

UNIVERSITY OF NAIROBI
**INSTITUTE OF ANTHROPOLOGY, GENDER AND AFRICAN
STUDIES**

Gender, Legal frameworks and participation in Agricultural Marketing Cooperatives in Kenya: a case study of Wamunyu Dairy Cooperative Society in Machakos. //

BY

UNIVERSITY OF NAIROBI
INST. OF AFRICAN STUDIES
LIBRARY

Katothya Gerald Mutinda
N50/P/7751/2005

A PROJECT REPORT SUBMITTED TO THE INSTITUTE OF ANTHROPOLOGY, GENDER AND AFRICAN STUDIES IN PARTIAL FULFILLMENT OF THE REQUIREMENTS FOR THE AWARD OF THE DEGREE OF MASTER OF ARTS IN GENDER AND DEVELOPMENT STUDIES, OF THE UNIVERSITY OF NAIROBI.

OCTOBER 2008



DECLARATION

This Research project report is my original work and has not been presented to any study program in any university.

Signature
Katothya Gerald Mutinda
N50/P/7751/2005

Date 17.11.2008

This Research project report has been submitted with my approval as the university supervisor.

Signature
ISACK WERE
Institute of Anthropology, Gender and African studies
University of Nairobi

Date 19. 11. 2008

Dedication

I dedicate this Research project to my Parents; Mr Raphael Katothya and Mrs Phyliss Katothya, whose love for education has inspired me through out my life. This dedication is an expression of my gratitude.

May God blessing you abundantly

ACKNOWLEDGMENT

I wish to acknowledge with great appreciation the many people who have made contributions to this study. The inspiration for this study came from the numerous lecture sessions I had during the course work period, many thanks to all lecturers who stimulated intriguing debates on gender equality concerns. Special thanks to my supervisor, Isaac Were for his enabling professional guidance and support through out the preparation of the study, to execution and eventual presentation of a quality academic paper.

I extend special thanks to those who hosted me and managed field logistics during data collection. I make special mention of the District co-operative office in Machakos, the chairperson and the Secretary Manager Wamunyu Farmers Co-operative society.

I appreciate the input made by all the people I met in the course of the study, and in particular the male, female and youthful dairy farmers, members of Wamunyu farmers Co-operative who provided valuable data to this study.

I am greatly indebted to my family members and friends for their information sharing, support and encouragement, without which this study may not have come to conclusion. Finally, I thank all the people who assisted me in one way or the other towards the successful completion of this study. May God bless you all.

ABSTRACT

In this study, I present the findings of a research project on gender, legal frameworks and participation in Agricultural co-operatives. The study sought to assess the interaction of gender, the various relevant laws (international, national and customary), and the socio-cultural factors, which influence low participation of women in agricultural marketing cooperatives (dairy) in Kenya, with special interest to Wamunyu Dairy cooperative in Machakos District. The goal of this study was to investigate incidences of gender inequity in Dairy marketing cooperatives. And further look into what extent existing legal frameworks are the major causal factors of such incidences, from the view points of co-operative male and female members and other stakeholders.

Numerous studies across the globe have demonstrated how women have remained marginalised from the mainstream sectors of development. Including how their confinement in the often under valued social sector has isolated them. Of important concern has been women's participation in political leadership and decision making levels. This concern has been identified as one of the key indicators under the MDG's goal on gender equality and women empowerment.

Cooperatives are important vehicles for empowerment since they allow individuals with a common problem to come together to achieve goals that would not be otherwise achieved while acting individually. However, despite the Co-operative principles and values that proclaim equality, equity and democracy, gender imbalances abound. And this is largely so because Co-operatives operate within a broader institutional framework. Within which rules, norms and conventions expected to govern human behaviour are constructed, maintained, reinforced, challenged and in some cases reviewed.

Since the World summit on social development (WSSD) and the Beijing conference, the concern on the status of women in cooperatives has remained a top priority agenda for ICA¹. More so the issue of women's low level of active participation and their under-representation in decision making and leadership.

A small scale, descriptive case study design has been employed. Both quantitative and qualitative methods of data collection and analysis were used. Targeting selected male and female; dairy producers ; Co-operators; executive committee and staff members of Wamunyu dairy Co-operative, Government officers from the Ministry of Cooperative development, as well as other secondary Sources.

A literature survey reviewed the international, national and customary legal frameworks as they apply to women in Kenya. Since this is a contemporary phenomenon a case study method was undertaken, in order to deliberately cover the pertinent contextual conditions. And seek to provide a deeper understanding of the complex relationship between the cooperative legal framework and the socio-cultural contexts. For the convenient of the researcher in organizing logistics for data collection, Wamunyu Dairy Cooperative society, in Machakos district was chosen. However, it represents a typical Dairy cooperative society in semi arid areas of Kenya.

¹ ICA-International Co-operative Alliance

TABLE OF CONTENTS

DECLARATION	II
DEDICATION.....	III
ACKNOWLEDGMENT.....	IV
ABSTRACT.....	V
TABLE OF CONTENTS.....	VI
LIST OF TABLE.....	VIII
LIST OF ABBREVIATIONS.....	IX
CHAPTER ONE.....	1
INTRODUCTION	1
1.1 INTRODUCTION AND BACKGROUND INFORMATION	1
1.2 PROBLEM STATEMENT	3
1.3 OBJECTIVES OF THE STUDY.....	5
1.4 RESEARCH QUESTIONS.....	5
1.5 HYPOTHESIS/ ASSUMPTION	6
1.6 JUSTIFICATION OF THE STUDY.....	6
1.7 SCOPE OF THE STUDY.....	7
1.8 LIMITATIONS OF THE STUDY.....	8
CHAPTER TWO	9
LITERATURE REVIEW AND THEORITICAL FRAMEWORK.....	9
2.1 INTRODUCTION	9
2.2 WOMEN'S RIGHTS UNDER THE KENYAN LEGAL FRAMEWORK AND COOPERATIVE LAW	9
2.2.1 <i>International Law</i>	9
2.2.2 <i>Constitutional and Statute Law</i>	11
2.2.3 <i>Access to Justice</i>	14
2.3. CONCEPTUAL FRAMEWORK	15
2.4 THEORETICAL FRAMEWORK; GENDER EQUALITY AND PARTICIPATION	16
2.5 SUMMARY.....	21
CHAPTER THREE	23
RESEARCH DESIGN AND METHODOLOGY.....	23
3.1 INTRODUCTION AND STUDY DESIGN.....	23
3.2 STUDY LOCALE	24
3.3 TARGET POPULATION AND SAMPLING TECHNIQUE.....	25
3.4 DATA COLLECTION AND QUALITY CONTROL	27
3.3 DATA ANALYSIS	28
3.3.1 <i>Data preparation</i>	28
3.3.2 <i>Analysis Techniques</i>	28
CHAPTER FOUR.....	29
RESEARCH FINDINGS	29
4.1 INTRODUCTION	29
4.2 CONTRIBUTION TO AGRICULTURAL PRODUCTION	29
4.3 MEMBERSHIP	31
4.4 ACCESS TO AND CONTROL OF DIVIDENDS	33
4.5 ACCESS TO CO-OPERATIVE SERVICES.....	34
4.7 ACCESS TO DECISION MAKING	36

CHAPTER FIVE	38
DISCUSSION, CONCLUSION AND RECOMMENDATIONS.....	38
5.1 DISCUSSION	38
5.2 CONCLUSION	39
5.3 RECOMMENDATIONS	42
5.3.1. GOVERNMENT OF KENYA.....	42
5.3.2. DEVELOPMENT AGENCIES SUPPORTING CO-OPERATIVES.....	43
5.3.3 WAMUNYU FARMERS COOPERATIVE SOCIETY (WFCS)	44
REFERENCES	47
APPENDICES.....	49
APPENDIX 1 WORK PLAN AND BUDGET	49
APPENDIX 2: DATA COLLECTION INSTRUMENTS	50
<i>Focus Group Discussions – Women; Men</i>	50
<i>Group Interview - Board Members</i>	52
<i>Key Informant Interview; Secretary Manager</i>	52
APPENDIX 3: LETTERS OF INTRODUCTION.....	54

List of Table

	Page
Table 1. Gender-composition of management committees in 59 marketing Co-operatives.....	4
Table 2. Gender-Employment Analysis in 59 Marketing Co-operatives	4
Table 3. Categories of Respondents	26
Table 4. Membership analysis in Wamunyu Co-operative	26
Table 5. Example of Gender daily calendar-Wamunyu Location, Machakos District, Kenya.....	30
Table 6. Membership Analysis of Active Dairy Co-operatives in Machakos District.....	32

LIST OF ABBREVIATIONS

- AU.....African Union
- EAC.....East African Commission
- CEDAW.....Convention on Elimination of all forms of Discrimination against women
- FAO.....Food and Agriculture Organization
- FIDA.....Federation of Women lawyers
- GAD.....Gender and Development
- ICA.....International Co-operative alliance
- ILO.....International Labour Organization
- KFA.....Kenya Farmers Association
- KWFT- Kenya Women Finance Trust
- MDG.....Millennium Development Goals
- NGO.....Non- Governmental Organisation
- SCC.....Swedish cooperative center
- UDHR.....Universal declaration on Human Rights
- UN.....United nations
- UNAIDS...The joint United Nations programme on HIV/AIDS
- WID.....Women In Development
- WDCS.....Wamunyu Dairy Cooperative Society

CHAPTER ONE

INTRODUCTION

1.1 Introduction and Background Information

Cooperatives are autonomous associations of people who join together to meet their common economic, social and/or cultural needs through jointly-owned and democratically controlled enterprises². They are able to promote economic and social development because they are commercial organizations that follow a broader set of values³ than those associated purely with the profit motive.

In 1994 the United Nations estimated that the livelihood of nearly 3 billion people, or half the world's population, was made secure by cooperative enterprises⁴. While in Kenya, by 1995, the cooperative movement was a key player in the economy, with over 5,222 active co-operatives and 3.6million active members and a turnover of Ksh 27 billion⁵. The sector accounted for 60% of the national agricultural production⁶. By 1998, the contribution by the co-operatives to the gross farm revenues was: 43% for coffee, 6% for sugarcane, 38% for pyrethrum and 85% for dairy products⁷.

² McPherson, I. (1996). Co-operative principles for the 21st century. P.1 . Geneva: International Labour Organization. Pp 15

³ Cooperative values include: self help, self-responsibility, democracy, equality, equity and solidarity and the ethical values of honesty; openness; social responsibility and caring for others.

⁴ International Co-operative Alliance & Canadian Co-operative association, the socio-economic Impact of co-operatives in Africa and their contextual context. A research Report implemented as part of a project on: enabling environment for Co-operatives in East, Central and Southern Africa,(ICA Regional office for Africa, Nairobi 2007) Pp48

⁵ Ibid Pp48

⁶ Ibid Pp 48

⁷ Republic of Kenya: Economic Survey (1998) – Central Bureau of Statistics

The history of the co-operative movement in Kenya dates back to 1908 when European settlers started an agricultural co-operative society in the Rift valley, to cater for their interests⁸. In 1931, the co-operative societies ordinance became law and Kenya Farmers Association Limited (KFA) was the first to be registered under this new law. After the World War II, Kenyans began growing cash crops such as tea and coffee, upon which the colonial government begun exploring the possibilities of organizing African farmers into marketing co-operatives. A new co-operative ordinance was enacted in 1945 giving liberty to form cooperatives⁹.

