

**BARRIERS FACING WOMEN IN ACCESS TO, CONTROL OVER AND OWNERSHIP
OF LAND IN BOMET EAST SUBCOUNTY, BOMET COUNTY, KENYA**

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DECLARATION

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

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DEDICATION

This is to my husband Fredy, my daughters Amarra and Daniella, from whom I drew motivation.

I also dedicate this paper to my mother and late father for their inspiration and struggle to enable me access education.

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ABSTRACT

This study looked at the barriers that face women in access to, control over and ownership of land in Bomet East Sub-County. The study had three objectives: To analyse the awareness levels of women on their legal land rights, to determine the socio-cultural barriers that hinder women from exercising those rights, and to describe the political and administrative barriers facing them. The findings indicate that Kipsigis customary law allows women to access land through marriage. However, in practice married women in monogamous and polygynous unions only own land by proxy, that is, by virtue of being married to their husbands whose names are used in land registration. Widows only serve as custodians, who hold land until their sons become of age. The study findings also indicate that the majority of the women in the Sub-County are not fully informed of their land rights. There is a strong correlation between literacy levels, economic status, marital status and women land ownership. Educated women are more knowledgeable about legal land rights as compared to illiterate women. Economically empowered women are more likely to purchase land of their own. Married women can hardly make a sole decision of acquiring or disposing land. While women's rights to land are protected under the Kenyan Constitution of 2010 and in various national statutes, in practice, women remain disadvantaged and discriminated. The main source of restriction is customary laws and practices, illiteracy and low economic status which continue to prohibit women from owning or inheriting land. In order to increase the levels of awareness of women land rights, there is need for thorough trainings and consciousness-raising campaigns in women land rights. Women need to be given free litigation services to enable them pursue court proceedings in case of land grabbing. In addition, there is need for men involvement in women land rights discussions to help in shunning patriarchal tendencies that continue to be a great hindrance to women land ownership. Finally, donor agencies should consider funding organizations like Kenya Land Alliance which runs programmes that promote women land rights through sensitization and trainings.

LIST OF ABBREVIATION AND ACRONYMS

CEDAW: Committee on the Elimination of Discrimination against Women

FAO: Food and Agriculture Organization

UNDP: United Nations Development Programme

FIDA: Federation of Women Lawyers

IOM: International Organization for Migration

KNBS: Kenya National Bureau of Statistics

ELTAP: Ethiopia Land Tenure and Administrative Programme

IDRC: International Development Research Center

CHAPTER ONE

BACKGROUND TO THE STUDY

1.1 Introduction

Land as a major form of asset, is one of the most useful natural resources that generate the means of survival for people (Ellis, 2000). It is from land that most of the needs that shape human beings come when it is well utilized. Land, when utilized, provides a wide range of needs such as food, settlement sites, building materials, recreational areas and many others. Although this resource has many advantages to human beings, its control and its accessibility differ in many ways, especially in terms of ownership and accessibility particularly in rural areas (Shivji, 1998).

Globally, gender and development originated in the particular era of feminist thinking that was embedded in the politics of the time (Cornwall et al., 2007). Later it took the formation approaches to address the problem of inequalities amongst men and women particularly in the question of control of assets, empowerment, decision-making and participation in the socio-political and economic affairs of individuals. However, the main concern in this section is the description of the global nature of gender inequality in terms of access to, control over and ownership of land.

Different studies in different areas across the Third World have identified gender inequality problems in terms of asset control and ownership of resources. Most of the studies have revealed that areas with gender inequality problems are found in countries such as Asia, Latin America and Africa. In Asia, for example, Agarwal (2003) found that there are social and administrative biases which discriminate against women in land ownership among the Hindu communities in Northern India. In these communities, especially those which were traditionally patrilineal (i.e., where inheritance is through the male line), there was strong male resistance to endowing daughters with land.

Similar studies have been conducted in Africa and Latin America. In Latin America, specifically in Mexico, studies have revealed that gender inequality in land ownership is a growing concern (Varley, 2007).

Women form approximately a half of the world's population, but perform two-thirds of the world's working hours, and generate a half of the world's agricultural production. In Africa, women do 85% of the agricultural production and processing. Yet women worldwide earn only 1/10 of the world's income and possess only 1/100 of the world's property (World Bank, 2000). In the East African sub-region, as in many other parts of Africa, women are the primary cultivators but only a small percentage has access to and control over land and property.

In Kenya, gender power relations are constituted by the prevailing ideologies and roles within social structures (Helms, 2006). They are not uniform and vary from household to household, community to community and in terms of marital status (single, married, separated/widowed). Kenyan women often find themselves subordinate socially and culturally; they are economically dependent on men, who are the breadwinners in most families. In particular, young unmarried and widowed women are dependent on parents and male relatives, respectively. Social and cultural motives in Kenya, therefore, subordinate and restrict women's access to land and resources, including their control and utilization. In addition, cultural and social stigma is also attached to women's marital status, especially in access to, control over and utilization of land and other resources. For instance, single, widowed and divorced women find themselves with fewer options for economic opportunities (Swarup *et al.*, 2004). Financial institutions discriminate against these women because of their marital status.

Customary land tenure systems in Kenya fall into three main categories: community, clan- and family-based, and individual. Land rights are most often acquired by individuals and households through intergenerational succession, even where the individual or household has only a user-right to the land (Harrington, 2010). In family or clan based systems, there is a central household head or family elder who holds the land on behalf of other family members, who have individual user-rights which grant them a significant amount of freedom to use and, in some instances, transfer the land on a seasonal basis, but cannot permanently alienate the land (USAID, 2010). These customary rules and structures often exclude women from rights to land that are available to men and from community level decision-making on land and property rights. Women are frequently disadvantaged even where customary land is held by individual households. The man is traditionally considered the head of the household and "owner" of the family's land and women are often excluded from decision-making around the household's allocation,

management, and use of land and the proceeds from it (Kameri-Mbote, 2005). Given that women's rights tend to be relationship-based, a woman's autonomy with regard to land rights improves with the strength of her relationship with her husband, father, or other male relative.

Helms (2006) points out the underlying gender challenges, in particular, gender relations in households, and lack of productive assets for collateral which women face in their endeavours to access credit facilities. Women in most communities do not own land or control property; therefore they can never trade in as collateral to financial institutions. A woman without a spouse is considered risky if she were to seek to access financial resources. Gender inequality at the household, community and national levels is another major drawback.

Abok (2001) notes that women who have accessed financial resources, are still economically dependent on their husbands. This means that the resources from financial institutions have not had a remarkable impact on empowerment of women at the household level. The reasons for this are varied but include gender relations between men and women in a complex household situation in Kenya, where men are the decision makers in families. The World Bank (1995) provides evidence that gender relations where men have more power than women at the household level, impinge on economic outcomes in multiple ways. The complexity arises from the fact that gender relations are revealed not only in the gender division of labour, access, control and utilization of land and other resources but also in representations of ideas in the public sphere.

Kenya's legal framework has undergone significant changes following the promulgation of a new Constitution in 2010. This is particularly true in the areas of land and property rights and women's rights, which required the development of new legal frameworks that conform with the provisions of the Constitution (FIDA-Kenya, 2009). Relevant provisions include: a Bill of Rights recognizing the right of women to equal treatment under the law and prohibiting gender-based discrimination; devolution of services, including land-related services to the county level; recognition of traditional dispute resolution mechanisms; a prohibition on the use of traditional dispute resolution mechanisms in a way that contravenes the Bill of Rights; and requiring legislative implementation of the principle that women make up at least one-third of the members of elected or appointed political bodies. A set of land laws giving effect to the Constitution, the Land Act, Land Registration Act, and National Land Commission Act, were

approved in 2012. A new set of marriage laws, the Matrimonial Property Act, 2013, and the Marriage Act, 2014, recently replaced the older framework, which included seven different marriage laws but did not include explicit provisions governing customary marriages. Another legislative reform is that of Community Land and Evictions and Resettlement Law (Maneno, 2017).

