Bentsi-Enchill, K. 1965 Do African Systems of Land Tenure Require a Special Terminology? *Journal of African Law*, 9 (2): 114- 139.
- Bernstein, J. D. 1994 *Land Considerations in Urban Environmental Management*. Washington, D. C: World Bank.
- Black-Michaud, A. 1981. Homesteads Versus Households When Collecting Socio-Economic Data. Malkerns, Swasiland: Malkerns Agricultural Research Station.
- Blaikie, P. and H. Bookfield 1987 *Land Degradation and Society: Women in Development Agriculture*. Rome: FAO.
- Blundell, Sir Michael 1964 *So Rough a Wind*. London: Wiedenfeld and Nicholson.
- Boserup, E. 1970 *Women's Role in Economic Development*. New York: St. Martins Press.

- Bohannan, P. 1963                                      Land Tenure and Land Tenure. In *African Agrarian Systems*, pp.101-111. D. Biebuya (Ed.). London: Oxford University Press for the International African Institute.
- Brett, E.A. 1973                                         *Colonialism and Underdevelopment in East Africa: The Politics of Economic Change 1919-1939*. London: Heinemann.
- British Government 1955                             *East African Royal Commission 1953-1955, Report* (Cmd. 9475).
- British Government 1956                             *Report of the Conference of African Land Tenure in East and Central African*. Special Supplement to *Journal of African Administration*.
- Bruce, J.W.I 1988                                        A Perspective on Indigenous Land Tenure Systems and Land Concentration. In *Land and Society in Contemporary Africa*, pp. 23-52. R.E. Downs and S.P. Renya (Eds.). Hanover: University Press of New England.
- Bruce, J. W. and S.E. Migot Adholla (Eds.) 1994     *Searching for Land Tenure Security in Africa*. Dubuque, Iowa: Kendall/Hunt.
- Clark, Mari H. 1984                                    Women-headed Households and Poverty: Insights from Kenya. *Signs: Journal of Women in Culture and Society*, 10(2): 19-26.
- Clark, G. 1985                                         *Fighting the Food Crisis: Women Food Farmers and Food Workers*. UNIFEM Occasional Paper No. 1, United Nations Development Fund for Women.
- Clayton, A. 1976                                        *Counter Insurgency in Kenya: A Study of Military Operations against Mau Mau*. Nairobi: Transafrica Publishers
- Clayton, Eric 1956                                      Some Factors Affecting European Agricultural Policy in Kenya. *East African Economic Review*, pp. 24-30. Nairobi: Government Printer.

- Clayton, Eric. 1964 *Agrarian Development in Peasant Economies: Some Lessons from Kenya*. New York, Pergamon Press..
- Cloude, Preston Ercelle 1969 *Resources and Man: A Study and Recommendations by the Committee on Resources and Man*. The Division of Earth Sciences, National Academy of Sciences. San Francisco: W. H. Freeman.
- Cloud. K. and J.B. Knowles 1987 Where can we go from here? Recommendations for Action. In *Agriculture, Women and Land: the African Experience*, pp 134-143. J. Davison (Ed.) Boulder Co. Westview Press.
- Cohen. J. M. 1973 *Rural Change in Ethiopia: A Study of Land\ Elite, Power, and Values in Chulalo Awrasa*. Ph.D dissertation. University of Colorado.
- Cohen. J. M. 1980 Land Tenure and Rural Development in Africa. In *Agricultural Development in Africa: Issues of Public Policy*, pp349-400. R.H. Bates and M.F Lofchie (Eds.). New York: Preager.
- Collier P. 1988 *Women in Development Defining the Issues*. Working Papers. Population and Human Resources. Washington, D.C: World Bank.
- Cowen, M.1986 Change in State Power. International Conditions and Peasant Producers: The Case of Kenya. *Journal of Development Studies*, 22 (2): 16-26.
- Davison, J. 1987a Land and Women's Agricultural Production: The Context. In *Agriculture, Women and Land: The African Experience*. pp. 1-26. J. Davison (Ed.). Boulder : Westview Press.
- Davison, J. 1987b Who Owns What? Land Registration and Tensions in Gender Relations and Production in Kenya. In *Agriculture, Women and Land: The African Experience*, pp 131-157. J. Davison (Ed.) Boulder: Westview Press.
- Davison, J. 1987c Without Land We Are Nothing: The Effect of Land Tenure