Co-operatives therefore contribute immensely towards poverty eradication through improved marketing of farming households' produce. The dairy sub-sector is a good example where marketing is dominated by dairy co-operatives. In such cases, small scale male and female farmers have found it of necessity to organize themselves into dairy co-operatives. More so, in order to be able to access not only gainful markets but also other services such as; agricultural inputs on credit, information, education and training on good dairy production practices.

Therefore, cooperatives are very instrumental organizational structures for fighting poverty through fostering economic fairness by; mobilizing small-scale, scattered rural based agricultural producers, to gain equal access to markets and services for the membership base, which is open and voluntary¹⁰.

⁸ International Co-operative Alliance & Canadian Co-operative association. the socio-economic Impact of co-operatives in Africa and their contextual context. A research Report implemented as part of a project on: enabling environment for Co-operatives in East, Central and Southern Africa.(ICA Regional office for Africa, Nairobi 2007) Pp48

⁹ www.kenyaweb.com/economy/cooperat/index.html

¹⁰ McPherson. I. (1996). Co-operative principles for the 21st century. P.1. Geneva: International Labour Organization.

1.2 Problem statement

Through their experience working with various Cooperative organizations, Swedish Cooperative centre- a development agency- has experienced alarming levels of Gender inequity. For instance, in the 59 agricultural marketing cooperatives participating in an agri-business development programme spread in 16 districts in Kenya, female members constituted only 27% of active membership¹¹.

Also, a study conducted by the International Labour Organization (ILO) in 2002 entitled "Legal Constraints to Women's Participation in Co-operatives" demonstrates that cooperative legal frameworks often prevent women from enjoying the benefits that stem from membership, including economic, social and political empowerment.¹²

In a further study by the Norwegian institute for urban and regional Research entitled "the gender dimension of rural producer organizations in Uganda" observed that though some national legal instruments have made provisions for a gender supportive legal and policy environments in agricultural development and some cooperative organizations have made efforts in such regard, a number of areas in the existing organizational legal frameworks needed to be reviewed (Margaret Najjingo et al 2004) Together, these experiences and extant research demonstrate a strong need to focus on the experiences of women in cooperative organizations.

¹¹ Swedish Cooperative Centre . CEEDCo Project Baseline Report 2006 (unpublished)

¹²ILO (International Labour Organization). Cooperative Branch. *Legal Constraints to Women's Participation in Co-operatives*. (Geneva: International Labour Office, 2002). foreword.

Table 1. Gender Committee membership analysis in 59 Marketing cooperatives

	Males		Females		Total
	No.	%	No.	%	
Chairperson	54	92	5	8	59
Vice chairperson	51	94	3	6	54
Secretary	55	93	4	7	59
Treasurer	45	79	12	21	57
Members	199	81	46	19	245
Supervisory Members	99	92	9	8	108
Total	503	86	79	14	582

Source: Swedish Co-operative center Baseline report 2007

Table 2. Gender-Employment Analysis in 59 Marketing Co-operatives

	Males		Females		Total
	No.	%	No.	%	
Job Description					
Manager	34	83	7	17	41
Assistant Manager	11	92	1	8	12
Accounts	9	47	10	53	19
Factory Manager	39	78	11	22	50
Subordinate Staff	108	81	25	19	133
Total	201	79	54	21	255

Source: Swedish Co-operative center Baseline report 2007

In order to be effective, poverty reduction strategies must incorporate a gender lens. In a report on women and poverty, Maria Elena Valenzuela of the ILO importantly notes that “feminist contributions to the study of poverty have revealed the need to transcend approaches in which the poor were conceived as a purely masculine group, or in which women’s needs and interests were taken to be either the same as those of men or else were subsumed under those of male heads of household.”¹³ Furthermore, gender equality is not simply a “women’s” issue. Women’s work contributes much to agricultural production and their participation as members and as leaders provides cooperatives with important perspectives, ideas and knowledge that contribute to the overall success of the organization, and thereby benefiting all stakeholders.

¹³ Maria Elena Valenzuela. ILO. National Policy Group, Policy Integration Department. “The Incorporation of Gender in Employment and Anti-Poverty Policies,” Discussion Paper, GPE Guide Series (Geneva. 2003). 3-4.

1.3 Objectives of the study

This study's overarching objective was to survey the extent to which the existing legal frameworks contributes to low participation of women farmers in agricultural marketing co-operatives and identify ways the legal framework/the environment can be improved. The investigations leaned towards the perspectives of key stakeholders.

To this end, three specific objectives were identified.

1. To identify the different levels and nature of participation in agricultural marketing co-operatives, and the major factors influencing male and women farmers' ability to participate.
2. To determine the extent to which such factors are attributable to the existing legal framework from the viewpoints of co-operative members and other stakeholders.
3. To use the findings to make recommendations on the improvement of the legal framework to address gender disparities, or mitigation measures that can be considered by the cooperatives, development agencies and government.

1.4 Research questions

The following questions offered guidance in attempting to address this problem;

1. What are the various levels/areas of participation in agricultural marketing co-operative societies?
2. What are the major factors influencing the extent to which male and female farmers participate
3. To what extent are these factors attributable to the existing legal frameworks
4. What mitigation measures can be considered by various stakeholders in the cooperative development sector?

1.5 Hypothesis/ Assumption

The following Hypothesis guided this study

1. Women's legal status is determined by various levels of law
2. To varying degrees, these several laws act singularly and /or in combination to hamper female farmers' participation in Agricultural marketing co-operatives.

1.6 Justification of the study

The impetus for the study stemmed from the recognition that women, especially from patriarchal backgrounds face specific barriers that constraint their full participation in agricultural development and cooperatives, hence gender disparities in cooperatives must be addressed to achieve poverty reduction objectives.

The Cooperative principles of open and voluntary membership, economic participation by members, democratic member control and complemented by such values as equality of men and women, solidarity and democracy, as enshrined in the 1995 ICA statement of cooperative identity, are not "natural" or just guaranteed. Their application in real life situation is dependent on prevailing international, regional, national and customary legal and institutional frameworks. They all influence and are influenced by power structures, institutional environments in which the cooperatives are located, member characteristics, gender and social status differences.

All of these, acting singularly or in different combinations determine men and women's capacity to participate fully in cooperative society activities, exercise their democratic rights, perform their responsibilities, exert control and have access to benefits and services. As (Naila Kabeer

2003 Pp 47)¹⁴ observes, “a great deal of human behavior is not the result of individual preferences. Rather, it is governed by institutional rules, norms and conventions that have powerful material effects on people’s lives”. Arguably, the legal frameworks set out the most structural and underlying determinants of how and the extent to which men and women producers find it enabling to participate in the available Agricultural marketing cooperatives.

It is in this regard that this study, through a case study methodology, sought to investigate the incidences of gender inequalities in agricultural marketing cooperatives and the extent to which they can be attributed to prevailing legal frameworks. And ultimately offer recommendations on how various stakeholders can ameliorate the situation.

1.7 Scope of the study

This study sought to describe the gender dimensions of different levels of laws relating to women’s participation in development activities. It focuses particularly on women’s ability to participate in agricultural marketing co-operative societies in Kenya. International laws, constitution, national statutes and acts of parliament, organizational by laws and customary laws are identified and described. Additionally, their interrelationships are explored centering on the extent to which they pose gendered constraints to participation in co-operative affairs.

To provide a deep understanding of the complex relationships between the Co-operative legal framework and socio-cultural contexts a case study method was employed..

¹⁴ Naila Kabeer. International Development Research Centre. “Gender Mainstreaming in Poverty Eradication and the millennium Development Goals” A handbook for policy-makers and other stakeholders. The commonwealth secretariat Ottawa 2003 Pp47

1.8 Limitations of the Study

The study case method in this study sampled only one co-operative society-Wamunyu dairy co-operative society in Machakos district- out of the over 4,400 registered agricultural marketing co-operatives in Kenya¹⁵ . For a more comprehensive investigation, the study should have selected a fairly representative number of co-operatives, but due to limited resources this was the biggest limitation for this study.

On the other hand, some aspects of women's rights related to participation in co-operative organizations were not covered in this study, due to their indirect bearing on agriculture, such as reproductive health and gender based violence.

¹⁵ Ministry of Co-operative development and Marketing, strategic plan 2004-2008, (June 2006) Nairobi, Pp

CHAPTER TWO

LITERATURE REVIEW AND THEORITICAL FRAMEWORK

2.1 Introduction

This chapter has three major parts; first it identifies the various components constituting the Kenyan legal system. And further describes how such components work together. In the second part a broad conceptual framework is developed. In which a particular distinction is drawn between WID and GAD approaches to the promotion of gender equality. In the third part, key concepts to this study are defined. To this end key concepts of sex, gender, gender equality and gender discrimination are defined. Finally, five areas/levels of participation in cooperatives societies are identified and discussed.

2.2 Women's Rights under the Kenyan Legal Framework and Cooperative Law

In this part I discuss the relevant international laws and conventions, and the extent to which they are applied in Kenya. Focus is on women's legal status under the Constitution of Kenya and statute law, including cooperative law. And finally I discuss women's ability to access the justice system in Kenya.

2.2.1 International Law

International law is the first layer of legislation which affects the legal status of women in Kenya. Kenya is a member of the United Nations and, therefore, is obligated to observe the provisions in the Universal Declaration of Human Rights. Kenya has also ratified several international covenants on the rights of women, including CEDWA, the International Covenant on Economic, Social and Cultural Rights, the Convention on the Political Rights of Women, the

Convention on the Rights of the Child, and the International Covenant on Civil and Political Rights. Further to this, Kenya is a signatory to various documents that are not legally binding but reflect existing international norms regarding women's rights such as the Beijing Platform for Action and the Millennium Development Goals. At the regional level, Kenya ratified the African Charter of Human and Peoples Rights; however, it has not signed the Additional Protocol that deals specifically with women.¹⁶ Kenya is also a member of the East African Community and the African Union, both of which include specific provisions intended to address gender issues in member countries.

However, Kenya does not have an automatic domestication clause in the Constitution or statute law.¹⁷ In effect, international conventions must be incorporated through an Act of Parliament to have legal effect and authority in Kenya.¹⁸ To date, many international conventions have not been incorporated in the domestic legal system. For instance, Kenya has yet to domesticate the provisions in CEDWA, arguably one of the most important international covenants regarding women's rights.¹⁹ In its Policy on Gender and Development, the current Government has committed to domesticate international laws and conventions to which it is a signatory.²⁰ The Government's performance regarding this commitment has yet to be determined. Nevertheless, the current legal framework does not include provisions from several important international laws and conventions with respect to women's rights.

¹⁶ UNAIDS, Joint United Nations Programme on HIV/AIDS. Property and Inheritance Rights of Women and Girls in Kenya in the Era of HIV and AIDS (August 2006). Pp21.

¹⁷ Ian D. Seiderman, ed. *Attacks on Justice: A Global Report on the Independence of Judges and Lawyers*. 11th ed. (Geneva: Centre for the Independence of Judges and lawyers of the International Commission of Jurists, 2002). Pp323.

¹⁸ FIDA Kenya. *Towards the Promise of Gender Equality...Will the Millennium Development Goals take us there? 2005 Annual Report* (Nairobi: Federation of Women Lawyers Kenya, 2005). Pp30.

¹⁹ *Ibid.* Pp30.