Despite the progress made in land laws since the adoption of the new Constitution, women still face many barriers in access to, control over and ownership of land. FIDA-Kenya (2013) highlights the hindrances to the enjoyment of land rights which include cultural beliefs, lack of awareness on land rights by the women, discriminatory official responses, expensive legal system, fear of being ostracized and poor representation of women in land.

1.2 Statement of the problem

Women's equality in land rights is a global issue. Governments have entered commitments through ratifying various women's rights conventions and have issued national policies supporting women's access rights to land in many countries. In spite of these commitments, problems exist in ensuring women's equal landholding rights with that of men in many countries, mainly due to deep rooted patriarchal gender power relations in societies. Women's land rights issue has become more critical in developing countries like in Africa as land is a major resource for survival to the majority of the people. Access to and control over land and its products are critical to women because, women are responsible to ensure household food security by their community assigned gender roles. The evidence on gender inequalities in access to land is overwhelming. Women are consistently less likely to own or operate land; they are less likely to have access to rented land, and the land they do have access to is often of poor quality and small size" (FAO, 2011) . Even when women hold land, they do not necessarily control what they produce or the resources they need to farm (Deere *et al.*, 2011). Women also face widespread discrimination in inheritance rights, and when they access land through markets and redistributive reforms they are less likely than men to get land because of discrimination in land markets, differences in incomes and access to credit, and social discrimination (World Bank, 2012).

Whereas women's rights to land access, control and ownership are protected by the constitution of Kenya, the majority of them are still disadvantaged and discriminated against. An article in the Daily Nation dated March 8, 2018 by Keneddy Kimanthi published the Kenya Land Alliance (KLA) review of land titles between 2013 and 2017. The review revealed glaring disparities in land ownership. KLA findings on the audit on land ownership revealed that women only got 103,043 titles representing 10.3% while men got 865,095 titles accounting for 86.5%. In 47 registries across the country, KLA found that of 10.1 million hectares of land titled women got 162,253 hectares representing 1.62% while men got 9.9 million hectares representing 97.7% (Daily Nation March 8, 2018).

There is need therefore to understand the barriers that face women in access to, control over and ownership of land. There are political, administrative barriers and socio-cultural barriers in different Kenyan communities that have continually discriminated against women in matters land. The study sought to comprehend the various barriers that hinder women of Bomet East Sub County from enjoying their land rights.

To achieve the objectives of this study, answers to the following research questions were sought:

- (i) To what extent are women of Bomet East Sub County aware of their legal rights to access, control and ownership of land?
- (ii) What are the socio-cultural barriers that hinder those women of from access to, control over and ownership of land?
- (iii) What are the political and administrative barriers that hinder the women of that Sub-County from access to, control over and ownership of land?

1.3 Objectives of the study

1.3.1 General objective

To explore the barriers that hinder women from access to, control over and ownership of land in Bomet East Sub County.

1.3.2 Specific objectives

- (i) To analyse the awareness levels on legal rights regarding access to, control over and ownership of land amongst women in Bomet East Sub-County.
- (ii) To determine the socio-cultural barriers that hinder the women of that Sub-County from accessing, controlling and owning land.
- (iii) To describe the political and administrative barriers that hinders those women from access to, control over and ownership of land.

1.4 Assumptions of the Study

- (i) Only some women in Bomet East Sub-County have knowledge of their legal rights in land ownership.
- (ii) Socio-cultural barriers hinder the women of that Sub-County from accessing, having control over and owning land.
- (iii) Political and administrative barriers exist and hinder women of Bomet East Sub County from access to, control over and ownership of land.

1.5 Rationale of the study

Women's equal access and control over land is constrained by their social position in society. Demographic information on Bomet East Sub-County reveals that women make over 50% of the population (KNBS, 2013). Equal access to and control over rural land to women in this region obviously will have positive impact on rural development.

This study looked at the barriers to women's equal access to and control over land in the land administration system in Bomet East Sub-County. Study findings on levels of awareness on women land rights could inform various governmental and non governmental institutions and

leaders on the need for civic education on land rights. The findings on the barriers to land access control and ownership by women will help to sensitize both men and women on importance of ensuring that there is equality in land rights. The researcher came up with important recommendations from the respondents in the study on how to overcome the barriers established. The recommendations from the study will also help policy makers to give emphasis to important gender issues that need to be addressed at the level of policy formulation as well as at the level of implementation. The study findings will also serve as an entry point for further research undertakings in areas of women's land rights and rural development in rural set-ups.

1.6 Scope and Limitations of the Study

The study was carried out in Kembu and Chemaner locations in Bomet East Sub-County. The study focused on the barriers to land access, control and ownership by the women in that Sub-County. It also sought to assess the levels of awareness on legal rights amongst the women in the study area. The study was guided by the African feminist theory.

The study was limited by its emotive nature. This led to reserved responses from the respondents due to fear of ostracism. Given the patriarchal nature of the Kipsigis community, discussion on land issues is a reserve for men so women were reluctant to freely participate in the study. The respondents, however, were assured of confidentiality, privacy and anonymity.

1.7 Definition of Terms

Gender relation: Refers to a way in which culture in a society prescribes rights, roles, responsibilities and identities of women and men in relation to one another. Men hold superior positions in households and communities and women are put in inferior positions. In women's land rights issues, power in gender relation implies men's higher access to and control over land and women's less access to and lower control over land.

Access to land and other resources: Access to resource implies the ability to use resources and/or benefits and to make short-term decisions on these resources (Akuna , 2004). Women's access to land has terms of use rights that imply getting opportunity to use and benefit from land. Access to land is a means to gain control over land.

Control over land and other resources: Control over resources implies the ability to use and even dispose off a resource or benefit. Women's control over land means that they can access it (use it), own it (can be legal title-holders) and can make decisions about selling or leasing it out (Akuna, 2004).

Decision-making: In the context of land rights, decision-making refers to decisions on land use as an agricultural resource and its disposition. Decision-making related to land includes land use and improvements, control of products harvested from it, including incomes earned from sales of products and decisions on its transfer through bequeath, inheritance, sale or rent.

Land rights: Land rights are legally recognized claims on land enforced by legally established institutions. Women may have land rights recognized by law but such rights are meaningless unless those rights are socially recognized and effectively enforced.

Tenure system: Is the way in which ownership of land or rights to land are organized. Tenure system may be determined by statute, agreed precedent or by customary practices. Tenure systems represent relations of people as individual and as group in society with respect to their access to and control over land (Moyo, 2002). It is culture-specific and dynamic, changing as social, economic and political situations change.

CHAPTER TWO

LITERATURE REVIEW

2.1 Introduction

This chapter reviews the literature relevant to the research problem. The literature is reviewed using the following headings: The legal framework and provisions on land access, control and ownership by women, the awareness levels on land rights by women, land ownership trends amongst women and socio-cultural barriers that hinder women from access to, control over and ownership of land. The chapter ends with a discussion of the theory that guided the study.

2.2 The Legal Framework

Women in Kenya remain discriminated against and more disadvantaged, when it comes to ownership of land. One would expect that after passing of the new Constitution of Kenya 2010, more women would be able to gain access to, control over and ownership of land. Sadly, this has not been the case as evident in the 2016 Joint Report by Hakijamii, GI-ESCR and FIDA. The report points out to customary laws and practices as the main factor that continues to prohibit women from owning or inheriting land and other forms of property. According to the report, customary practices by various communities in Kenya grant women secondary rights to land, for instance, through relationship to a male relative and as result most women are rarely able to inherit land on their own rights.

Despite the multi-dimensional efforts at various levels and crucial contribution of women to agricultural production in Sub-Saharan Africa (contributing 60-80% of the labor used to produce food for both household consumption and sale), women's access to and control over land remains minimal (<http://www.fao.org/docrep/X0250E/x0250e03.htm>).

Chapter 4 of the Constitution of Kenya, 2010, provides for gender equality under the national values and principles of governance which includes equality, social justice, inclusiveness, equality, human rights, non-discrimination and protection of the marginalized (RoK, 2010).

Before the promulgation of the Constitution of Kenya, 2010, women (whether married or not) had no legal rights to inherit their parents in observance of customary law. Otieno (2005) notes

that the current Constitution only permits customary law to the extent that the customary laws are not inconsistent with it; any act in contravention of the constitution is invalid.