- Policies and Practices Upon Rural Women in Kenya. *Rural Africana*, 27:19-33.
- Dey, J. 1984 *Women in Food Production and Food Security in Africa*. Rome:FAO.
- Dillinger, William, 1991 *Urban, Property Tax Reform: Guidelines and Recommendations*. New York:UMP.
- Donham, Donald L. 1985 *Work and Power in Maale, Ethiopia*. Ann Arbor, MI: UMI Research Press.
- Engels, Fredrick 1972 *The Origin of the Family, Private Property, and the State in the Light of Researches of Louis // Morgan*. New York: International Publishers, reprint.
- Fortmann, Louise 1984 Economic Status and Women's Participation in Agriculture. *Rural Sociology*, 49(2): 452-464.
- Friedl, Ernestine 1975 *Women and Women: An Anthropologist's View*. New York: Holt, Rinehart and Winston.
- Friedmann, J. 1975 *Jomo Kenyatta*. London: Wayland Publishers.
- Funk, Ursula 1987 Land Tenure, Agriculture, and Gender in Guinea-Bissau. In *Agriculture, Women and Land: The African Experience*, pp 33-57. J. Davison (Ed.). Boulder Co. Westview Press.
- Gittinger, J. P. 1990 *Household Food Security and the Role of Women*. World Bank Discussion Papers No.96.
- GOK/UNICEF 1984 *Situation Analysis of Children and Women in Kenya*. Nairobi: Government Printer.
- GOK/UNICEF 1988 *Situation Analysis of Children and Women in Kenya*. Nairobi: Regal Press.
- GOK/UNICEF 1992 *Situation Analysis of Children and Women in Kenya*. Nairobi: Regal Press.
- Glazier, J. 1985 *Land and the Uses of Tradition among the Mheere of Kenya*. Lanham, MD: University Press of America.



- Green, J. K. 1987 *Evaluating the Impact of Consolidation of Holdings, Individualization of Tenure and Registration of Title: Lessons from Kenya.* Paper 129, Land Tenure Centre. Madison: University of Wisconsin Press.
- Greene, P. 1985 *Innovative Approaches in Rural Women's Programmes in Three African Countries: Case Studies.* Report prepared for FAO. Rome: FAO.
- Griaule, Marcel 1965 *Conversations with Ogotemmeli.* London: Oxford University Press, (originally published as *Dieu d.Eau: entretiens avec Ogotemmeli,* 1948).
- Grigg, D. 1970 *The Harsh Lands: A Study in Agricultural Development.* London: Macmillan.
- Gutto, Y. S. S. 1987 *Legal Constraints on Female participation in the Economy.* M. A thesis, University of Nairobi.
- Gutto, S.B.O. 1976 *The Status of Women in Kenya: The Study of Paternalism, Inequality and Underprivilege.* Discussion Paper No. 235. Institute for Development Studies, University of Nairobi,
- Guyer, Jane I. 1984 *Family and Farm in Southern Cameroon.* Ph.D. Dissertation, Boston University.
- Haugerud, Angelique, 1984 *The Consequences of Land Tenure Reform among Small Holders in the Kenya Highlands.* *Rural Africana,* 15/16: 65-89.
- Haugerud, Angelique, 1995 *The Culture of Politics in Modern Kenya.* Cambridge University Press.
- Hay, Margaret Jean 1976 *Luo Women and Economic Change during the Colonial Period.* In *Women in Africa,* pp. 87-110. Nancy Hafkin and Edna Bay (Eds.). Stanford: Stanford University Press.
- Hebinck, P.G.M.1990 *The Agrarian Structure in Kenya: State, Farmers and Commodity Relations.* Fort Lauderdale: Verlag Breitenbach.