²⁰ Kenya. Ministry of Gender, Sport, Culture and Social Services. "Gender Equality and Development." *Sessional Paper No.2, 2006* (2006). Pp

2.2.2. Constitutional and Statute Law

The second layer of legislation includes the Constitution of Kenya and statute law. First, Chapter 5 (Section 70 – 86) of the Constitution of Kenya includes a bill of rights outlining the fundamental rights and freedoms of all Kenyans, under which women and men are accorded equal rights. However, Section 82 (4) of the Constitution contains a claw back clause which exempts customary and personal law from the principle of non-discrimination. As a result, the courts have found that discrimination on the basis of sex is not prohibited in some areas. For example, in the 1987 S.M. Otieno case, the Kenyan Court of Appeal decided that “a widow does not have rights over the body of her husband because under his customary law, the wishes of the widow and the children are ‘irrelevant.’”²¹ Although the widow and her husband were from different ethnic groups, and had married under statutory law, the Court of Appeal decided that a married woman must follow the customary laws of her husband’s culture.²² This case affirmed that customary law was a formal part of the Kenyan legal system.²³ As a result, women’s rights regarding matters such as burial, marriage, divorce, inheritance, and succession are not guaranteed Constitutional protection.

Second, statutory laws that influence women’s property and inheritance rights are particularly important when examining women’s participation in cooperative organizations. Under statutory law, women and men have equal rights. The Contract Act provides women with the ability to

²¹ Virginia Edith Otieno versus Joash Ochieng Ouga and Omolo Siranga. Civil Appeal No. 31 of 1987, quoted in Judy Thongori. “Constitutionalisation of Women’s Rights in Kenya.” in *Gender Gaps in Our Constitutions: Women’s Concerns in Selected African Countries*, ed. Esther W. Kamweru (Nairobi: Heinrich Boell Foundation, 2002). Pp24.

²² Thongori. Pp24.

²³ Cotula. Pp10.

acquire and administer property.²⁴ According to the Married Women's Property Act, a British statute inherited from the colonial era, women can acquire and own property and exercise full ownership rights.²⁵ Men and women also have equal ability to acquire legal title to land under the Registration Land Act.²⁶ With respect to inheritance, the Land Succession Act is the main statutory provision in Kenya.²⁷ Under this Act, male and female children have equal inheritance rights, and a woman has the same legal capacity as her husband to make a will concerning her property.²⁸

Still, women's property and inheritance rights are strongly influenced by customary law. As discussed above, the Constitution does not prohibit discrimination on the basis of sex regarding customary law, including customary inheritance and succession laws. Moreover, the complex relationship between statutory and customary law is particularly significant with respect to women's property rights.²⁹ In the following example, UNAIDS demonstrates how the relationship between customary and statutory law may have unintentional and awkward results with respect to women's property rights in Kenya:

"Where a statutory law gives women their rights over property, a customary law exists that negates that right. Where customary law gives women access to land, a statutory law may be found to deny them this right. In a registered land case, for example, a woman who would traditionally have had access to the land under customary law could be denied that right because her name does not appear on the land register."³⁰

²⁴ Ibid., Pp25.

²⁵ Thongori. Pp26.

²⁶ UNAIDS. Pp18.

²⁷ Ibid., Pp22.

²⁸ Ibid. Pp24

²⁹ Ibid., Pp18. Colonial legacy has contributed to the complexity of this relationship. For example, land ownership in Kenya is influenced by both traditional practices and the legacy of British colonialism. Prior to the colonial era, men generally controlled land and women were guaranteed access to the land. However, foreign property laws transformed the land tenure system from one that was guided by a communal understanding of land ownership to one that is defined by exclusive and absolute ownership rights.

³⁰ Ibid., Pp19.

In practice, most women in rural areas have secondary property rights, whereby they access land through their husbands and male relatives but rarely hold legal title.³¹ In the end, women's property rights are significantly influenced by customary law and traditional inheritance and succession practices.

Statute law in Kenya includes cooperative law. This body of law includes the Cooperative Societies Act, 1997, the Cooperative Societies (Amendment) Act, 2004 (which, together, are referred to as the Cooperative Act), and the Cooperative Rules, 2004 (the Rules). The Cooperative Act outlines the powers of various actors in the cooperative sector including, the Commissioner for Cooperative Development, the Minister for Cooperative Development, cooperative societies and cooperative members, to name only a few. Section 91 of the Cooperative Act provides the Minister for Cooperative Development the authority to determine the Cooperative Rules.

The Cooperative Act and the Rules do not refer to gender or sex, and are gender neutral, despite the consistent use of masculine language (Ex. "he", Sec. 17).

The Cooperative Act provides cooperative societies with authority regarding membership and governance. For example, cooperatives by-laws may stipulate additional qualifications for membership or leadership positions.³² As member controlled organizations, cooperatives need such autonomy to ensure their organization is governed in a manner which is appropriate to their specific industry and community. However, the Cooperative Act does not prohibit

³¹ Cotula. Pp14.

³² In Section 7 (1) of the Co-operative Rules, 2004, it states that co-operative societies may make by-laws concerning "qualifications for membership, the terms of admission of members and the mode of their admission" as well as "the rights, liabilities and obligations of members; including the minimum share holding and produce delivery.

discrimination on the basis of gender in cooperative by-laws, creating the possibility that cooperatives may adopt by-laws that hinder women's participation.

2.2.3 Access to Justice

The application of women's rights largely depends upon women's access to the justice system. In Kenya, women face serious challenges that make it difficult for them to exercise their rights. First, accessing the court system is difficult for many women. Rural women have difficulty accessing the court system because formal courts are usually located in urban centres³³ Also, as a colonial institution, the court system is alien to many Kenyans.³⁴ Furthermore, many women do not know their legal rights or have adequate financial resources to legally enforce their rights.³⁵ Second, women may experience stigma and alienation from their community if they attempt to enforce their rights. Issues pertaining to succession and marriage are often considered "personal matters" and are expected to be dealt with in the home.³⁶ It has also been reported that "women who seek to enforce their rights are feared and reviled."³⁷ Given that women may not be successful, an attempt to enforce their rights is a considerable risk.

Finally, legal proceedings can be frustrating and result in failure. Alternative dispute resolution provisions are not legally binding and, as a result, are not always enforced.³⁸ Court proceedings are confusing, time consuming, and may be dismissed on technicalities.³⁹ Sometimes legal authorities, such as the judiciary and traditional leaders, are not sensitive to women's claims and

³³ UNAIDS. Pp23; Kenya. Pp15.

³⁴ Kenya. Pp15.

³⁵ UNAIDS. Pp23.

³⁶ Ibid. Pp 23

³⁷ Ibid. Pp 24

³⁸ Ibid. Pp 24

³⁹ Ibid. Pp25

interpret laws in favour of men.⁴⁰ It has also been reported that in some inheritance and property cases, employees in Attorney General Offices “demand financial and sexual favours from women in exchange for disbursing benefits.”⁴¹ Such incidences make it difficult for women to feel comfortable, confident and safe while pursuing their claims through the court system. Overall, the barriers preventing women from accessing to justice are considerable.

2.3. Conceptual Framework

This study is conceptualised within the framework of the gender and Development (GAD) approach, which seeks to transcend the narrow assumptions of the Women in Development (WID) approach in accounting for the marginalisation of women in the development process. The WID approach regards women's lack of access to productive resources as the root cause of women's marginalisation while the GAD Approach regards gender relations i.e. those dimensions of social relations that create differences in the positioning of women and men in the social processes as the cause of women's marginalisation (Razavi and Miller 1995)⁴². The central concern within the GAD Approach is the social structures, institutions, processes and relations that give rise to women's (and men's) disadvantaged position in society. Thus, while the WID approach identifies lack of access to resources as key to their under-representation in the cooperative movement, the gender approach raises questions about the role of gender relations in restricting women's access in the first place (and in subverting policy interventions were they to direct resources to women).

⁴⁰ Ibid. Pp 25

⁴¹ Ibid. Pp 25

⁴² Razavi S. and C. Miller. 1995. *From WID to GAD: Conceptual shifts in the women and development discourse*. Occasional Paper No. 1. Geneva: UNRISD. Pp 65

Given the much reliance on social relations analysis in the GAD Approach, other forms of social differentiation are also taken into account in this approach. For the GAD Approach takes into account the similarities and differences amongst both women and men. Other forms of social differentiation include ethnicity, age, marital status, length of marriage, occupation, educational level attained, social networks, family's social position, ownership of resources e.g. land, and possession of social resources e.g. prestige in the community, all of which determine one's power, hence the ability to take advantage of opportunities and incentives. Considering that the GAD Approach points to factors embedded in society, institutions and within and amongst women and men in determining the extent of their participation in development, I expected that the scope would be considerable for examining the legal frameworks in which women and men are expected to exercise their democratic rights, perform their responsibilities, and exert member control within their agricultural cooperatives.

2.4 Theoretical framework; Gender equality and Participation

In order to examine the issue of women's equality, the concepts of sex and gender must be distinguished. In her study on gender and legal frameworks, Lorenzo Cotula provides a succinct treatment of the concepts of sex, gender, and their use in the context of legal studies.⁴³ She states: "The term 'sex' refers to the congenital and universal biological differences between men and women; 'gender' relates to the socio-cultural and historical characteristics that determine how men and women interact and apportion their roles."⁴⁴ Gender plays a central role in determining the division of labour on family fields and within the household and power relations between men and women at the community and household levels.

⁴³ Lorenzo Cotula. *Gender and Law – Women's Rights in Agriculture*. FAO Legislative Study 76 (Rome: Food and Agriculture Organization, 2002). Pp2

⁴⁴ FAO (Food and Agriculture Organization of the United Nations), *The Legal Status of Rural Women in Nineteen Latin American Countries*. (Rome, 1994), quoted in Cotula, Pp6.

Second, the achievement of gender equality and the prohibition of gender discrimination are required in order for men and women to enjoy equal and sustainable economic, political and social opportunities. (Cotula 2002) defines Gender equality broadly as “the prohibition of discrimination and the adoption of special measures in favour of women.”⁴⁵ The Convention on the Elimination of All Forms of Discrimination Against Women (CEDWA) defines gender discrimination as “any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field.”⁴⁶ This does not include those instances of differential treatment, such as affirmative action, that are intended to enhance opportunities for marginalized groups. It is assumed that equal treatment of all people, in a context of social, economic, and political inequality only serves to perpetuate the status quo. Therefore, the achievement of women’s equal participation in agricultural marketing cooperatives may require differential or special treatment of women.

Also, gender discrimination may take one of two major forms: direct and indirect discrimination. Direct discrimination is “when norms or practices explicitly differentiate treatment on the basis of sex/gender.”⁴⁷ On the other hand, indirect discrimination is “when although norms or practices do not make explicit reference to sex/gender, they include requirements that advantage persons of one sex.”⁴⁸ In the context of the legal framework, “discrimination is *de jure* when envisaged by law, *de facto* when although the law is gender neutral, discrimination exists in

⁴⁵ Cotula, Pp 6.

⁴⁶ Quoted in Cotula. Pp6.

⁴⁷ Ibid.. Pp7.

⁴⁸ Ibid.. Pp6-7.

practice.”⁴⁹ However, the distinction between sex and gender in the context of legislation is not always clear. Cotula notes that “most legal instruments, including the Convention for the Elimination of All Forms of Discrimination Against Women (CEDAW), refer to sex, rather than gender, as prohibited ground of discrimination...On the other hand, some more recent instruments refer to gender or to both gender and sex, reflecting the changes that have taken place in social science thinking.”⁵⁰ Most legislative documents referred to in this review use the term sex.