2.3 Knowledge Levels of Women in Land Rights

Legal knowledge in matters surrounding land rights control and ownership still remain little understood by most women in the rural areas. A case study in Kakamega County showed that women have little or no knowledge of the existing land laws and rights and seldom have means to enforce it (Maneno, 2017). The study also found that majority of women are also ignorant of laws generally relating to the purchase and acquisition of land, the land registration process or alternative dispute resolution processes. The findings from the study indicate that most women face a lot of difficulty upon being widowed since they lack legal knowledge of the succession procedures.

Rural women are not empowered to claim or defend their land rights. They usually lack knowledge of their rights, as do others in the community. Women often have little functional literacy because of less access to education and lack of capacity, documents and opportunities to participate in land governance which results in gender inequalities in access to land (Varley, 2007).

Most women lack awareness on land ownership rights because of their education level and lack of exposure. FIDA-Kenya (2013) handbook points out that not only do women lack awareness on land ownership rights, they are also ignorant of several laws governing the purchase or acquisition of land or land registration processes. Widows do not know how to legally engage in intricate succession and are therefore left vulnerable and taken advantage of regarding the land and other property left by deceased husbands. Illiteracy, coupled with the complex nature of laws and how the law is in itself drafted using technical language discourage women from participating in, or initiating any land purchase processes. This makes them depend on their husbands or male relatives who may end up purchasing the land under their names without the knowledge of the wives. According to FIDA-Kenya (2013), many women do not have access to the constitution that guarantees them rights in land ownership and also do not know how to read.

A report by IOM (2016), shows that amongst the women in Nepal, there is a knowledge and information gap to access of land and property. Most of the women surveyed in the study lacked

knowledge on legal and administrative policies regarding land, their rights under state and customary systems. Most women were not aware of the provision in tax exemption when registering land in the name of women, while some lacked knowledge on minimal registration cost for joint ownership with the spouse. The lack of legal knowledge could therefore be a contributing factor to women not standing for their rights in regards to land ownership.

Flintan (2008) points out that the majority of Ethiopian women have little leisure time and are also illiterate. The study found that women are often unaware of their rights, and so only a few of them will object to customary laws that are against their rights. The study found that even the women who are legally literate still have to struggle and fight largely the conservative and older leadership in their communities which often leads to ostracism.

2.4 Socio-Cultural barriers that hinder Women from Land Access, Control and Ownership

2.4.1 Male Dominance

According to the Federation of Women Lawyers-Kenya (2009), women make significant contribution to the income derived from agriculture. They provide 80% of agricultural labour and 60% of farm- derived income. Ironically, only 5% of land in Kenya is jointly registered by men and women and only 1% is registered by women alone.

Land ownership in the pre-colonial era was mainly communal and still women had no control over it because of the patriarchal nature in most communities (Maneno, 2017). In most communities currently, land is registered under men given the patriarchal nature of these communities. FIDA-Kenya (2009) further avers that, generally, men have control, access and ownership of land and can decide to chase away women residing on or using the land.

In Ethiopia, the traditional land tenure system is patrilineal in nature (from father to son) and virilocal (upon marriage the wife moves to the husband's home and lives there). Bride wealth is commonly used, and girls are seen as the property of the husband and his clan. If the husband dies, his wife is still the property of the clan and the brothers to the deceased husband will become the new husband to the wife (Holden, 2008). In such cases women's access, control and

ownership rights as provided by international instruments like CEDAW becomes unachievable. Women are, therefore, denied access to land and inheritance.

Under the patrilineal inheritance system in Kenya, ancestral land is kept within the family to ensure the security and continuation of the lineage (Chopra, 2010). Widows are seen as stewards of the land for their sons and are limited by what they can do with the inherited land. They are meant to secure their sons' inheritance and ensure that patrilineage persists. In case the widow dies, land goes to any son or returns to the patrilineage. In some areas widows can be seen as holding land for their sons until the designated age. When the son takes over, the widow remains securely on the land, but if there are no boys her position is tenuous since she lacks links to the patrilineage. This study by Chopra (2010) reveals that widows are viewed as firm holders of land; they are perceived as the sole custodians of the land and other property of their sons. Sons, therefore ensure their mother's land tenure in their father's absence irrespective of their age.

2.4.2 Beliefs and Customs

Daughters on the other hand are treated differently depending on their marital status. Unmarried daughters are more likely to inherit land than the married daughters, although in such cases the land title remains under the custody of the male with the lineage (brother or father). Married women or daughters are never permitted to inherit land since it is seen to diminish their brother's access to patrilineage land. Married daughters are not considered as part of their natal family, and may not even bother attempting to claim inheritance, since the exclusion is seen as traditional and impossible to overcome (Chopra, 2010).

All the traditional practices and customs have seen to it that married women are excluded from owning land and property. Accessing inheritance is only in special cases like when a daughter is gifted by the father before he dies. Few women are aware of their inheritance rights and few have followed up to ensure inheritance is passed from the father to them, as shown in the case law of *Rono vs Rono, 2005*. For married women, majority of them stand to lose in case of divorce. This may depend on the marriage arrangement in place.

The cultural barrier is viewed as the major discriminant against women. Women are the most disadvantaged in succession matters and whenever crucial decisions on land ownership are being made. This is because crucial decisions concerning land ownership, management, disposal, or

purchase are still dominated by men because of cultural practices and patriarchal beliefs (Maneno, 2017).

In a training handbook by FIDA-Kenya (2013), cultural beliefs are depicted as having deep roots in land access, control and ownership. Males/sons are the only heirs who can inherit land, with the notion that sons remain with the natal families while daughters get married and leave. Because of patriarchal practices, women are not allowed to own land, widows are forced to remarry and if they attempt to challenge the traditions they often invite violence and other forms of aggression.

According to Human Rights Watch (2003), widows in some parts of Kenya are forced to engage in harmful traditional practices in order to keep the land left by their deceased husbands. They are forced to have sex with a social outcast before being inherited by the late husband's brother or a male relative. In the past, wife inheritors were mainly the in-laws who would do it for companionship. Recent studies, however, show that in-laws are becoming less willing to inherit wives left by their kin. This forces such widows to look for inheritors to protect and provide for them (Perry *et al.*, 2014). The widows who chose not to be inherited by strangers risk losing land and other properties. This cultural practice of wife inheritance furthermore, exposes the widows to the risk of contracting HIV and AIDS. The act in itself is dehumanizing and gives no dignity to such women.

2.4.3 Ignorance and illiteracy

Most women are also unaware of the various legal processes that they can explore to have access to their inheritance from parents or husbands, or even a share of property in case of a divorce. FIDA-Kenya (2013) observes that most women are ignorant of their rights, laws relating to purchase of land or its registration processes. Widows do not know how to engage in the legal battles of their late husbands' estates. This is mainly because of the high illiteracy rate amongst the women since laws are drafted in a technical language not easily understood by women.

Many Kenyan women are unaware that they have legal property rights or have an idea of how to enforce them. The process of pursuing land and property claims is also time-consuming and expensive. Women face a lot of stigma if they attempt to claim land or property (Human Rights Watch, 2003).

2.4.4 Fear

Women who have knowledge of their rights are prevented by fear of the consequences of fighting for such rights. The community considers such women as disrespectful and enemies of the community. They are threatened with death and most women give up the case because of such social pressure by their families and society (Chopra, 2010). A challenge to traditions is seen as undermining the status and power of men in the community.

Maneno (2017) points out that in instances where women are successful in court and the judgment favours them, it is almost impossible to enforce such a ruling in a community that is hostile against women. Women who have tried to challenge traditions face great hostility including physical, sexual, and emotional violence.

2.4.5 Poverty

Poverty is both a contributing factor and determinant of women's access to land and ultimately their tenure security. Even where there are no statutory or customary barriers permitting women to own land, the lack of economic resources necessary to secure access to land and property, particularly where money is the chief determinant of access, remains an obstacle. Women remain concentrated in the informal labour sector, and engage in work which is on the whole less secure and less gainful (Maneno, 2017).