- Hobley, C.W. 1971 *Ethnology of Akamba and other East African Tribes.* London: Frank Cass and Company, reprint.
- Hilhorst, T 2000 Women's Land Rights: Current Development in Sub-Saharan Africa. In *Evolving land rights, policy and tenure in Africa*, pp.181-196. C. Toulmin and J Quan (Eds.) Department for International Development. London: National Resource Institute.
- Huxley, E. 1948 *Settlers of Kenya.* Nairobi: Highway Press.
- IF AD 1989 *Women: The Roots of Rural Development.* Rome: Federgraf.
- ILO 1972 *Employment, Incomes and Equality: A Strategy for Increasing Productive Employment in Kenya*, No.172. Geneva: ILO.
- ILO 1986 *Women's Employment Patterns, Discrimination and Promotion of Equality in Africa: The Case of Kenya.* Geneva: ILO.
- International Centre for Public Enterprises in Developing Countries 1986 *The Role of Women in Developing Countries: A Study with an Annotated Bibliography.* Monographs prepared for the Study.
- Ingham, J. H. 1950 *Report of the Committee of Agricultural Credit for Africans. Kenya.* Nairobi: Government Printer.
- Jaggar, Alison 1983 *Feminist Politics and Human Nature.* Ottawa: Rowman and Allanheld.
- Jiggins, J. 1988 *Women's Access to Land as a Strategy for Employment Promotion. Poverty Alleviation and Household Food Security.* Harare:ILO Regional Workshop.
- Jaetzhold, R. and H. Schmidt 1983 *Farm Management Handbooks of Kenya Vol. II. Natural Conditions and Farm Management, Vol II A, Eastern Kenya, Vol. II B Central Kenya.* Nairobi: Ministry of

Agriculture.

- Jones. C.W.1981 Women's Legal Access to Land. In *Invisible Farmers: Women and the Crisis in Agriculture*, pp. 197-238. B. Lewis (Ed.).Washington :USAID.
- Jones. C.W. 1986 Inter-household bargaining in response to the introduction of new crops: a case study from North Cameroon In *Understanding Africa's Rural Household and Farming Systems*, pp 105-123, J.C Moock (Ed.) London: In Westview Press.
- Kaberry. P. 1952 Women of the Grassfields: A Study of the Economic Position of Women in Bamenda. British Cameroons. *Colonial Research Publications, 14*: 49-56.
- Kanogo, T. 1987 *Squatters and the Roots of Mau Mau 1905-1963*. Nairobi: Heinemann.
- Kanogo, T.1992 *Dedan Kimathi*. Nairobi:East African Educational Publishers.
- Kershaw^ Greet 1975 The Changing Roles of Men and Women in the Kikuyu Family by Socio-Economic Strata. *Rural Africana*, 29:173-194. '
- Kharono, E. 1998 *Feminist Challenge to the Land Question in Uganda: Options for Meaningful Action. A Concept Paper*. Harare: Strand Multi Print (PVL).
- Kibwana, K. 1990 Land Tenure. In *Themes in Kenyan History*, pp. 34-46, W.R.Ochieng (Ed.). Nairobi: Heinemann.
- Knowles. James C. 1978 *A Micro-Analysis of Female Labour Participation in Kenya*. Population and Employment Project, Working Paper No. 62.Geneva: ILO.
- Kumar. D. 1978 Agrarian Relations: South India. D. Kumar and T. Ray Chaudhuri (Eds.). *The Cambridge Economic History of India*. A27-A47. Cambridge: Cambridge University Press.