Fourth, women’s legal status in cooperatives in Kenya is determined by five interdependent layers of legislation. The first layer consists of international laws and conventions that reflect prevailing international norms. International laws and conventions establish a legal and policy framework for various issues, and are voluntarily accepted by states. For this study, those that refer to human rights, women’s rights, land and property rights, poverty and development are particularly relevant. The second layer of legislation is the Constitution of Kenya, the supreme law of the land. As such, it plays a major role in determining women’s current legal status in Kenya. The third layer of legislation is statute law. This body of law is enacted through Acts of Parliament and is created through the legislative process. Women’s ability to participate in agricultural cooperative organizations often rests upon their ability to own and access land, livestock and other natural resources. Therefore, for this study, key areas of statutory law include property law, marriage law, succession law and cooperative law. Together, the first three layers of legislation create a broad legal context in which women in Kenya live.

⁴⁹ Ibid.. Pp7.

⁵⁰ Ibid.. Pp6.

The fourth and fifth layers of legislation are organizational by-laws and customary law. Organizational by-laws are regulations that govern the affairs of individual cooperative societies. Such by-laws are determined through a democratic process by cooperative members. Lastly, customary law is defined as “a body of rules founding its legitimacy in “tradition,” i.e. in its claims to have been applied from time immemorial.” Customary law varies from community to community. It is widely used in rural areas and presides over several important issues including marriage, divorce, succession, and access to traditional justice. Under Kenya’s pluralistic legal system, customary law is recognized as a formal body of law. Because organizational by-laws and customary law are specific to each cooperative society and community respectively, women’s experience in cooperative societies will differ accordingly.

Finally, the concept of participation and its various components must be identified to ensure a thorough examination of women’s participation in agricultural marketing cooperatives. According to (Arnstein, S. 1971)⁵¹ Participation suggests some degree of involvement in an activity or an organization. However, there are different levels of involvement, with some people being at the centre of activity and decision making, while most take more of a back seat, or passive role. There is also the important issue of how much power one actually possesses. Participation in agricultural marketing co-operatives may be similarly conceptualized. To this end, I identify five key areas of participation in agricultural marketing cooperative organizations. The first area of participation is stakeholder contribution to the production of agricultural goods and, therefore, to the cooperative society. Stakeholders include members and non-members who contribute, either directly or indirectly, to the production of the agricultural goods sold by the cooperative.

⁵¹ Arnstein, S. (1971) “A ladder of citizen participation” in the USA journal of the Town Planning Institute. Pp54.

The following (other) four areas of participation constitute stakeholders' rights and benefits which enable them to influence and share control over decisions and resources that affect them. So, the second area of participation is access to membership in the cooperative. Formal membership is the means through which stakeholders are granted legal rights to access organizational services, dividends, and the right to participate in member meeting and leadership positions.

The third key area of participation is access to, and control of, dividends. It is assumed that individuals should be economically rewarded for their labour that contributes to the production of the agricultural goods marketed by the society. Dividends are economic rewards for one's contribution to the production of agricultural goods, including both productive and reproductive work activities. Domestic work performed by women is often assumed to have no economic value; however, unpaid domestic work allows other family members to seek paid employment or labour on family fields without paying domestic help. In the end, the financial well-being of the household unit requires contributions from many family members.

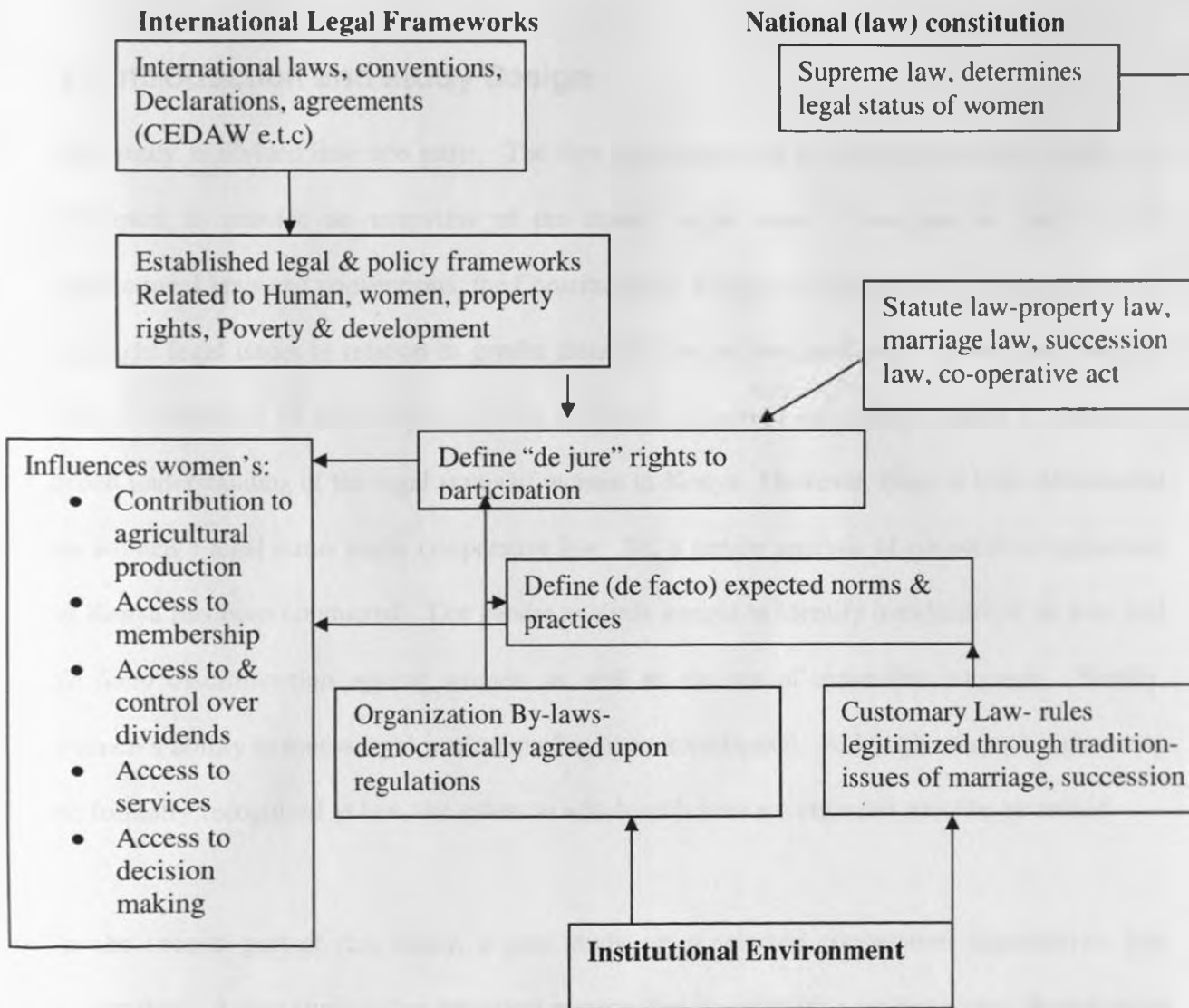
Access to organizational services is the fourth key area of participation in cooperative organizations. Cooperative principles stress the importance of education and training for cooperative members, leaders and staff. In addition to educational and training services, cooperatives may offer loans or easily accessible and affordable farm inputs. Members' access to financial assistance or educational opportunities helps improve the efficiency and quality of farming practices. Equal access to cooperative services by men and women contribute to the development of all stakeholders and, as a result, to the overall success of the cooperative society.

The final area of participation in cooperative organizations is access to decision-making structures. Typically, there are two main decision-making structures in cooperative societies: member meetings and Management Committees. Every member has the right to participate in meetings and leadership positions, and to be represented in leadership structures. As democratic organizations that embody the values of equality and equity, cooperatives need to ensure equal participation among men and women in decision-making structures.

2.5 Summary

To summarize, the key concepts and definitions of this study are: sex, gender, gender equality and discrimination, the cooperative legal framework in Kenya, and participation in cooperative societies. Sex refers to the biological differences between men and women, while gender refers to a social construct that attributes certain responsibilities and expectations to persons of one sex. Gender equality requires the absence of gender discrimination, of which there are two kinds. Within the context of legal studies, direct or *de jure* discrimination is when discrimination is envisaged by law. On the hand, indirect or *de facto* discrimination is when the law is gender neutral but has the effect of discrimination. I reviewed the determinants of women's legal status in cooperatives in Kenya, which include international law, the Constitution of Kenya, statute law, organizational by-laws, and customary law. These different layers of legislation interact in an intertwined and complex manner. Finally, I have defined the concept of participation in cooperative societies. The five key areas of participation are one's contribution to the production of agricultural goods, and access to membership, dividends, services, and decision-making structures.

Figure 1 Conceptual model of the interaction of gender, legal frameworks and participation in Agricultural marketing co-operatives.



CHAPTER THREE

RESEARCH DESIGN AND METHODOLOGY

3.1 Introduction and study Design

This study is divided into two parts. The first part comprised of a literature survey which has attempted to provide an overview of the current legal status of women in Kenya under international laws and conventions, the Constitution of Kenya, and statute law. The purpose is to highlight legal issues in relation to gender identified in past research work. Given the extensive body of literature on these topics, it was sufficient to consult secondary sources to provide a broad understanding of the legal status of women in Kenya. However, there is little information on women's legal status under cooperative law. So, a gender analysis of cooperative legislation in Kenya has been conducted. The gender analysis sought to identify incidences of *de jure* and *de facto* discrimination against women, as well as the use of masculine language. Finally, women's ability to access legal institutions has been investigated. Although women's rights may be formally recognized in law, the extent to which such laws are enforced must be examined.

In the second part of this study, a case study on a selected cooperative organization was undertaken. A case study is "an empirical enquiry that investigates a contemporary phenomenon within its real-life context, especially when the boundaries between the phenomenon and context are not clearly evident. In other words, you would use the case study method because you deliberately wanted to cover contextual conditions – believing that they might be highly pertinent to your phenomenon of study."⁵² Because customary law is derived from traditional

⁵² Robert K. Yin, *Case Study Research: Design and Methods*, 3rd Ed., Applied social research methods series, v.5 (London: Sage Publications, 2003), 13.

and cultural norms, women's legal status is profoundly influenced by the socio-cultural norms of the community. Also, barriers to participation in cooperative societies may also stem from socio-economic factors and cultural stereotypes. Ultimately, the case study method was able to provide a deep understanding of the complex relationship between the cooperative legal framework and socio-cultural contexts, and the implications of this relationship with respect to women's participation in cooperative organizations.

3.2 study Locale

Machakos District is one among the twelve Districts in Eastern Province of Kenya. It borders Kitui District to the East, Mbeere District to the North, Maragua and Thika Districts to the North West and Mwingi and Makueni District to the South, Kajiado to South West while Nairobi is to the North West. The District covers an area of 6,015 square Kms with population of over 1,102,934 people. The climate in the area is arid and semi – arid. The entire District has 224 registered co-operative societies in total. Out of these 105 are active. The total registered membership is 117,221 with share capital of 1,338,964,227 and turnover of Ksh 585,376,139⁵³.

Wamunyu Dairy Cooperative Society Limited (WDCS), a dairy processing and marketing cooperative in Machakos district was selected for this purpose. Generally it represents a typical dairy marketing cooperative in the semi arid areas of Kenya, but can be considered to be progressive compared to many other under similar circumstances, in the sense that it has been successful in; facilitating members to access dairy production inputs (feeds, Drugs, breeds and even Extension services); adding value to farmers produce by bulking and refrigerating, processing into yoghurt, pasteurized fresh milk, and further accessing markets in milk deficit

⁵³ Government of Kenya, District Development plan Machakos district 2007. District Development Office

areas of Kitui and Mutomo districts. Arguably, through such an organization, the dairy production has become a profitable enterprise for resource poor smallholder mixed crop-livestock farmers in the area. However, the consequences on different household members- particularly women- have not been well understood, and especially from an underlying factors' perspective.