2.5 Political and Administrative Barriers

2.5.1 Expensive Legal System

Legal processes are also tedious, costly and cumbersome. The legal language is too technical and not amenable to understanding by ordinary citizens. This makes tracking and following up of land cases very lengthy and daunting. The legal fees involved and travel to access justice are so prohibitive. These discourage women, make them tired and so they resign to their fate (Maneno, 2017). According to Harrington (2008), filing a succession claim over land in court is a daunting affair. The actual claim process includes a dizzying seventeen different legal steps to complete, thirteen forms to be filled out, numerous affidavits to be signed, and takes between seven months to one year to complete. Costs are also high. The minimum possible cost of fully completing a succession claim is approximately KES 8,985 which is an exceptional amount considering the

poverty levels amongst women in rural areas. Lawyers can facilitate and speed up succession proceedings, however, engaging their services can cost up to KES 60,000 excluding filing fees. Magistrates' courts are far more numerous than high courts, but are often barred from hearing succession claims; a cost cap on claims within their jurisdiction precludes most succession claims. Cases therefore must progress directly to high courts which are fewer, more distant and in which proceedings are expensive and more complicated.

2.5.2 Lack of Political Goodwill

The political climate has largely remained patriarchal, with law-makers being mainly men and not keen to make pro-women laws. Much like the legislature, the judiciary has been slow to embrace changes in customs to enable women to own land. This is evident from court decisions that have refused to consider the indirect contributions of women to property ownership when adjudicating matrimonial property (FIDA-Kenya, 2013).

2.5.3 Discriminatory Official Responses

Cultural discrimination influences official responses to women's property rights. Currently, women find it difficult to pursue remedies for property rights violations. Some leaders and governmental authorities often ignore women's property claims and sometimes make the problems worse. A woman may be seeking the intervention of a local chief or other government official who is influenced by prevailing cultural beliefs, the dispute may not be taken seriously as women are not considered to have enforceable property rights. Most chiefs and government officers are men, who tend to identify with and, therefore, make decisions that tend to favour their own, while silencing women when their rights are infringed upon. Some simply say they do not want to interfere with culture. These responses have a disempowering effect on women seeking the protection of their property rights (FIDA-Kenya, 2013).

2.5.4 Poor Representation of Women in Land Bodies

Women form approximately 52% of the total population in Kenya (KNBS, 2010). However, according to FIDA-Kenya (2009), despite their numbers, women are still not well represented in many institutions. Thus, many bodies or institutions dealing with land issues are skewed towards the male gender. Without gender aware officials on bodies dealing with land allocation,

inheritance and any dispute dealing with land, a male bias among these officials tends to be experienced by women, thus standing in the way of women's enjoyment of their rights. The National Land Policy, notes that in a quest to realizing women's land rights, there is need for proportionate representation of women in institutions dealing with land at all levels.

2.6 Theoretical Framework

2.6.1 African Feminist Theory

This study was guided by African feminist theory, which was propounded by African women who specifically wanted to address the conditions and needs of African women who reside in Africa. Feminist theory is about studying gender and its stories, shapes, locations, evocations and rules of behaviour, usually in tandem with other modern subject statutes such as class race, age, religion and region (Sylvester, 1994). African women have joined women in other nations in their quest for rights, opportunity, relevance and recognition (Umeh, 2003). Africa is no different from other continents in the world, where whatever autonomic space the society offers the individual, it is less if one is female. According to Chukwuma (2003), it is not known of a time in modern history when women of a racial/ethnic/class group were not disadvantaged in comparison with men of the same racial/ethnic/class group. African feminists pay attention to the ways that patriarchy—a psychological and political system that value the male higher than the female, uses law, tradition, force, ritual, customs, education, labour and language to keep women governed by men in both public and private lives. African feminist theory proposes that African men and women could have mutually beneficial, transformative and progressive relationships in the private and public spheres if the relationships were non-patriarchal and egalitarian. Nevertheless, African feminists theory assumes responsibility for striving for such equal societies rather than hoping that men will someday redistribute privilege and power to create a better, more harmonious prospect for future generations (Nnolim, 2000).

2.6.2 Relevance of the Theory to the Study

This theory is applicable to this study when it looks at African traditions. It is quite unpopular to criticize African traditions or to point out that African history is marked by male dominance which African women have always resisted. Whether it is to do with the household, marriage

customs, production methods or sexual freedoms, African patriarchal traditions for the most part make distinctions between male and female in ways that disadvantage the female. African women have been silenced for too long about the crimes of traditional patriarchy such as the abusive and dehumanizing institution of patriarchal polygamy, widow abuse, witch-hunting and women's lack of access to property and power in traditional society.

African feminism theory helped the researcher to explain the socio-cultural barriers that are central to the complex experiences faced by women in attempts to gain access to and control over land. Kolawole (2011) points out that in order to eradicate the oppression women face because of their gender, working with men is a necessity. In Kenya, the affirmative action (two-thirds gender rule) is not yet realized. This means that majority of men hold political and administrative positions in land bodies. The inclusivity approach advocated for by the African feminist theory helped the researcher in understanding the importance of involving men to eradicate political and administrative barriers (See Fig 2.1 below).