- Lambert, H.E. 1947 Land Tenure Among the Akamba, *African Studies*, 6: 131-147.
- Leacock, Eleanor 1972 *Introduction: The Origins of the Family, Private Property and the State: Fredrick Engels*, pp 1-43. New York: International Publishers.
- Leach, Adam 2000 Land Reform and Socio Economic Change in Kenya in *Essays on Land Law. The Reform Debate*, pp32-3. S.C. Wanjala (Ed) Faculty of Law, University of Nairobi.
- Lindblom, Gerhard 1920 *The Akamba in British East Africa: An Ethnological Monograph*. Uppsala: Appelbergs Boktryckeri Aktiebolag.
- Lipscomb, J. F. 1955 *White Africans*. London, Faber and Faber.
- Mackenzie, F. 1990 Gender and Land Rights in Muran'ga District, Kenya, *Journal of Peasant Studies*, 17 (4.): 609-643.
- Martin, D. M. and F.O. Hashi 1992 *Gender: The Evolution of Legal Institutions and Economic Development in Sub-Saharan Africa*. Working Paper No. 3. Washington, D.C: World Bank.
- Mason, K. O. 1984 *The Status of Women: A Review of its Relationships of Fertility and Mortality*. Paper prepared for the Population Sciences Division of the Rockefeller Foundation. New York.
- Moser, C.O.N. 1993 *Gender Planning and Development: Theory, Practice and Training*. London: Routledge.
- Mathangani, S. W. 1989 *Information for Women in Food Production*. Ottawa: IDRC.
- Mayana, H.V. 1984 *The Political Economy of Land in Gweru*, Harare: Mambo Press.
- Mbiti, J.S. 1966 *Akamba Stories*. Oxford: Oxford University Press.

- Meek. C. K. 1946 *Land, Law and Customs in the Colonies.* London: Frank Cass and Co.
- Mickelwait, D., M.A. Riegelman, and C. Sweet 1976  
*Women in Rural Development.* Boulder: Westview Press.
- Middleton, John 1953 *The Kikuyu and Kamba of Kenya.* London: International African Institute.
- Ministry of Culture and Social Services 1985  
*Women of Kenya: Review and Evaluation of Progress.* Nairobi Government Printer.
- Mitsud, F. M. 1967 *Customary Land Law in Africa: With Reference to Legislation Aimed at Adjusting Customary Tenures to the Needs of Development.* Rome:FAO.
- Moock, J. L. 1986 *Understanding Africa's Rural Households and Farming Systems.* Boulder:Westview Press.
- Monsted, M. and T. Ruingel1987 *Support for Women's Groups Income Generating Activities under Rural Development Fund.* Report prepared for DANIDA. Nairobi: Danish Development Agency.
- Muthiani, J. 1973 *Akamba from within: Egalitarianism in social relations.* New York:Exposition Press.
- Mwaniki, N. 1975 *Social and Economic Impact of Land Tenure Reform in Mbeere.* Discussion Paper No. 10. Institute for Development Studies, University of Nairobi
- Myrick. B., D. Easterbrook, and J.Roelker 1975  
*Three Aspects of Crisis in Colonial Kenya.* Syracuse: Maxwell School.
- Nadine, R.H. 1989 *Women and Food Security in Kenya.* Washington, D.C: World Bank.

- Nangendo, Stevie Moses 1994 *Daughters of the Clay, Women of the Farm: Women, Agricultural Economic Development and Ceramic Production in Bungoma District, Western Kenya.* Ph.D. Dissertation, Bryn Mawr College.
- Nasimiyu, R. 1984 *The Participation of Women in the Political Economy: A Case Study of Bukusu Women in Bungoma District 1902-1960.* M.A. Thesis, Department of History, University of Nairobi.
- Ndeti, K. 1972 *Elements of Akamba Life.* Nairobi: East African Publishing House.
- Ndumbu, A. 1985 *Out of my Rib: A view of Women in Development.* Nairobi: Devel Horizons.
- Noronha, Raymond and J. Francis Lathem 1983 *Traditional Land Tenure and Land use Systems in Design of Agricultural Projects.* Working Papers No. 561. Washington D.C: World Bank.
- Mbiti, J.S. 1966 *Akamba Stories* Oxford: Oxford University Press.
- Muthiani, T. 1973 *Akamba from within: Egalitarianism in Social Relations.* New York: Exposition Press.
- Mwaniki Nyaga, 1975 *Social and Economic Impact of Land Tenure Reform in Mbeere. Working Paper No. 391.* Institute for Development Studies, University of Nairobi.
- Obi. Samuel Nwanko Chinwuba 1963 *The Ibo Law of Property.* London: Butterworth.
- Odingo, R. S. 1971 *The Kenya Highlands: Land use and Agricultural Development.* Nairobi: East Africa Publishing House.
- Okere, L.C. 1983 *The Anthropology of Food in Rural Igboland, Nigeria.* . Leinham, MD: University Press of America.