3.3 Target Population and Sampling Technique

Since this was a qualitative study purposeful sampling strategies were employed. As Patton (1990) notes, qualitative research methods typically focuses on a limited number of informants, who are selected strategically so that their in-depth information gives optimal insight into an issue⁵⁴. In order to allow flexibility and meet multiple interests and needs, as well as triangulate data, the quota sampling strategy was used in this study

Wamunyu Dairy Co-operative was purposefully selected for this study. This choice was guided by the presence of Swedish co-operative centre who has funded the study. The target population in this study was male and female residents of Wamunyu Dairy cooperative catchment area, farmers, and elders, members of staff and leaders aged 18 years and above.

⁵⁴ Patton M Q (1990, 2nd Ed.) *Qualitative Evaluation and Research methods*. Newbury park, USA: sage publications. Pp 169-186

The second stage of sampling involved the selection of respondents. Guided by the different insights required for this study, respondents were categorized as indicated below.

Table 3 Categories of Respondents, data collection methods and sampling techniques

Category of Respondents	Data collection method	Sampling techniques
Female dairy farmers direct members of the co-operative	Focus group discussion	Random sampling
Mixed male and female youth farmers members of the Cooperative ⁵⁵	Focus group discussion	Random sampling
Male dairy farmers registered as members in the co-operative	Focus group discussion	Random sampling
Board members	Group interview	No sampling
Community opinion leaders/elders	Group interview	typical case sampling
Manager Wamunyu co-operative, & district co-operative officer	Key Informant interview	No sampling

A stratified proportionate sample size of 20% of the total membership (population) was selected.

As indicated below, the Co-operative had 249 active registered members distributed as follows⁵⁶:

Table 4 Membership analysis

Category	members	% of total	No of Respondents	
Males (above 35years)	151	60	12	Male group FGD
Females (above 35years)	49	20	12	Female group FGD
Young males (18-35years)	34	14	7	Combined youth FGD
Young females (18-35 years)	15	06	5	
Co-operative Officer/ manager/			2	Key Informants
Board members			9	Group Interview
Opinion leaders			8	Group Interview
Total Respondents			55	

⁵⁵ Youth refers to those aged between 18 years and 35 years

⁵⁶ Source: Analysis extracted from the Dairy co-operative annual report 2007

3.4 Data collection and quality control

In this case, primary data was collected from five key sources: organizational by-laws and other documents, direct observation, gender analysis exercise, focus group discussions, and personal interviews. Three research assistants were recruited and trained on qualitative research data collection, based on the mentioned methods.

First, a gender analysis of the organizational by-laws and other documents such as reports, policies, strategic and operational plans was conducted to identify incidences of *de jure* discrimination against women and the use of masculine language. Potential incidences of *de facto* discrimination were also identified. Second, data collected from direct observation of member meetings and the gender analysis exercise with members were used to identify incidences of gender inequality in the five key areas of participation.

Thirdly, focus group discussion and personal interviews were used to confirm or nullify the incidences of gender inequality identified by the researcher. Focus group discussions were used to identify the causes of gender inequalities from the viewpoints of participants. Women, men and youth involved in the cooperative as members, spouses of members, or children of members were selected as focus group participants. This ensured that a variety of perspectives and views are represented during data collection. Personal interviews with cooperative managers and board members were used to understand the organizational context, while authorities on customary law provided important information about the socio-cultural context and customary laws of the community.

3.3 Data analysis

3.3.1 Data preparation

To initiate the exercise, the researcher made contact meetings with the board and top management, reviewed the purpose of the study, scheduled appointments with required respondents and confirmed key contact data. Subject to consent, audio (tape) recording was used complemented with written notes made during interviews and discussions, and field notes recorded after each day's exercises. The field notes recorded impressions and questions that might assist with the interpretation of gathered data. Notes of stories told during open ended interviews and discussions were made and flagged for potential use in the final report.

3.3.2 Analysis Techniques

Since the design of this study was a single real-life case, the within-case analysis formed the major and first analysis technique. The researcher studied the relevant documents and interview responses data from the sampled cooperative with the aim of identifying unique patterns within the data. Upon which a detailed case study write up for the cooperative, categorizing interview questions and answers and examining data from within-group similarities and differences was prepared. In cases where certain evidence stood out as being in conflict with the emerging patterns, the researcher organized for follow-up focused interviews to confirm or correct the initial data in order to tie the evidence to the findings and to state relationships in answer to the research questions.

CHAPTER FOUR

RESEARCH FINDINGS

4.1 Introduction

This section presents the results of the case study, drawing upon the data collected from direct observation, the gender analysis exercise with members, focus group discussion, personal interviews and gender analysis of organizational by-laws. The experiences and perspectives of male and female stakeholders highlight how gender and legal frameworks inter-relate to shape women's participation in the co-operative and incidences of direct and indirect discriminations identified.

Wamunyu Dairy farmers co-operative society is located in Machakos district, it operates as a dairy marketing cooperative that bulks milk produced by members, and adds value by processing into pasteurized milk, yoghurt and mala, besides marketing the provide for and on behalf of the members. In this case study, I examined women's participation in the five key areas of participation.

4.2 Contribution to Agricultural production

The contribution to the production of milk is the first area of participation in the cooperative. The division of labour between men and women in the production of milk and the maintenance of the homestead is determined through socio-cultural norms and traditions. At the household level, men's roles include those of household head, family counselor, security provider, and breadwinner. Women are primarily responsible for domestic work such as childcare, cooking,

firewood collection, washing clothes, and washing dishes/utensils. Some women may also earn supplement income through small business ventures such as selling vegetables in the local market. With respect to milk production, both men and women have important roles to fulfill. Men are responsible for tasks such as planting, weeding, harvesting, herding, digging, and ploughing. Women, on the other hand, perform tasks such as planting, weeding, harvesting, milking, looking for feeds, and transporting milk. In some cases, women are in charge of the daily management of the shamba as their husbands migrate to urban areas for paid employment.⁵⁷

Example of Gender Daily Calendar from Wamunyu Location, Machakos District, Kenya 2007

Men's Calendar		Women's Calendar	
Time	Activity	Time	Activity
6.00am	wake up (some take milk collection center)	5-6 am	wake & milking
6.00-8.00am	Taking breakfast	6-7 am	Prepare Break fast and children
8am- 1pm	farm work/attend co-operative meetings/trainings	7-8 am	Cleaning the homestead
1-2pm	lunch	8am-12 pm	Farm work
2-3 pm	Resting	12-1 pm	Prepare Lunch
3-4 pm	monitoring farm/homestead activities	1-2 pm	fetching water and firewood
4-5 pm	Bathing	2-4 pm	Farm work/evening milking
5-9 pm	socializing at the market place/drinking	4- 7 pm	prepare supper & bathe children
9-10 pm	Take Dinner	7-8 pm	cleaning Utensils, make bed
10pm-6 am	Sleeping	8-10 pm	serve supper
		10pm	sleep/fulfil family obligations
6 hrs	Productive work	6hrs	Farm work
		12 hrs	Domestic work
		18 hrs	of reproductive & productive work

Extracted From Wamunyu Co-operative Gender analysis for Agribusiness development Report-2007
Faciliated by Swedish Co-operative Center- 2007

Women's contribution to the production of milk is often underestimated and undervalued. Because women have many tasks and work long hours, they have little time for leisure and community activities.⁵⁸ Men's work is considered "heavy work," challenging and economically valuable, while women's work is believed to be "light work," easy and with no monetary value. When asked whether men value the work done by women, both male and female participants

⁵⁷ Focus Group Discussions.

⁵⁸ Ibid.

responded that women are overburdened and that their work is often unnoticed and unappreciated.⁵⁹ Nevertheless, female members and non-members play a central role in the production of milk through both domestic work and productive labour. Although women's work tends to be less valued, women contribute much to the production of agricultural produce and the Co-operative.

4.3 Membership

The second area of participation in the co-operative is access to membership. On the surface, women are not discriminated against in their ability to become members at the Co-operative. Qualifications for membership in the Co-operative are outlined in organizational by-laws. The Co-operative requires that members own a dairy cow and pay an initial membership fee of Kshs 500/= . If members are unable to pay the initial membership fee, they may use their milk profits to pay the fee at a later date. The Co-operative by-laws regarding qualifications for membership do not refer to gender and are gender neutral.

However, with a total of 64 active female members, women (including youthful females) comprise only a quarter of all active members.⁶⁰ The qualifications for membership combined with prevailing inheritance and succession practices make it difficult for women to independently join the cooperative. Women are less likely to own land or livestock. Inheritance and succession practices favour men over women as property is passed from parents to sons.⁶¹ With the exception of women who are widowed, it is uncommon for women to own or control dairy cows and other resources that are necessary to keep livestock, such as land, feed, and

⁵⁹ Ibid.

⁶⁰ The Co-operative has 1899 registered members, 249 of which are active. There are 567 female members in total, but only sixty four female members are active.

⁶¹ Authority on customary law, interview by the researcher, Machakos District, Kenya, 7th October 2008.

money.⁶² Although women are able to purchase and acquire property under statutory law, men are more likely to be formally employed and have adequate financial resources to purchase land or livestock. In rare cases where property and livestock are jointly owned by a married couple, or purchased by the wife, men usually control and make decisions regarding such resources.⁶³ For example, one female participant stated that “even if we purchase the cow, it is for the man...it can be sold (by him) the next day.”⁶⁴ As a result, women are less likely to own or control dairy cows, making it difficult to meet membership qualifications.

Name of Co-op	Registered Members		Female	% of Total	Total	
	Male	% of Total				
Masii Dairy coop	339	67	168	33	507	
Wamunyu Dairy coop	1332	70	567	30	1899	
Katangi Dairy Coop	144	75	47	25	191	
Ikombe Dairy Coop	159	74	57	26	216	
Kyumbi Dairy Coop	37	74	13	26	50	
Kisekini Dairy Coop	157	66	80	34	237	
Miu Dairy Coop	90	75	30	25	120	
Lema Dairy coop	53	66	27	34	80	
Total/Mean %	2311	70.0	989	30.0	3300	

Source: District Cooperative Office- Machakos March 2008

In addition to restrictive membership requirements, some women may not join the cooperative because they do not want to or they require permission from their husband to do so. Membership in the cooperative is perceived by some women as an additional responsibility.⁶⁵ Male participants did not believe women faced barriers to attaining membership; however female participants stated that some women may require permission from their husbands to join the

⁶² Focus Group Discussions.

⁶³ Ibid.

⁶⁴ Adult Women, Focus Group Discussions, Wamunyu.

⁶⁵ Ibid.

cooperative.⁶⁶ According to the women's focus group, some men perceive their wife's participation as members as a threat to their decision-making and financial power within the household level.⁶⁷ Also, men may fear that their wife will publicly embarrass them through inappropriate behavior, or by sending the impression that his wife has control over him.⁶⁸ Women's financial dependence on men and men's roles as key decision-maker makes it difficult for women to join the cooperative without their husband's permission.

In summary, women do not face direct discrimination in accessing membership in Wamunyu Dairy co-operative society. Rather, inheritance and succession practices and socio-cultural norms regarding decision-making practices hinder women's ability to participate as members. Married and single women are particularly disadvantaged because they are less likely to own land or livestock. Also, married women may require permission from their husbands to join the cooperative. Barriers to membership are particularly significant because membership accords one access to rights and benefits that are assigned to members only, particularly the right to vote in member meetings and run for leadership.