Independent Variables

Dependent Variable

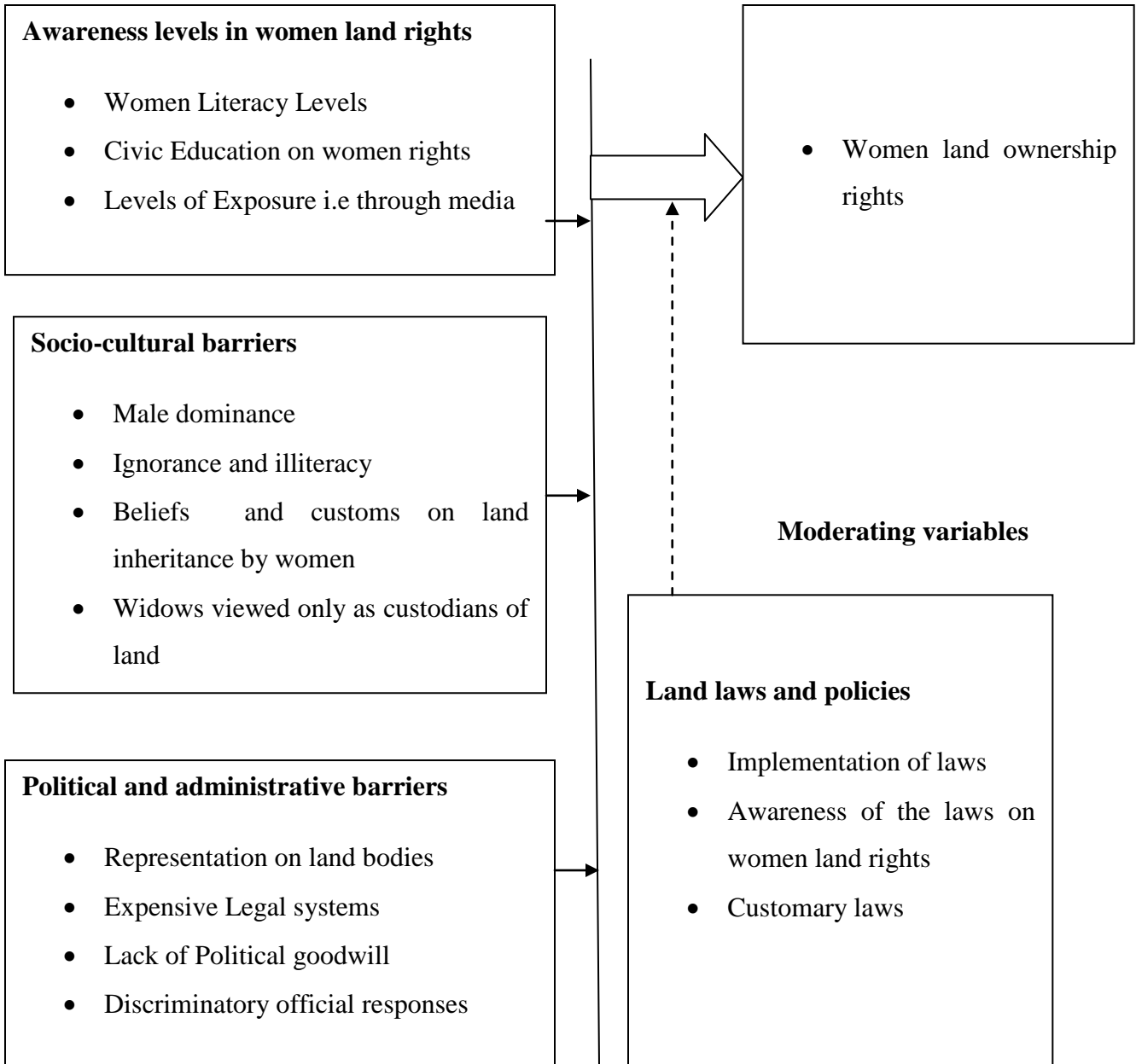


Fig 2.1 Conceptual Framework

CHAPTER THREE

METHODOLOGY

3.1 Introduction

This chapter presents information on the methodology that was used in the study .It describes the research site, study design and the study population and unit of analysis. The chapter also describes the sample size and sampling procedure, data collection methods and data processing and analysis. Finally, the chapter discusses the ethical considerations that guided the study.

3.2 Research Site

This study was carried out in Bomet East Sub-County, Bomet County. Bomet County (Fig 3.1) is located in the Central Rift Region of Kenya. It is bordered by four counties, namely, Kericho to the North, Nyamira to the West, Narok to the South and Nakuru to the North-east. The County lies between latitudes 0° 29' and 1° 03' South and between longitudes 35° 05' and 35° 35' East and covers an area of 2037.4 square kilometres . It extends from latitude 0° 20' to 1° 30' to the North and longitude 35° 0' to 35° 45' to the East. Administratively, the county is divided into five sub-counties, 25 wards, 67 locations and 176 sub-locations. The five sub-counties are equivalent to constituencies in the county (National Council for Population and Development, 2017).

In 2009, the Sub-County had a population of 127, 430 people in a area of 316km² (KNBS, 2009). The Sub-County has 5 wards headquartered in Longisa, namely, Kembu, Longisa, Chemaner, Kipreres and Merigi.

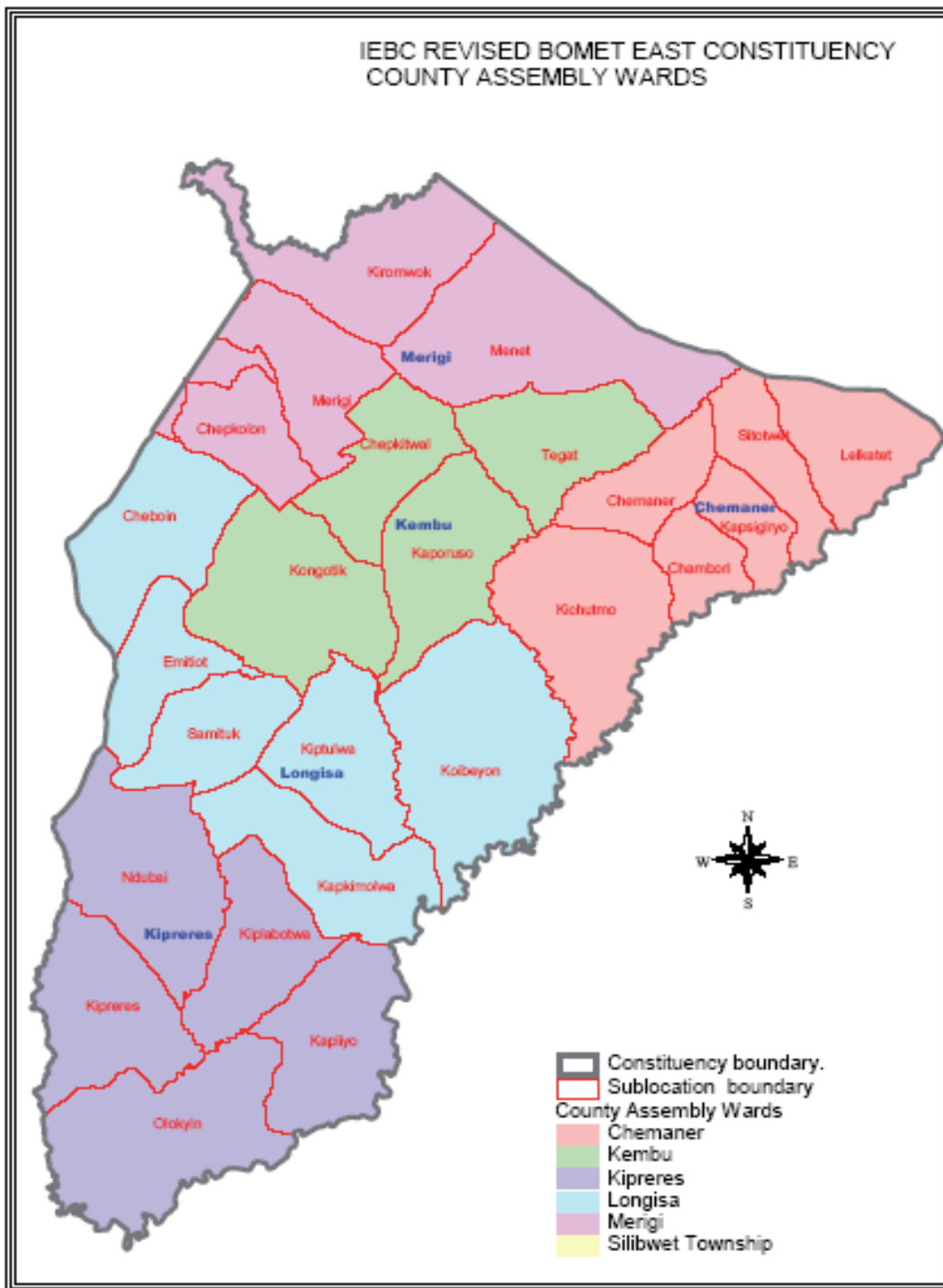


Figure 3.1: Map of Bomet East Sub County

(Source: Independent Electoral and Boundaries Commission, 2012)

3.2.1 Socio-Economic Practices

A great majority of the people in Bomet County depend on agriculture as their main source of livelihood. The agriculture sector employs over 80% of the residents and thus it is the leading source of income in the County. The tea sub-sector employs the highest number of employees both at the farmers' level and at the multinational level, where locals and people from the neighbouring counties are hired. Livestock farming is also practised but on a small scale. Dairy keeping in lower parts of the County for milk production has increased over the years leading to the establishment of milk depots termed as coolers. The County has cultural practices like polygyny and patrilineal inheritance of land and property. Some women are stripped off land and property in case of divorce or being left as a widow especially if they do not have male children. Widowed and divorced women continue to experience deprivation of rights to own land and property in the region (National Council for Population and Development, 2017).

3.3 Research Design

This study was descriptive in nature and was conducted using both qualitative and quantitative methods. Quantitative data were obtained through semi-structured interviews while qualitative data were obtained through semi-structured interviews, focus group discussions and key informant interviews. Qualitative data were categorised (coded) and analysed according to various themes and the findings are presented in selected verbatim quotes. On the other hand, quantitative data on the sociodemographics of the respondents were analysed manually, and the findings are presented in tables of frequencies and percentages.

3.4 Target Population and Unit of Analysis

The target population consisted of all women above 18 years of age categorized as follows: single, separated, married, widowed or divorced, living in the study area. The unit of analysis was the individual such woman.

3.5 Sample Size and Sampling Procedure

The study sampled 50 residents from two wards, namely, Kembu and Chemaner. The researcher employed purposive sampling technique where a sample was selected on the basis of the researcher's knowledge of the population.