- Okoth - Ogendo, H. W. O 1974 Property Theory and Land Use Analysis - An Essay in Political Economy of Ideas. *Discussion Paper No. 209*. Institute for Development Studies, University of Nairobi.
- Okoth - Ogendo, H. W. O. 1975 The Changing System of Land Tenure and the Rights of Women. In *The participation of Women in Kenyan Society*, pp. 65-84. Pala Achola, T.Awori and A.Krystal (Eds.). Nairobi: Oxford University Press.
- Okoth - Ogendo, H. W. O. 1976 African Land Tenure Reform. Agricultural Development in Kenya: In *An Economic Assessment*, pp. 18-26. J. Heyer, J. Maitha and W. Senga (Eds.). Nairobi: Oxford University Press.
- Okoth - Ogendo, H. W. O. 1979 Land Tenure and its Implications for the Development of Kenya's Semi-Arid Areas. Occasional Paper No.51. Institute for Development Studies, University of Nairobi.
- Okoth-Ogendo, H. W. O. 1981 Land Ownership and Land Distribution in Kenya's Large Farm Areas. In *Papers on the Kenyan Economy, Performance, Problems and Policies*, pp. 20-35. T. Killick (Ed.). London: Heinemann.
- /
- Okoth-Ogendo, H. W. O.1982a Property Systems and Social Organization on the Relative Position of Women Under Indigenous and Received Law. In *The Individual Under African Law* pp. 18-29. N.P Takira Mbudde (Ed.). Harare: All African Law Conference.
- Okoth-Ogendo, H. W. O 1982b The Perils of Land Tenure Reforms the Case of Kenya. In *Land Policy and Agriculture in Eastern and Southern Africa*. Pp 7-19. L.D Arntzen, L.D Ngoongoo and S.D Turner (Eds.) Selected Papers presented at a Workshop held in Gabarone Botswam, 14-16 February 1982. Tokyo: United Nations University.

- Okoth-Ogendo, H.W.O 1988      Agrarian Reform in Sub-Saharan Africa: The Implications for Agricultural Development. In *Law and the Public Interest*, pp 3-11. J.B. Ojwang and J.W. Kabeberi. Occasional Paper No.52, Institute for Development Studies, Faculty of Law and University of Nairobi.
- Okoth-Ogendo, H. W. O.1989      Some Theory in the Study of Tenure Relations in African Agriculture. *Africa*, 59 (1): 7-17.
- Okoth-Ogendo, H. W. O.2000      Legislative Approaches to Customary Tenure and Tenure Reform in East Africa. In *Evolving land rights, policy and tenure in Africa*, pp. 123-150. C. Toulmin and J Quan (Eds.) Department for International Development. London. National Resource Institute.
- Ondiege, P. O. 1992      Local Coping Strategies in Machakos District. In *Development from within-Survival in Africa*. D.R Fraser and F. Mackenzie (Eds.) London: Routledge.
- Pala, Achola O. 1978a      *African Women in Rural Development: Trends and Priorities*. Washington, D.C: American Council of Education, Overseas Liaison Committee.
- Pala, Achola O. 1978b      Women's Access to Land and their Role in Agriculture and Decision-Making in the Farm: Experiences of the Joluo of Kenya. *Discussion Paper No. 263*. Institute for Development Studies, University of Nairobi.
- Pala, A. Okeyo 1980      The Joluo Equation. *Cares*, 75: 24-36.
- Palmer I. 1985      *Women's Roles and Gender Differences in Development: The Impact of Agrarian Reform on Women*. New York: Kumerian Press.
- Penwill, D.J. 1951      *Kamba Customary Law: Notes Taken in the Machakos District of Kenya Colony*. London: Macmillan.