4.4 Access to and control of Dividends

Access to, and control of, dividends is the third area of participation in the Co-operative society. Milk dividends are distributed directly to members, or a representative of the member, regardless of gender. Because many men live and work in urban areas, their wives often receive milk dividends. Although women tend to be responsible for the daily management of the household,

⁶⁶ Ibid.

⁶⁷ Ibid.

⁶⁸ Ibid.

traditionally men control financial resources.⁶⁹ Except in cases where a woman is widowed, women have access to, but not control of, dividends.⁷⁰ Women independently spend money on items that are small and that are required to meet basic household needs.⁷¹ But for most purchases, women must discuss their spending decisions with their husbands and acquire permission before spending money.⁷² For instance, one male respondent stated that women are allowed to make financial decisions “as long as they have good points.”⁷³ On the other hand, female participants claimed that men may spend money without consulting their wives.⁷⁴ This suggests that women’s ability to control dividends is dependent upon their marital status.

4.5 Access to co-operative services

Access to cooperative services is the fourth area of participation in cooperative societies. The Co-operative offers a variety of services to its members including loan and credit services, advances for school fees and medical bills, farm inputs at bulk prices, the collection of milk at several facilities, and educational and training activities. In order to access services, members must be active, productive, and have a good financial record (ie. No un-cleared debt).⁷⁵ In some instances, if a member has a strong case on humanitarian grounds, the cooperative may make an exception for that member.⁷⁶ Cooperative services are also available to members’ spouses and

⁶⁹ Gender Analysis Exercise, Wamunyu Farmers Cooperative Society, Machakos District, Kenya, October 2008: Focus Group Discussions.

⁷⁰ Ibid.

⁷¹ Adult Women, Wamunyu.

⁷² Focus Group Discussions.

⁷³ Adult Men, Wamunyu.

⁷⁴ Adult Women, Wamunyu.

⁷⁵ Manager, interview by Researcher, Machakos District, Kenya, 7th October 2008.

⁷⁶ Ibid.

children.⁷⁷ Organizational by-laws are gender neutral and do not directly discriminate against women.

Still, the process for acquiring a loan may discourage women from applying. Section 56 of the Co-operatives By-laws state that “No loan shall be given unless the applicant appears personally before the Committee to answer questions and to explain his/her reasons for asking for a loan.” Participants revealed that most women fear speaking in front of men.⁷⁸ Given that no women serve on the Committee, women may feel intimidated and uncomfortable in stating their case and responding to questions asked by Committee members.⁷⁹ Although participants did not express any issues with this process, it is worth considering its potential effects on women’s likelihood of accessing this service.

Participants indicated that although women access various services such as farmer education, credit, affordable farm inputs, and milk collection from various centres, the majority of those who use cooperative services are men.⁸⁰ Women felt they were less informed about what types of services are available and how such services may be helpful to them. When asked what could make it easier for women to access services, female participants responded that women needed more knowledge about how credit and loans could potentially help them.⁸¹ They also felt that they were not well-informed about the times and dates of training and educational activities.⁸²

⁷⁷ Ibid.

⁷⁸ Focus Group Discussions.

⁷⁹ For a discussion on women in leadership, see section on access to decision making.

⁸⁰ Secretary Manager: Key Informant Interview.

⁸¹ Adult Women, Wamunyu.

⁸² Ibid.

Therefore, information dissemination of cooperative services may be inappropriate for reaching women.

4.7 Access to decision making

The final area of participation in cooperative societies is access to decision-making structures, particularly member meetings and the Management Committee. The Co-operative has both Annual General Meetings and Special General Meetings where members listen to leaders, ask questions, express their views, and vote for leaders. There are nine members of the Committee who are elected by the membership. Each year, three Committee positions are up for re-election. The Co-operative by-laws do not refer to gender and are gender neutral.

Women's participation in decision-making structure at the Co-operative is low. Women rarely attend and actively participate at member meetings and no women serve on the Committee.⁸³ A key barrier to women's participation is that many women are not registered members and serve as representatives for their husbands at meetings.⁸⁴ In effect, such women can not vote or run for leadership positions. As the committee explained "In order to speak or vote at the annual general meeting or special general meetings, one must state their membership number before speaking"⁸⁵

Even when women have membership status, they tend not to participate in decision-making structures. In total, women comprise 25 per cent of all members, yet they rarely speak at meetings and are not represented on the Management Committee. According to participants,

⁸³ Key informant interview; Secretary Manager.

⁸⁴ Youth Men, Focus Group Discussion, contacted by David Nzomo and Shadrack Malonza. Machakos District, Kenya. 3rd October 2008.

⁸⁵ Management committee, FGD. Machakos District Kenya Contacted by the Researcher. 8th October 2008

women's low participation in decision-making structures stems from traditional beliefs and cultural stereotypes. Some participants believed that women are perceived as inherently inferior to men and do not have the ability to make important decisions.⁸⁶ As a result, women's views are usually not taken seriously. Women's heavy workload also makes it difficult for women to attend meetings or to have adequate leisure time to campaign for leadership positions.⁸⁷ Finally, women cited fear of speaking in front of men and of being questioned by their husbands. For instance, one woman stated that "some (men) may ask (their wives) 'what do you think you were saying? Aren't you ashamed of yourself? You disrespected me'".⁸⁸ When taken together, these factors create an uncomfortable environment for women to come forward in meetings or run for leadership positions.

Overall, women do face legal barriers to their participation in member meetings or to serve on the Committee. But women's participation in the Co-operative decision-making structures is low. Married and single women are indirectly discriminated against because they are less likely than men to be members. Also, traditional beliefs and cultural stereotypes create a challenging environment for all women to come forward in meetings and for leadership positions.

⁸⁶ Focus Group Discussions.

⁸⁷ Ibid.

⁸⁸ Adult Women, Wamunyu.

CHAPTER FIVE

DISCUSSION, CONCLUSION AND RECOMMENDATIONS

5.1 Discussion

Women are less likely to enjoy the benefits and rights that stem from their contribution to the Co-operative society. Women play an important role in agricultural production through various domestic and productive activities. Despite the importance of both male and female tasks to the success of the household unit and the cooperative, women's work is valued less than men's work. Women benefit less from their contributions as they are less likely to be members, control dividends, access services, and participate in decision-making structures.

The legal framework of the Co-operative does not refer to gender in any way. The by-laws do not include proactive means to facilitate women's participation, such as affirmative action provisions for leadership structures or special committees designated to promote women's interests in the cooperative. So, although the Co-operative by-laws do not directly discriminate against women, women encounter de facto discrimination in some instances. First, the combination of customary laws and organizational by-laws decrease the likelihood that married or single women are able to meet membership requirements. Qualifications for membership include ownership of a dairy cow which, in turn, requires additional resources such as land. Although women inherit land and property from their husbands, land is typically passed from parents to sons. In effect, women who are married or have never been married are less likely to qualify for membership.

Women's ability to participate in the cooperative is also hindered by socio-cultural norms and traditions. Under the current division of labour between men and women, women have little free time to participate in extra activities such as educational and training activities. Men typically control household finances and fulfill decision-making roles, making it difficult for married women to share control of dividends, or participate in decision-making structures. Cultural stereotypes and negative attitudes toward women make it difficult for all women, regardless of marital status, to participate in member meetings and in leadership positions.

5.2 Conclusion

In conclusion, women face several legal and non-legal barriers to equal participation in cooperative organizations. First, the legal barriers to women's participation in cooperative organizations stem from the interaction of five separate layers of legislation. On the surface, the Kenyan legal framework does not directly discriminate against women. Kenya is a signatory of several international laws and conventions including CEDWA and the Beijing Platform. The Constitution of Kenya includes the principle of non-discrimination, which prohibits discrimination on the basis of sex. Property, marriage, inheritance, succession and cooperative statute laws are gender neutral.

However, the legal framework is weak and fails to protect women's rights in several areas. Kenya has not fully domesticated the principles of international laws and conventions, such as CEDWA. Also, the Constitution of Kenya contains a claw back clause which does not prohibit discrimination on the basis of sex under customary law. This is particularly significant because customary law is formally recognized in Kenya and widely practiced in rural areas. As a result,

it is not illegal for customary law to discriminate against women in areas such as marriage, divorce, burial, inheritance, and succession. Women's access to, and control of, important resources such as land and property are largely determined by inheritance, succession and marriage practices. Moreover, customary and statute laws may provide women with equal rights or guarantee them access to certain resources when they are examined separately. But, when taken together, customary and statute laws may have awkward and oppressive results for women.

In this case study, the legal framework indirectly discriminates against women. First, membership requirements prohibited women from joining the cooperative as members because they were less likely to inherit land or property under customary law, whereby land is passed from parents to sons. Although widows were entitled to their husbands land, married and single women were not likely to hold legal title to land. In the case study, land is an important resource for keeping livestock, the organizational by-laws regarding participation in decision-making structures indirectly discriminate against women. Because female members are often widows and tend to have fewer financial and human resources than other members, it is more likely that they are not able to meet the required amount of production to vote or be eligible for leadership positions.

Second, barriers to women's participation in cooperative organizations also stem from socio-cultural norms and traditions. In both cases, women's heavy workloads provided them with little free time to participate in training and educational activities as well as member meetings. Married women are less likely to control dividends as men tend to control household finances and make most financial decisions. Also, men have traditionally assumed to be leaders at the

household and community levels. Women's low level of self-confidence and negative attitudes toward women hinder their ability to participate in member meetings and leadership positions.

Overall, women's participation in selected agricultural cooperative organizations does not reflect their contribution to the production of agricultural goods. The work conducted by women must be recognized as equally valuable to work conducted by men. The principle of gender equality requires that women enjoy equal rights as members, and equal benefits as contributors to the household unit and cooperative societies.

5.3 Recommendations

The following recommendations are made with the assumption that the achievement of gender equality in cooperative societies requires a deliberate approach and strong commitment on behalf of government, cooperative members, staff and leaders.

5.3.1. Government of Kenya

1. Ensure the use of gender neutral terminology in Cooperative Act and Rules.

The Co-operative Act and Rules employ the use of masculine language in several Sections. A more gender sensitive approach to legislation ensures that members, Committee members, and managers are referred to in a gender neutral manner. It's urgent that Government officers in the ministry receive some practical training on Gender concepts and its practical aspects in the Co-operative Movement.

Further to this Gender focal points need to be re-activated both in terms of capacity enhancement as well as provision of adequate resources based on action plans to mainstream gender concerns in the Ministry's work. This can be done with close collaboration with the ministry of Gender, and more so the National Gender commission.

2. Include a provision in the Cooperative Act and Rules that prohibits direct discrimination against women, and promotes gender equity, in organizational by-laws.

Although the Co-operative Act and Rules are gender neutral and do not directly discriminate against women, gender sensitive legislation must take into account that women and men live

in a social context of inequality and take proactive measures to achieve gender equity in cooperative organizations.

In the upcoming review of the constitution and the Co-operative act and rules, it is imperative that provisions prohibiting discrimination against women are incorporated and mechanisms for enforcement articulated. The Ministry ought to put gender equity as part of the criteria for assessing cooperatives' by laws before registration.

3. Maintaining updated and gender disaggregated data about the Co-operative movement for responsive planning, Monitoring and Evaluation.

Without gender disaggregated data, it's unlikely that the Ministry will be in a position to continuously monitor and appreciate the magnitude of the gender inequity in the sector. As the situation is now, Data is rarely updated, and even when it's collected it's not gender disaggregated to extent possible. The last nation wide database was developed in 1995 and has never been updated. Besides it failed to gender disaggregate data adequately.