3.6 Data Collection Methods

3.6.1 Semi-Structured Interviews

The researcher conducted one-on-one interviews with respondents using a semi-structured questionnaire with both closed-ended and open-ended questions (Appendix 1). The open-ended questions enabled the researcher to generate qualitative data and probe the respondents' responses whereas the closed-ended questions enabled the researcher to generate quantitative data. This method was used to collect information on the levels of awareness on legal land rights amongst the respondents and the barriers they face in access to and control over land.

3.6.2 Key Informant Interviews

The study conducted key informant interviews with five key informants who were selected based on standard protocols for a qualitative research setting, i.e., opinion leaders on women land rights. A key informant interview guide (Appendix 2) was used to collect the information.

For the purpose of this study, the following individuals were interviewed:

- (i) 2 Elders in the study area
- (ii) Maendeleo ya Wanawake Representative
- (iii) Local Chief
- (iv) Woman political leader

3.6.3 Focus Group Discussions

Communities are seldom or never homogeneous and using FGDs, therefore, helped the researcher to gain more insight into the research problem. The researcher held two focus group discussions separately, consisting of 10 men and 10 women who did not form part of the primary

sample. A focus group discussion guide (Appendix 3) was used to conduct the discussions. Emerging issues from the semi-structured interviews were discussed in the focus group discussions to get consensus. The researcher was the moderator and, with the permission of the participants, the discussions were recorded for future reference.

3.6.4 Secondary Sources

Relevant information from secondary sources like books, journals and the internet were used. This technique was used to collect information on barriers facing women in access to and control over land. These sources were used in formulating the proposal and continued to be used throughout the study.

3.7 Data Processing and Analysis

At the end of the fieldwork, the data collected was organised and categorised based on the sources and other relevant themes and information that will accrue from the fieldwork and secondary sources. Quantitative data from the semi-structured questionnaires were analysed using simple descriptive statistical tools such as tables, figures, percentages, whereas data collected through key informant interviews and focus group discussions were coded and analysed thematically.

3.8 Ethical Considerations

The researcher ensured that the respondents were not exposed to any form of harm be it physical, emotional or psychological. In adherence to the principle of benevolence, the researcher explained to the respondents what the study was all about, how it will benefit them and other people. The participants were required to expose issues that were extremely private and therefore the principles of voluntary participation and informed consent were applicable.

Land issues can be very emotive and even cause divisional feuds in family units. Whereas the relationship between widowed, divorced women and their in-laws could have been compromised already, the study was carried out in a way that the participants were not exposed to any harm. This was done by adhering to the principles of anonymity and confidentiality.

CHAPTER FOUR

BARRIERS FACING WOMEN IN LAND OWNERSHIP

4.1 Introduction

This chapter presents the findings of the study. The chapter starts by presenting the socio-demographic characteristics of respondents. It then moves on to present the findings on the barriers that hinder women from accessing and controlling property in Bomet East Sub-County

4.2 Demographic Information

4.2.1 Age

The first characteristic to be evaluated was the respondents' age and the findings are presented in Table 4.1

Table 4.1: Age bracket of the respondents

Age bracket	Frequency	Percentage
18-25	4	9
26-30	5	11
31-35	7	16
36-40	10	22
41-45	15	33
46-50	3	7
50+years	1	2
Total	45	100

The findings in Table 4.1 show that 33% the respondents were aged 41-45 years, 22% were aged 36-40 years, 16% were aged between 31 and 35 years, and 11% were aged between 26 and 30 years. In addition, 9% were aged 18-25 years, 7% were aged 46-50 years, while a negligible number of 2% was aged above 50 years. These findings indicate that all the respondents were above 18 years and, therefore, qualified for land ownership according to the laws of Kenya.

4.2.2 Marital Status

Responses on the respondents' marital status are presented in Table 4.2

Table 4.2: Marital status of the respondents

Marital Status	Frequency	Percentage
Single	10	22
Married	25	56
Divorced	1	2
Separated	2	4
Widowed	7	16
Total	45	100

The findings in Table 4.2 indicate that the majority (56%) of the respondents were married, 22% were single, 16% were widowed, 4% were separated and 2% were divorced. This shows that most of the respondents were married and thus unable to make individual decisions on matters related to land as per the Kipsigis cultural norms.

4.2.3 Level of Education

To establish the respondents' level of education, they were asked to indicate by ticking on the provided options and their responses were as presented in Table 4.3 below.

Table 4.3: Education level

Education level	Frequency	Percentage
None	4	9
Primary	13	29
Secondary	15	33
Tertiary	8	18
University	5	11
Total	45	100

The findings in Table 4.3 show that 33% of the respondents have secondary level of education, 29% have primary level of education, 11% are graduates while 9% have no formal education at all. These findings suggest that most of the respondents had an understanding of the importance of the study and thus gave the correct information. For those who were unable to read or write, the interview questions were read and explained to them and their answers written down by the researcher.

4.2.4 Nature of Employment

The respondents were asked to indicate the nature of their employment. The responses were as presented in Table 4.4 below.

Table 4.4: Nature of employment of the respondents

Employment type	Frequency	Percentage
Formally employed	13	29
Informally employed	8	18
Self-employed	6	13
Not employed	18	40
Total	45	100

The findings in Table 4.4 indicate that 40% of the respondents were not employed. On the other hand, 29% were in formal employment, 18% were engaged in informal employment and 13% were self-employed. This suggests that the majority of the respondents either had no source of income or their source was not that regular. Thus, even if they wanted to, they would have had no income to purchase land.

4.3 Level of Awareness on Land Rights

The respondents were asked to state if they were aware of the constitutional rights regarding land ownership and land registration, whether they have participated in land discussion forums and their opinions on land rights.

4.3.1 Respondents' Knowledge of Land Laws

Respondents were asked to indicate whether they were aware of the existing land laws. The responses were as presented in Table 4.5 below.

Table 4.5: Respondents' awareness of land laws

Land laws	Frequency	Percentage
Aware	5	11
Not aware	12	27
Partially aware	28	62
Total	45	100

The findings in Table 4.5 show that 62% of the respondents are partially aware of the land laws, 27% are not aware while 11% are aware of the existing land laws. This suggests that only a small number of respondents were aware of the land laws and their rights to land. This was supported by one key informant who stated thus:

Most of the women are unaware of their legal land rights. I have had only one case of a middle aged woman demanding for her share of land inheritance from her parents. Probably, she was pushed by hardships since she got separated from her husband many years ago. She has no land of her own. A lot of sensitization needs to be done if the legal provisions on women land rights are to be realized in Kenya (Local chief).

4.3.2 Land Registration

Respondents were asked to indicate whether they owned land. In terms of ownership, 78% of the respondents stated that they owned land while 22% answered in the negative. On the other hand, the responses on land ownership are shown in Table 4.6 below.

Table 4.6: Land ownership

Means of ownership	Frequency	Percentage
Individually purchased	3	9
Inheritance	7	20
Joint ownership	1	3
Owned by husband	24	68
Total	35	100

The findings in Table 4.6 indicate that a majority of the respondents do not actually own land. This is because 68% of them stay on land registered in their husbands' names, while 3% have land that is jointly owned with their husbands. Only 9% of the respondents own land that they themselves bought while 20% own land inherited from their deceased husbands. Thus, it can be inferred that the majority of the respondents have only access to but no control over land.

4.3.3 Opinions on what Land Rights entail

Those who said they were aware of the constitutional provisions on women's land ownership were asked to list those provisions and the responses were as shown in Table 4.8.

Table 4.8: List of constitutional provisions

Provisions	Frequency	Percentage
Female right to own land	13	39
Prosecution in case of grabbing	15	46
Right to inheritance	5	15
Total	33	100

From Table 4.8, it is evident that 39% of the respondents were aware of their constitutional right to own land while 46% were aware that they can seek some legal redress if their land was

grabbed by some man. Finally, 15% of them were aware that constitution allows women to inherit land. According to one key informant:

Historically, land is passed from father to son among the Kipsigis community. We have done this since time immemorial. Nowadays, I hear the government directs that daughters should be given a share of their land inheritance too. I do not think that would be practical. We marry off our daughters and they get enjoined with their husbands as helpers (Key informant 2, a church elder).