- Pinckney, T.C and P.K Kimuyu 1994  
Land Tenure Reform in East Africa - Good, Bad or Unimportant? *Journal of African Economics*, 3 (1): pp 1-28.
- Republic of Kenya 1965a  
*Development Plan, 1965-1966*, Nairobi: Government Printer.
- Republic of Kenya 1965b  
*Report of the Mission of Land Consolidation and Registration 1965-1966*. Nairobi Government Printer.
- Republic of Kenya 1970  
*Development Plan 1970-1974*. Nairobi: Government Printer.
- Republic of Kenya 1974  
*Kenya Development Plan 1974-78 Vol II*, Nairobi: Government Printer.
- Republic of Kenya 1977a  
*Laws of Kenya: The Land Adjudication Act, Chapter 284*. Nairobi: Government Printer.
- Republic of Kenya 1977b  
*Laws of Kenya: The Land Consolidation Act, Chapter 283*. Nairobi :Government Printer.
- Republic of Kenya 1977c  
*Laws of Kenya: The Registered Land Act, Chapter 300*. Nairobi: Government Printer.
- Republic of Kenya 1982  
*Laws of Kenya: The Land Tittles Act, Chapter 282*. Nairobi: Government Printer.
- Republic of Kenya 1984a  
*Development Plan, 1984-1988*. Nairobi: Government Printer.
- Republic of Kenya 1984b  
*Laws of Kenya: The Government Lands Act, Chapter 280*. Nairobi :Government Printer.
- Republic of Kenya 1985  
*Women of Kenya, Review and Evaluation of Progress: End of Decade*. Nairobi: Government Printer.

- Republic of Kenya 1986 *Economic Management for Renewed Growth.* Nairobi: Government Printer.
- Republic of Kenya 1989a *Development Plan, 1989-1993.* Nairobi: Government Printer.
- Republic of Kenya 1989b *Kenyan Population Census, Volume I.* Nairobi: Government Printer.
- Republic of Kenya 1994 *National Development Plan 1994-1998.* Nairobi: Government Printer.
- Reuler H. V. and W.H Pius 1993 *The Role of Plant Nutrients for Sustainable Food Crop Production in Sub-Saharan Africa.* The Hague: Dutch Association of Fertilizer Producers.
- Rhoda. E. W. 1986 *Human Rights in Commonwealth Africa.* Rowman and Little Field.
- Riddell, J. C. and C. Dickerman 1986 *Country Profiles in Land Tenure: Africa 1986.* Madison, Wisconsin: Land Tenure Center.
- Rosberg, C. G. and J. Nottingham 1966 *The Myth of Mau Mau: Nationalism in Kenya.* Nairobi: East African Publishing House.
- Rubin, Gayle 1975 *The Traffic in Women: Notes on the Political Economy of Sex.* In *Towards an Anthropology of Women*, pp 37-49 New York: Monthly Review Press.
- Russel, King 1977 *Land Reform: A World Survey.* London: G. Bell and Sons.
- Sacks. K. 1979 *Sisters and Wives: The Past and Future of Sexual Equality.* West Port: Greenwood Press.

- Saito. K. A. 1994 *Raising the Productivity of Women Farmers in sub-Saharan Africa.* World Bank Discussion Papers. Africa Technical Department Series .Washington, D.C:World Bank
- Schapera, I. 1955 *A Handbook ofTswana Law and Custom.* London: Oxford University Press.
- Schlegel, A. 1977 *Sexual Stratification: A Cross-Cultural View.* New York: Columbia University Press.
- Sheddick, I. G. J. 1953 *The Southern Sotho.* London: Oxford University Press..
- Shipton, Parker 1987 *The Kenya Land Tenure Reform: Misunderstanding in the Public Creation of Private Property. Discussion Paper No. 239,* Institute for International Development, Havard University.
- Simpson, S. R. 1986 *Towards a Definition of Absolute Ownership: A Commentary. Journal ofAfrican Law,5 (22): 4-17.*
- Sivard. R. L. 1985 *Women: A World Survey. World Priorities.* Washington, D.C: World Bank.
- Sorrenson, M. P. K. 1967 *Land Reform in the Kikuyu Country: A Study in Government Policy.* Nairobi: Oxford University Press..
- Sorrenson .M.P.K. 1968 *Origins ofEuropean Settlement in Kenya.* Nairobi: Oxford University Press.
- Staudt, K. 1976 *Women Farmers and Inequities in Agricultural Services. Rural Africana, 29:15-29*
- Suda, Collete A. 1991 *Female Labour Contribution in Home Management and Agricultural Production in Siaya District In Women and Development in Kenya: Siaya District,* pp. 1-23. G.S.Were, C.A. Suda and J.M.Olenja (Eds.). Nairobi: Institute of African Studies, University ofNairobi.