5.3.2. Development Agencies Supporting Co-operatives

1. Facilitate linkages between cooperatives and women's organizations such as FIDA Kenya and KWFT.

Women's organizations can provide women with information about women's issues and potentially offer services that are specifically targeted toward women. For example, FIDA

Kenya may be able to provide women with important information on women's rights and how women can access the justice system. KWFT may be a good link to improve knowledge on financial issues and options for rural women.

2. Emphasize to Development agencies the need to engage both men and women in their Project activities.

The principle of gender equality needs to be evident in all externally supported activities aiming at strengthening Co-operative organizations. As a community-based endeavor, such programmes are in a unique position to demonstrate the concept of gender equality through their own actions.

5.3.3 Wamunyu Farmers Cooperative Society (WFCS)

1. Incorporate a Gender Equality Policy in WFCS policies.

A Gender Equality Policy expresses a commitment by the organization to the principles of gender equality and equity, and requires organizations to incorporate gender sensitive structures and develop strategies to deliberately include women in organizational activities.

Through sensitization and technical support Co-operative organization leaders can be facilitated to develop simple, gender equality policies or statements in their wider organizational policies. This task can easily be executed through the revamped gender focal desks in the Ministry, in collaboration with other agencies promoting Gender equality and women empowerment.

2. Ensure all WFCS by-laws refer to members in a gender neutral manner.

Although the WFCS by-laws do not discriminate against women, there are several instances whereby by-laws refer to members in the masculine form (“he”; “chairman). The use of gender sensitive language (“he/she”; “chairperson”) is consistent with a Gender Equality Policy and demonstrates a conscious effort to neutralize organizational terminology to include both men and women.

3. Develop an information dissemination strategy to reach all members and their families, with a particular focus on reaching women.

In order to facilitate women’s participation in accessing cooperative services and decision-making structures, information dissemination strategies must take into account the different social networks and daily work activities of women and men.

4. Hold gender sensitization training activities for both men and women.

It is assumed that gender equality is not only a “women’s issue.” The achievement of gender equality requires support from both women and men. In addition, it is important to recognize that gender equality is not only for the benefit of women, but also for men, children, the community and the cooperative society.

5. Provide educational activities specifically targeted toward women.

The 5th cooperative principle is the provision of education, training and information for members, leaders and management. Women identified several topics that they were interested in learning more about, such as women’s rights, member rights, financial information, and the purpose of cooperative services and how to access such services.

6. Incorporate affirmative action provisions to ensure women's participation in decision-making structures.

Although women may not face direct legal barriers to their participation in decision-making structures, the achievement of gender equality in meetings and leadership requires a deliberate approach and the provision of special treatment toward women to overcome indirect and socio-cultural barriers to their participation.

7. Incorporate a Zero Tolerance Policy for name calling and intimidation at member meetings and committee meetings

Inclusive participation requires an intimidation free environment for all members and stakeholders to express their views and opinions.

8. Collect gender disaggregated data regarding membership, cooperative services participants and attendance at member meetings.

Disaggregated data collection is useful in monitoring and evaluating the extent to which women participate in the society, and developing strategies aimed at facilitating women's participation for specific areas. Indicators of the marital status of female members would also help determine whether women's marital status affects their ability to participate.

References

- Annual co-operative census (ministry of co-operative Development) 1995.
- Arnstein, S. "A ladder of citizen participation" in the USA journal of the Town Planning Institute, (1971). Pp54
- FAO (Food and Agriculture Organization of the United Nations), the Legal Status of Rural Women in Nineteen Latin American Countries, (Rome, 1994). Quoted in Cotula Pp6
- FIDA Kenya, Towards the Promise of Gender Equality...Will the Millennium Development Goals take us there? 2005 Annual Report (Nairobi: Federation of Women Lawyers Kenya, 2005). Pp30
- Government of Kenya, Ministry of Gender, Sport, Culture and Social Services, "Gender Equality and Development," *Sessional Paper No.2*, 2006.
- Ian D. Seiderman, ed. Attacks on Justice: A Global Report on the Independence of Judges and Lawyers, 11th ed. (Geneva: Centre for the Independence of Judges and lawyers of the International Commission of Jurists, 2002). Pp 323
- International Co-operative Alliance & Canadian Co-operative association, the socio-economic Impact of co-operatives in Africa and their contextual context. A research Report implemented as part of a project on; enabling environment for Co-operatives in East, Central and Southern Africa,(ICA Regional office for Africa, Nairobi 2007) Pp48
- ILO (International Labour Organization), Cooperative Branch, Legal Constraints to Women's Participation in Co-operatives, (Geneva: International Labour Office, 2002). Pp iii
- Lorenzo Cotula, Gender and Law – Women's Rights in Agriculture, FOA Legislative Study 76 (Rome: Food and Agriculture Organization, 2002). Pp 2-14
- Maria Elena Valenzuela, ILO, National Policy Group, Policy Integration Department, "The Incorporation of Gender in Employment and Anti-Poverty Policies," Discussion Paper, GPE Guide Series (Geneva, 2003). Pp 3-4
- McPherson, I. Co-operative principles for the 21st century. Geneva: International Labour Organization. (1996).
- Naila Kabeer, International Development Research Centre, "Gender Mainstreaming in Poverty Eradication and the millennium Development Goals" A handbook for policy-makers and other stakeholders, the commonwealth secretariat Ottawa (2003). Pp 47
- Patton M Q. Qualitative Evaluation and Research methods. Newbury park, USA: sage publications, (1990, 2nd Ed.) Pp 169-189

Razavi S. and C. Miller. *From WID to GAD: Conceptual shifts in the women and development discourse*. Occasional Paper No. 1. Geneva: UNRISD. 1995

Republic of Kenya: *Economic Survey* (1998) – Central Bureau of Statistics.

Robert K. Yin, *Case Study Research: Design and Methods*, 3rd Ed., Applied social research methods series, v.5 (London: Sage Publications, 2003). Pp 13.

Swedish Cooperative Centre (2007) Annual Report 2006.

UNAIDS, Joint United Nations Programme on HIV/AIDS, *Property and Inheritance Rights of Women and Girls in Kenya in the Era of HIV and AIDS* (August 2006). Pp 18-27

Virginia Edith Otieno versus Joash Ochieng Ouga and Omolo Siranga, Civil Appeal No. 31 of 1987, quoted in Judy Thongori, "Constitutionalisation of Women's Rights in Kenya," in *Gender Gaps in Our Constitutions: Women's Concerns in Selected African Countries*, ed. Esther W. Kamweru (Nairobi: Heinrich Boell Foundation, 2002). Pp 24, 26

www.kenyaweb.com/economy/cooperat/index.html

Primary Sources

1. Gender Analysis Exercise. Wamunyu Farmers Cooperative Society, November 2006. Machakos District, Kenya
2. Adult Men. Focus Group Discussion, translated by David Nzomo and Shadrack Malonza, 3rd October 2008, Machakos District, Kenya.
3. Adult Women. Focus Group Discussion, translated by Faith Mutuku and Petronilla Mwanzia, 3rd October 2008, Machakos District, Kenya
4. Authority on customary law. Group Interview by the Researcher, 7th October 2008 Machakos District, Kenya.
5. Management Committee. Focus Group Discussion, translated by the Researcher, 6th October 2008, Machakos District, Kenya.
6. Manager. Key informant Interview by the Researcher, 7th October 2008, Machakos District, Kenya
7. Youth Men. Focus Group Discussion, translated by David Nzomo and Shadrack Malonza, 3rd October, Machakos District, Kenya
8. Youth Women. Focus Group Discussion, translated by Faith Mutuku and Petronilla Mwanzia, 3rd October 2008, Machakos District, Kenya

APPENDICES

Appendix 1 work plan and budget

Date	Activity	Budget (Ksh)	Responsible
July-Sept 08	Literature survey: Kenyan legal framework and cooperative law	5,000	Researcher
1st Oct. 2008	Introductory meeting to the Board of WDCS <ul style="list-style-type: none"> • Introduce the intention and objectives of the study <ul style="list-style-type: none"> • Seek organizational consent • Confirm data collection work plan/appointments • Obtain secondary data documents (By laws, statistical information on membership, production, e.t.c) 	10,000	The researcher, District cooperative officer, board members, senior staff
2nd-3rd Oct, 2008	Review secondary data from WDCS Review Gender analysis reports at the District cooperative office	Costs catered above	Researcher
6 th Oct 2008	Focus group Discussion with selected <ul style="list-style-type: none"> • women, • men • and youth Dairy farmers separately 	3,500	Researcher, Research assistant
7 th Oct 2008	Group interview (the board members)	3,500	Researcher, Research assistant
7 th Oct 2008	Group interview (opinion leaders/authorities on customary law)	3,500	Researcher, Research assistant
7 th Oct 2008	Key informant interview (secretary manager)	500	Researcher, Research assistant
8 th to 16 th Oct 08	Data analysis and report writing	2000	Researcher, Research assistant
17th Oct 08	Presentation of first draft Report to Supervisor	10,000	Researcher
22 nd Oct 08	Submission of Final Draft Report to Supervisor	4,000	Researcher
Total- 22 Days		42,000	

Appendix 2: Data collection Instruments

Legal Barriers to Gender Equality in Agricultural Marketing Cooperatives

Wamunyu Farmers Cooperative Society - Wamunyu, Machakos District, Kenya

Researchers: Katothya Mutinda Gerald

Research Assistant:

Focus Group Discussions – Women; Men

Area of Participation	Level 2 Questions (Research Questions – not asked)	Level 1 Questions (Focus Group Discussion Questions - asked)
A) Contribution to Agricultural Production: <ul style="list-style-type: none"> Gender analysis's findings on Division of labour 	How is the division of labour between men and women determined?	What are the roles of men and women, and how are they different? How did you come to have these roles?
	Do men and women know the extent of one another's workload?	Do you think men understand the full range of women's workload? Do you think women understand the full range of work that men do? Why or why not?
	Do men and women value the work done by one another?	Do you think men understand and value the work women do? Do you think women understand and value the work that men do? Why or why not?
<ul style="list-style-type: none"> Potential Causes: 		
B) Membership <ul style="list-style-type: none"> Findings of Analysis of membership composition 	How likely are women to meet the membership requirements of the cooperative?	How does someone become a member of your cooperative?
		Who usually owns the dairy cow? How are cows acquired? (ie. inherited, purchased, etc)
		What other resources are required to have dairy cows? (ie. land, feed, etc) How does a person acquire such resources? (inherited, purchased, etc)
		Who is likely to have such resources – men, women, both?
		Do you think the initial membership fee prevents some farmers, particularly women, from being members in the coop?
	What are attitudes toward female members?	If a woman met the membership criteria, are there other factors that may prevent her from being a member? (ie. negative attitudes toward women; uncomfortable in male dominated organization)
		Is it important for women to have membership in the coop? Why or why not? If so, what could the coop do, if anything, to make it easier for women to be members?
<ul style="list-style-type: none"> Potential Causes: 		
Area of Participation	Level 2 Questions (Research Questions – not asked)	Level 1 Questions (Focus Group Discussion Questions - asked)
C) Access to, and control over, Dividends⁸⁹	To what extent do women access and control dairy dividends?	What is the relationship between men and women regarding access and control over dairy dividends?
		If women do not control, how do they go about accessing dividends? (i.e. discuss, ask, independently spend, etc)

⁸⁹ *Note:* Need to be clear about the difference between *access* to dividends and *control* over dividends.

Use of dividends = *access*. Right to transfer money, invest money, and independently spend money = *control*.