4.3.4 Representation in Land Discussion Forums

The respondents were asked to indicate whether they sit or have ever sat in land discussion forums. The findings indicate that 96% of the respondents have never participated in land discussion forums and only a paltry 4% stated that they had. These findings suggest that women in the study area are clearly disadvantaged when it comes to land matters. This inference was corroborated by one key informant who averred that:

Women are underrepresented in land discussion forums. Whenever we organize for such meetings, there is always a low turnout. We are considering holding there forums closer in the villages. Probably most of them lack money for transport to the meeting venues. These forums would help in awareness creation in women on their land rights (Key informant 3, Maendeleo ya Wanawake representative).

4.4 Barriers facing Women in Land Ownership

The respondents were asked to list down the barriers they perceived to be facing women in land ownership. Their responses were as presented in Table 4.10 below.

Table 4.10: Perceived barriers facing women in land ownership

Perceived barriers	Frequency	Percentage
Cultural practices	24	53
Lack of awareness	16	36
Poverty	4	9
Fear	1	2
Total	45	100

Most (53%) of the respondents, as shown in Table 4.10, were of the opinion that cultural hindrance is the major barrier to women’s land ownership. A fairly large number (36%) attributed it to low levels of awareness, 9% thought poverty was a barrier while a negligible number (2%) associated fear with women’s lack of land ownership. Commenting on this, one key informant had this to say:

Allowing women to own land is against our culture. In traditional Kipsigis family, the roles are clear and women are confined to domestic roles. Men are the decision makers on major issues like those involving land. We found the tradition that way and we are keen on passing it down the generations. All my daughters are married off and I do not expect any of them to come for any inheritance. Even them, they know that they can never ask for it as it is not our norm (Key informant 4, a local elder).

Another key informant, a woman political leader shared her sentiments as follows:

Retrogressive culture and poverty are great hindrances to women in land ownership. Women depend on their husbands for basically everything since the husbands are considered as the heads of households. They seek permission from their husbands to till land. After the harvest, all sale proceeds go to the man who solely decides on its use. More often than not, the women are given little money to buy home utilities and clothing. The cycle goes on every season and thus do not get any money to purchase or rent land (Key informant 5, a woman political leader).

4.5 Factors to promote women land ownership

Respondents were also asked to suggest factors they thought can promote women land ownership. They responded as shown in Table 4.11 below.

Table 4.11: Factors that can promote women land ownership

Factors	Frequency	Percentage
Training on women rights	25	56
Marriage certificate	10	22
Inheritance	6	13
Buying land	4	9
Total	45	100

Table 4.11 shows that more than a half (56%) of the respondents pointed out that training on women rights would promote women land ownership, 22% mentioned marriage certificate as a means to women land ownership, while 13% believed that land inheritance by women from their parents would allow many women to own land. However, 9% of the respondents suggested that women should strive to purchase their own land.

CHAPTER FIVE

DISCUSSION, CONCLUSION AND RECOMMENDATIONS

5.1 Introduction

This chapter presents the findings on the barriers that face women in access to, control over and ownership of land in Bomet East Sub-County, conclusion drawn from them and recommendations.

5.2 Discussion of the findings

5.2.1 Demographics

The study revealed that a majority of the respondents were married. Being married suggests that the women considered themselves to own land through their husbands though they were unable to make individual decisions concerning the use, acquisition and disposal of land. Ownership of land by women in the Sub-County was found to be directly related to their marital status. This finding is in agreement with Munala (1999) who found that marital status has an influence on control, allocation and disposal of land with the married women having more authority to ownership than the single, separated widowed and divorced women.

On the other hand, the study shows that the level of education attained by the respondents had direct relationship with the knowledge of land laws. A small number of respondents who participated in the study had tertiary and university level of education. The study shows that these respondents were unlikely to be exploited regarding their land rights. Ileri (2016) had observed that empowered women, who are also educated, are less likely to be taken advantage of their land rights and are likely to fight for such rights.

5.2.2 Levels of awareness of land rights

The study found that a minority of the respondents were fully aware of the constitutional provisions on women land rights. The study also reveals that awareness on land rights had a direct influence on ownership of land by women. Respondents who had knowledge of seeking legal redress in case of land grabbing or entitlement to inheritance from parents would stand for those rights. This finding agrees with Ileri's (2016) recommendation that awareness should be created through trainings on women land rights. Odico (2013) in his study in Kadibo Division on women land ownership also found that awareness among right holders on entitlements was extensively linked to positive outcomes in entitlements and claims to land.

5.2.3 Socio-cultural Barriers to Women Land Ownership

Cultural practices were identified in the study as a major barrier in access to, control over and land ownership by women. The study found that in Kipsigis culture, women are viewed as children and are only allowed to own property through their husbands. This finding is in agreement with Ochieng' (2014) who found that customs and traditions are dominantly patriarchal and largely discriminates against women. Additionally, Human Rights Watch (2003) linked unequal access to land by women to customary practices. Kamotho (2013), in his study in Nyeri County, points out that there is a changing in Nyeri where women land ownership is increasingly common and attributes this to erosion of patriarchal influences in the area.

The study also reveals that the majority of the respondents lacked employment. This suggests that they are unable to buy land of their own. Poverty and ignorance among women is a hindrance to land ownership. This finding is in agreement with Munala (1995) who found that lack of property ownership is due to the low economic status of women which is a major determinant of land ownership. The study also found that the majority of the respondents had never sat in any land discussion forum. This may be attributed to poverty, that is, lack of transport money to the forums. The non-participation in land discussion forums could also be linked to ignorance, in that the respondents do not see the importance of participating in such discussions.

Fear is another factor that proved to be a hindrance. The study found that the respondents feared that if they stood for their land rights, they might face hostilities, physical abuse or even be excommunicated by the community. This finding is in line with FIDA-Kenya (2013) that women would rather put up with property rights abuses to avoid physical injury to them.

The majority of the respondents, as revealed in the study, are partially aware of land rights. Most of them were only aware of what to do in case of land grabbing. Very few women knew the basic constitutional provisions that provide for equality in land and property ownership. A negligible number knew that they are entitled to inherit land from their parents. These findings agree with the study by Ileri (2016) titled 'Factors influencing land ownership by women in Kakamega County'. Ileri points out that regular training on women land rights was necessary since the majority of the respondents in the study did not know of their land rights. This finding is also in

agreement with FIDA-Kenya's (2013) findings that women had little knowledge of their land rights and seldom have the means to enforce them. Additionally, FIDA-Kenya found that women were ignorant of land acquisition and registration processes.

5.2.4 Administrative and Political Barriers

Interestingly, the study did not reveal any political barrier as a hindrance to women land ownership. None of the respondents thought that their lack of land ownership was due to political influences. This could be attributed to the fact that the majority of the respondents were not exposed and with minimal education and, therefore, could not perceive political influences as a barrier.

An expensive legal system was revealed as a barrier to accessing justice. The respondents who were aware of seeking legal redress in case of injustices relating to land could not go to court because of their low economic status. FIDA-Kenya (2013) points out that Kenya's legal process is expensive both in time and money. This is prohibitive to most women who may not be able to cover travel and witness expenses including legal fees.

5.3 Conclusion

The following are the conclusions made from the findings of this study.

To realize women land rights in Kenya, legislation alone is not important but looking into ways of implementing the same. This should be propped by awareness creation to enlighten women on their rights as provided by the law. Cultural practices are a big impediment to realization of women land rights. Communities should be enlightened on the importance of shunning retrogressive cultures that subordinate women. Literacy is very important in realization of women land rights. Educated women are more conscious of their land rights and are less likely to be exploited when it comes to land issues. Literate women tend to have courage to stand for their rights as compared to unschooled women. Poverty and ignorance also prove to be a barrier to women land ownership.

5.4 Recommendations

Based on the findings of the study the researcher came up with the following recommendations:

1. There is need for intensive trainings on women land rights. Awareness creation should be constantly carried out especially in the rural parts of the country.
2. Women land rights topics should be incorporated in the learning materials in both primary and secondary level of education. This will inculcate a good culture among boys and girls which will help to abolish patriarchal attitudes at a tender age. Cultural practices like patriarchy and bride price payment should be done away with since they are the major barriers to women in realizing their land rights.
3. Women should be economically empowered to enable them acquire land or even be able to seek legal redress if their land rights are violated. Civil society organizations should focus on lobbying for free litigation services for women to increase access to justice.