- Swynnerton, R. J. M. 1954 *A Plan to Intensify the Development of African Agriculture in Kenya*. Nairobi: Government Printer.
- UNESCO 1984 *Women on the Move: Contemporary Changes in Family and Society*. Paris: UNESCO.
- Verhelst, Thierry 1970 *Customary Land Tenure as a Constraint on Agricultural Development: A Re-Evaluation*. Los Angeles: School of Law, University of California.
- Wanjala, S. C. 1990 *Land Law and Disputes in Kenya*. Nairobi: Oxford University Press.
- Wanjala, S. C. 1995 *Background to the Land Question Problems in Kenya: An Historical and Anthropological Point of View*. Institute of African Studies, University of Nairobi.
- Wanjala, S. C. 2000 *Land Ownership and use in Kenya: Past, Present and Future*. In *Essays on Land Law. The Reform Debate* pp-1-25 S.C Wanjala (Ed), Faculty of Law, University of Nairobi.
- Wanyonyi, J. J. M. 1985 *20 Years of FAO in Kenya*. Rome :FAO.
- Were, G. S. (Ed.) 1985 *Women and Development in Africa*: Nairobi, Gideon S. Were Press.
- Were, G.S. and J. Akon'ga (Eds.) 1986 *Kenya Socio-Cultural Profiles: Kitui District*. Nairobi: Ministry of Planning and National Development and Institute of African Studies, University of Nairobi.
- Whitehead. A. 1984 *Men and Women, Kinship and Property: Some General Issues*. In *Women and Property, Women as Property*, pp 1-34. R. Hirschon (Ed.). London: Croom Helm.

- Wilson, R. J. A. 1971 *Land Tenure and Economic Development: A Study of the Economic Consequences and Land Registration in Kenya's Smallholder Areas.* Institute for Development Studies, University of Nairobi.
- Wolff, R. D. 1974 *Britain and Kenya 1970-1980: Economics of Colonialism.* Nairobi: Transafrica.
- World Bank 1974 *Land Reform.* Washington, D.C: World Bank.
- World Bank 1987 *Rural Development: From Vision to Action.* Washington, D.C: World Bank.
- World Bank 1988 *Kenya: Forestry Sub-Sector Review. Report No. 6651-KE.* Eastern Africa Department. Washington, D.C:World Bank.
- World Bank 1989 *Suh-Saharan Africa: From Crisis to Sustainable Growth.* Washington, D. C:World Bank.
- Young, K. 1990 Household Resource Management: The finl Distribution of Benefits. Mimeo.

## APPENDIX Is QUESTIONNAIRE

### I Identification

Farmer's Name \_\_\_\_\_ Age \_

Sub - Location \_\_\_\_\_ Village

Marital Status: Married

Single

Divorced

Widowed

Date of Entry

### II Household Profile

Name of HH Member	Relationship to Respondent	Sex	Age	Level of Education	Occupation	Income per Month	Marital Status
-------------------	----------------------------	-----	-----	--------------------	------------	------------------	----------------

### III Land Tenure

1. Has your land been?

Adjudicated?

Consolidated?

Registered?

Other (Specify)

2. What is your land's adjudication number?

Adjudication Number

I do not know

Not Applicable

Specify why

3. What is your registered title deed number?

Number

I do not know

Not Applicable







## VI DECISION-MAKING POWER

17. Who makes decisions on running the farm?

Self

Husband

Daughter

Son

Others (specify)

18. Who decides where cash crops are grown?

Self

Husband

Daughter

Son

19. Who decides where food crops are grown?

Self

Husband

Daughter

Son

Others (specify)

20. How many hectares of land do you use for?

Food farms (Number of hectares)

Cash crop farms

21. How many parcels are there for:
- |                 |                      |
|-----------------|----------------------|
| Food crop farms | (Number of hectares) |
| Cash crop farms |                      |
22. How is decision made in terms of soil fertility, distances and hectareage? Which one gets the first priority?
- |                |                |
|----------------|----------------|
| Soil fertility | (food or cash) |
| Distance       | (food or cash) |
| Hectareage     | (food or cash) |