<ul style="list-style-type: none"> • <i>Gender analysis findings on access to, but not control over, dairy dividends</i> • <i>Potential Causes:</i> 	<p>What are prevailing attitudes of both men and women about sharing dividends?</p>	<p>To what extent are women involved in decision-making about spending dividends?</p> <p>Should men and women share control over dividends? Why or why not? If so, how could dividends be distributed more equally?</p>
<p>D) Access to Services</p> <ul style="list-style-type: none"> • <i>Enumeration of services offered by Wamunyu such as field days, tours, and savings and credit, education. And analyze men, women & youth ability to access</i> • <i>Potential Causes:</i> 	<p>Do women access coop services? Why or why not? Are women likely to meet the requirements to access services?</p> <p>Do women want to access coop services? (WOMEN ONLY)</p>	<p>Do women access coop services? If so, what services? If no, why not?</p> <p>Are there services you would like to use or see available? If so, why would you like to use or see such services?</p> <p>What do you think would help make it easier for women to access services?</p>
<p>Area of Participation</p>	<p>Level 2 Questions (Research Questions – not asked)</p>	<p>Level 1 Questions (Focus Group Discussion Questions - asked)</p>
<p>E) Access to Decision-Making</p> <ul style="list-style-type: none"> • <i>Gender analysis findings on how women, men & youth attend meetings, how active they participate, leadership composition.</i> • <i>Potential Causes:</i> 	<p>How do women perceive their ability to participate in meetings and in leadership?</p> <p>Why do women not participate in meetings and in leadership?</p> <p>Given that women tend to have heavy workloads, do they have time to participate in meetings and leadership?</p> <p>Do beneficiaries see value in women's participation at meetings and in leadership? Why or why not?</p> <p>What do beneficiaries think can be done to facilitate the participation of women at meetings and in leadership?</p>	<p>Do you think women feel comfortable participating at member meetings? Why or why not?</p> <p>Do you think women feel comfortable running for leadership positions? Why or why not?</p> <p>Why do you think women's participation is low at meetings and in leadership positions?</p> <p>Do women have enough leisure time to attend meetings or be in leadership positions?</p> <p>Do you think that the views of men and women are equally valued and respected? If not, why not?</p> <p>Do you think more women should participate at meetings and in leadership positions? Why or why not?</p> <p>In what ways, if any, can the coop make it easier for women to participate in meetings and in leadership positions?</p>

Group Interview - Board Members

Area of Participation	Level 1 Questions
General/Introduction	How long have you been members of the cooperative?
A) Contribution to Agricultural Production	N/A
B) Membership	What are the requirements of membership? (confirm the basis of membership)
	Is there a one member per household rule?
C) Access to, and Control over, Dividends	N/A
D) Access to Services	What services does the cooperative offer?
	What is required to access such services?
	In your observation, who (male or female) tends to access such services and why?
E) Access to Decision-Making	<i>Member Meetings</i>
	How often does the organization hold member meetings?
	How long do meetings usually last?
	In your experience has the issue of low attendance by women ever been discussed? If so, who initiated the discussion and why?
	In your view, why do few women attend and actively participate at meetings?
	<i>Leadership Positions</i>
	How long have you been committee members?
	What are the requirements and the procedures to become a committee member?
	What are some of the reasons you became a committee member?
	In your view, why are there no (few!!) women in leadership positions?
	What strategies, if any, do you think the coop could adopt to increase the number of women at meetings and on the committee? (For example, would the Committee be open to having a seat designated for women or having a special committee created to represent the interest of women?)
	What ways, if any, do you think the coop can increase the number of female members?

Key Informant Interview; Secretary Manager,

Area of Participation	Level 1 Questions
A) General	Has the organization discussed or examined gender issues before this study? If so, how and when did this discussion come about?
A) Contribution to Agricultural Production	N/A
B) Membership	What are the requirements of membership? (confirm the basis of membership)
	Is there a one member per household rule?
	Does the manager have a list of members that indicates the number of male and female members, and their marital status? (ie. member registry)
C) Access to, and Control over, Dividends	How often and in what form (cash, cheque, credit, and savings) are dividends distributed?
	Who (men, women, the official member) receives the payment directly?
D) Access to Services	What services does the coop offer?
	What criteria do members have to meet in order to access such services?
	In your observation, who (male, female, both) tends to access such services and why do you think that?
E) Access to Decision-Making	How often does the organization hold meetings?
	How long do meetings usually last?

	In your experience has the issue of low attendance by women ever been discussed? If so, who mentioned it and why?
	In your view, why do few women attend and actively participate at meetings?
	In your view, why are there no (few!) women in leadership positions?
	What strategies, if any, do you think the coop could adopt to increase the number of women at meetings and on the committee?
	What ways, if any, do you think could help increase the number of female members?

4) Group Interview; Opinion Leaders and Authorities on Customary Law

Area of Customary Law	Question
A) Key Institutions	What community does customary law in this area apply to?
	What are the key customary law institutions of your community?
	Who are the main authorities on customary law for your community?
	How do individuals become authorities on customary law in your community?
B) Important Customary Laws	Do you know of any written documents about customary law in your community?
B) Important Customary Laws	Could you describe or explain how customary law in your community applies to the following issues: Inheritance of property and livestock; Land tenure; Marriage/Divorce; Labour relations on family fields; other.
C) Implementation and Accessing Customary Law	How does someone bring forward a claim? Could you describe the process?
	How are customary laws and legal decisions enforced?
	How do members of the community know or learn their customary rights?
	What are some common claims and disputes brought to authorities of customary law in your community?
C) Implementation and Accessing Customary Law	To your knowledge, are there any women in positions of authority within this system of customary law?

APPENDIX 3: LETTERS OF INTRODUCTION

APPENDIX A: letters of introduction to chairperson, wamunyu dairy co-operative society.

Katothya Mutinda Gerald,
University of Nairobi,
N50/P/7751/2005
10/07/08.

The Chairperson,
Wamunyu Dairy Co-operative Society
Machakos

Dear Sir/ Madam

RE: COURTESY CALL

I am a student at the University of Nairobi. As a part fulfillment to the requirements for Master of Arts degree in Gender and Development Studies, I am carrying out a small scale research project on **legal constraints to Women's participation in Agricultural Marketing Cooperatives.**

This is to inform you that. further to our telephone conversation, I have chosen your co-operative as my study site. Myself and research assistants from Machakos District co-operative office, will be visiting the co-operative from 4th to 8th August 2008. The final results of the study made available to your organization.

Thank you,
Yours faithfully,
Katothya Mutinda Gerald

APPENDIX B: letter of introduction to group interview participants- board members wamunyu dairy co-operative society

Katothya Mutinda Gerald,
University of Nairobi,
N50/P/7751/2005
10/07/08.

Wamunyu Dairy Co-operative Board members

Through,
The chairperson,
Wamunyu Dairy Co-operative society

Dear Sir/ Madam

RE: GROUP INTERVIEW ON LEGAL CONSTRAINTS TO WOMEN'S PARTICIPATION IN AGRICULTURAL MARKETING CO-OPERATIVES

I am a student at the University of Nairobi. As a part fulfillment to the requirements for Master of Arts degree in Gender and Development Studies, I am carrying out a small scale research project on **legal constraints to Women's participation in Agricultural Marketing Cooperatives**. I have chosen Wamunyu Dairy co-operative as my study site. The final results of the study will be shared with you and your co-operative.

I am kindly requesting you to participate in a group interview on 6th August 2008 from 10.00 a.m. to 12 noon, on the topic. Your time and availability will be highly appreciated.

Thank you,

Yours faithfully,
Katothya Mutinda Gerald

APPENDIX C: letter of introduction to group interview participants- opinion leaders on customary law

Katothya Mutinda Gerald,
University of Nairobi,
N50/P/7751/2005
10/07/08.

Wamunyu Dairy Co-operative opinion leaders

Through,
The chairperson,
Wamunyu Dairy Co-operative society

Dear Sir/ Madam

RE: GROUP INTERVIEW ON LEGAL CONSTRAINTS TO WOMEN'S PARTICIPATION IN AGRICULTURAL MARKETING CO-OPERATIVES

I am a student at the University of Nairobi. As a part fulfillment to the requirements for Master of Arts degree in Gender and Development Studies, I am carrying out a small scale research project on **legal constraints to Women's participation in Agricultural Marketing Cooperatives**. I have chosen Wamunyu Dairy co-operative as my study site. The final results of the study will be shared with you and your co-operative.

I am kindly requesting you to participate in a group interview on 6th August 2008 from 2pm to 4pm, on the topic. Your time and availability will be highly appreciated.

Thank you,

Yours faithfully,
Katothya Mutinda Gerald

APPENDIX D: letter of introduction to focus discussion group participants.

Katothya Mutinda Gerald,
University of Nairobi,
N50/P/7751/2005
10/07/08.

Wamunyu Dairy Co-operative members

Through,
The chairperson,
Wamunyu Dairy Co-operative society

Dear Sir/ Madam

RE: FOCUS GROUP DISCUSSION ON LEGAL CONSTRAINTS TO WOMEN'S PARTICIPATION IN AGRICULTURAL MARKETING CO-OPERATIVES

I am a student at the University of Nairobi. As a part fulfillment to the requirements for Master of Arts degree in Gender and Development Studies, I am carrying out a small scale research project on **legal constraints to Women's participation in Agricultural Marketing Cooperatives**. I have chosen Wamunyu Dairy co-operative as my study site. The final results of the study will be shared with you and your co-operative.

I am kindly requesting you to participate in a Focus Group Discussion on 5th August 2008 from 10.00 a.m. to 2 pm, on the topic. Your time and availability will be highly appreciated.

Thank you,

Yours faithfully,
Katothya Mutinda Gerald

APPENDIX E: letter of introduction to district co-operative officer

Katothya Mutinda Gerald,
University of Nairobi,
N50/P/7751/2005
10/07/08.

The District Co-operative Officer
Machakos District

Dear Sir/ Madam

RE: INTERVIEW ON LEGAL CONSTRAINTS TO WOMEN'S PARTICIPATION IN AGRICULTURAL MARKETING CO-OPERATIVES

I am a student at the University of Nairobi. As a part fulfillment to the requirements for Master of Arts degree in Gender and Development Studies, I am carrying out a small scale research project on **legal constraints to Women's participation in Agricultural Marketing Cooperatives**. I have chosen Wamunyu Dairy co-operative as my study site. The final results of the study will be shared with your office.

I am kindly requesting for an interview with you on 7th August 2008 at 12.30 p.m., on the topic. Your time and availability will be highly appreciated.

Thank you,

Yours faithfully,
Katothya Mutinda Gerald

APPENDIX F: letter of introduction to secretary manager- wamunyu dairy co-operative society

Katothya Mutinda Gerald,
University of Nairobi,
N50/P/7751/2005
10/07/08.

The Secretary Manager
Wamunyu Dairy Co-operative society

Dear Sir/ Madam

RE: INTERVIEW ON LEGAL CONSTRAINTS TO WOMEN'S PARTICIPATION IN AGRICULTURAL MARKETING CO-OPERATIVES

I am a student at the University of Nairobi. As a part fulfillment to the requirements for Master of Arts degree in Gender and Development Studies, I am carrying out a small scale research project on **legal constraints to Women's participation in Agricultural Marketing Cooperatives**. I have chosen Wamunyu Dairy co-operative as my study site. The final results of the study will be shared with your office.

I am kindly requesting for an interview with you on 7th August 2008 at 10.00am on the topic. Your time and availability will be highly appreciated.

Thank you,

Yours faithfully,
Katothya

Mutinda

Gerald

UNIVERSITY OF NAIROBI
SCHOOL OF AFRICAN STUDIES
LIBRARY