**VII INCREASED WORKLOAD**

23. Indicate in the table below, who does work on food crop production?

Labour	Wife	Husband	Perm.	Temp.	Female	Male	Others
Activity			Labour	Labour	Children	Children	

24. Indicate in the table below, who does work on coffee/other cash crop production?

Labour activity on coffee/other cash crop	Who does what?
---	----------------

25. List the types of tools you use to do farm work?

26. How many plots do you attend to?

27. What are the distances of these farms parcels from home?

Food Parcels	Cash Parcels
1 <sup>st</sup>	
2 <sup>nd</sup>	
3 <sup>rd</sup>	
4 <sup>th</sup>	



34. Total yearly income

How does:

Your family perceive your work on the farm?

Important

Not important

I do not know

35. How do you perceive your work on the farm?

Important

Not important

I do not know

36. Are you making enough money in comparison to the work you do on the farm?  
(Probe)

37. If you had a chance, would you rather you chose alternative ways of using your  
labour? (Probe why and what)

• Why?

What would you choose to do?

38. What are your direct sources of income?

39. What are the direct sources of income of your spouse?

40. Who is paid for the cash crops?

41. How is money from food crops used and who makes decisions?

How used

Who makes decisions

42. How is money from cash crops used and who makes decisions?

How used

Who makes decisions

**IX Land Rights**

43. What are the inheritance rights of your daughter/son under customary law?  
(Probe)

Rights of daughters

Rights of sons

44. Is a daughter allocated land under customary law?

Yes

No

Why not (probe)

45. Is a son allocated land under customary law?

Yes

No

Why not (Probe)

46. (a) What rights does your daughter have over use of land under customary law?

- (b) What rights does your son have over use of land under customary law?

47. (a) Could a daughter dispose/exchange/gift family land under customary law?

Could a son dispose/exchange/gift family land under customary law?

48. Who allocated you land you are currently using?

Mother in law

Father in law

Husband

Others (specify)

49. What rights do you have over land allocated to you under customary laws?

50. Can you dispose/sale /exchange/gift land allocated to you under customary law?

51. What are your inheritance rights under customary tenure? (probe)
52. Who allocates a wife land with title deed? (probe)
53. What are your rights on this land with title deed not in your name?
54. Do you have rights?  
 To raise loans  
 To rent  
 To sell  
 To gift  
 To make permanent improvement (e.g., plant trees)
55. Who makes the following decisions?  
 To raise loans  
 To rent  
 To sell  
 To gift  
 To make permanent improvements
56. Can someone else be allocated this land you are using?  
 Yes  
 No  
 (Probe who the land can be allocated to and if this had happened in the past)

**X BENEFITS OF LAND TENURE REFORM**

57. Have you used this land to get loan?  
 Yes  
 No
58. If yes, how was the loan used? (probe)
59. Who do you get money from for improving/investing in your food farms?  
 Buying seeds  
 Buying fertilisers /other inputs  
 Buying tools

60. Who gets extension information?  
Self  
Spouse  
Son  
Daughter  
Labourers  
Others (specify)
61. Explain why it is this person who gets extension information?
62. Are you a member of a co-operative society?  
Yes  
  
No                                      Name of the co-operative society
63. Why are you not a member of a co-operative society?
64. If you are a member of a co-operative, how do you gain as a member?
65. In what ways have you used this land to increase your income?

## APPENDIX 2: STUDY GUIDE FOR FOCUSED GROUP DISCUSSIONS

Give us a historical perspective on land ownership in the village?

Who owns the land in the village?

How did they come to own this land?

1. Are there any women land owners in the village
2. How did women own land?
3. What type of land do women own in terms of quality and value?
4. What roles have women played during land adjudication, consolidation and registration?
5. Are there conflicts that have arisen between women and men over land adjudication consolidation and registration? Which conflicts arise and how are they **solved**?
6. In whose names is the land registered? Why?
7. Who inherits land in the family? Why?
8. What happens to those members of the family who do not inherit land?

This study guide was used to focus the discussions on land tenure reform.