5.5 Suggestions for further Research

The study proposes the following areas for further study.

1. Use of the council of elders to help in understanding the role of culture in lack of women land rights.
2. Effects of awareness creation in realization of women land rights.

REFERENCES

Abok, M. (2001). *Wings of Hope*. Nairobi: Starman Publishers.

Agarwal, B. (2003). Gender and Land Rights Revisited: Exploring New Prospects via the State, Family and Market. *Journal of Agrarian Change*, 3(1 &2):184-224.

- Akuna, Beatrice (2004). *Access to and Control over Land from a Gender Perspective. A Study in the Volta Region of Ghana.* Available at <http://www.fao.org/docrep/007/ae501e/ae501e00.htm>. Retrieved on 4/6/2018.
- Bloyce, D. (2004). A Case Study of a figurational Sociology Approach to conventional Issues in Social Science Research Methods. *Graduate Journal of Social Science*, 1(1):
- Chopra, H. A. (2010). *Arguing Traditions*. Washington,DC: The World Bank.
- Chukwuma, H. (2003). *Accents in the African Novel*, 2nd ed. Port Harcourt, Nigeria: Pearl Publishers.
- Cornwall, A., E. Harrison and A.Whitehead (Eds.) (2007). *Feminism in Development: Contradictions, Contestations & Challenges*. London: Zed Books.
- Deere, C., S.Lastarria-Cornhiel and C.Ranaboldo (2011). *Land of Women:Reflections on Women's Access to Land in Latin America*. La Paz: Foundation Tierra and ILC.
- Ellis, F. (2000). *Rural Livelihoods and Diversity in Developing Countries*. New York: Oxford University Press.
- ELTAP (2006). Standardization of Rural Land Registration and Cadastral Surveying Methodologies: Experience in Ethiopia, 20-24 March, 2006, Addis Ababa, Ethiopia - *Strengthening Land Tenure and Administration Program (ELTAP): Proceedings of a National Conference*.
- FIDA-Kenya (2009). *Women's Land and Property Rights in Kenya: Promoting Gender Equality*. Nairobi: FIDA-Kenya.
- FIDA-Kenya (2013). *Women's Land and Property Rights in Kenya*. Nairobi:FIDA-Kenya.
- Flintan, D. B. (2008). *Study on Women's Property Rights in Afar and Oromiya Regions, Ethiopia*. Addis Ababa.

Available at www.fao.org/.../user.../Final_Report_Womens_Property_Rights.pdf.
Retrieved on 6/4/2018.

Food and Agriculture Organization (2011). *Men and Women in Agriculture: Closing the Gap*. Rome: FAO.

Hakijamii, GI-ESCR and FIDA-Kenya (2016). *Women's Rights to Land and Property in Kenya*. Nairobi: United Nations Committee on Economic , Social and Cultural Rights, 57th Session.

Harrington, A. (2010). *Women's Access to Land and Property Rights: A Review of Literature*. Justice for the Poor/Kenya Report. Washington, DC: The World Bank.

Hartmann, H.(1981). *The Unhappy Marriage of Marxism and Feminism: Towards a more progressive Union: Women and Revolution*, pp. 95-119. Lydia Sargent (Ed.) London: Pluto Press.

Helms, B. (2006). *Access for All: Building Inclusive Financial Systems*. Washington, DC: The World Bank.

Holden, T. (2008). *From Being Property of Men to Becoming Equal Owners?Early Impacts of Land Registration and Certification of Women in Southern Ethiopia*. Unpublished Report for UN Habitat. Addis Ababa: UN HABITAT.

Human Rights Watch (2003). *Double Standards: Women's Property Rights Violations in Kenya*. New York: Human Rights Watch.

IDRC (2003). *Focus Group Discussion*. Available at <https://www.sswm.info/node/1794>. Retrieved on 5/6/2018.

International Organization for Migration (2016). *Barriers to Women's Land and Property Access and Ownership in Nepal*. Kathmandu, Nepal: International Organization for Migration.

- Ireri, J.W. (2016). *Factors Influencing Land Ownership by Women: Case of Khwisero Constituency, Kakamega County, Kenya*. M.A. Project Paper. Available at <http://hdl.handle.net/11295/97758>. Retrieved on 17/11/2018.
- Joppe, Marion (2000). *The Research Process*. London: IDS Press.
- Kameri-Mbote, P.(2005). “The Land has its Owners! Gender Issues in Land Tenure Under Customary Law.” UNDP International Land Coalition Workshop: Land Rights for African Development: From Knowledge to Action.
- Available at <http://www.ielrc.org/content/w0509.pdf>. Retrieved on 1/5/2018.
- Kamotho, M.C.(2013). *Securing Women’s Land Rights: A Study of Individualization and decentralized Land Administration in Nyeri County*. M.A. thesis. Available at <http://erepository.uonbi.ac.ke:8080/xmlui/handle/123456789/11750>. Retrieved on 17/11/2018.
- Kenya Bureau of Statistics (2010). *2009 Kenya Population and Housing Census*. Nairobi: KBS.
- Kolawole, Mary Modupe (2011). *Transcending Incongruities: Rethinking Feminism and the Dynamics of Identity in Africa*. Taylor and Francis Online.
- Maneno, K. (2017). *Securing Land Inheritance and Land Rights for Women in Kenya*. Washington, DC: The World Bank.
- Moyo, S. (2002). “The Land Question and Land Reform in Southern Africa.: The Practice and Effectiveness of Development Policies in South Africa.” Conference Paper on Implementing Development, National Institute for Economic Policy (NIEP), Pretoria, South Africa.

- Munala, N.P. (1995). *Property Ownership among the Luhya women of Western Kenya*. M.A. Thesis. Available at <http://erepository.uonbi.ac.ke:8080/xmlui/handle/123456789/19994>. Retrieved on 17/11/2018.
- National Council for Population and Development (2017). *2015 Kenya National Adolescents and Youth Survey*. Nairobi: NCPD.
- Nnolim, C. (2000). Flora Nwapa: Writer as Woman. *Journal of Women's Studies in Africa*, 1: 113-124.
- Ochieng', R.O. (2014). *Opportunities and Challenges for Women in the new statutory Land Tenure Systems in Kisumu County, Western Kenya*. M.A. Thesis. Available at <http://hdl.handle.net/11295/76782>. Retrieved on 17/11/2018.
- Odico, A.O. (2013). *Customary Practices on Gender and Land Ownership in Kadibo Division: Implications for Implementation of Kenya's Constitution*. M.A. Project Paper. Available at <http://hdl.handle.net/11295/62944>. Retrieved on 17/11/2018.
- Perry, B., L. Oluoch, K. Agot, J. Taylor, J. Onyango, L. Ouma, ... A. Corneli., (2014). Widow Cleansing and Inheritance among the Luo in Kenya: The Need for additional Women-centred HIV Prevention Options. *Journal of the International AIDS Society*, 17(1): 19010. Available at <http://doi.org/10.7448/IAS.17.1.19010>. Retrieved on 7/6/2018.
- Shivji, G. (1998). *Not yet Democracy: Reforming Land Tenure in Tanzania*. Dar es Salaam: University of Dar es Salaam Press.
- Swarup, R et al. (2004). The National Savings Organisation and the Status of Small Savings in India. In *Small Savings Mobilisation and Asian Economic Development: The Role of Postal Financial Services*. New York: M.E. Sharpe.
- Sylvester, I. (1994). Predictors of Change in Feminist Activism through Women and Gender Studies. *Sex Roles*, 57:43-54.
- Ulin, P. R., E.T. Robinson and E.E. Tolley (2004). *Qualitative Methods in Public Health: A Field Guide for Applied Research*. Sanfransisco: Jossey-Bass.

- Umeh, M. (2003). The Inimitable Buchi Emecheta. In *Feminism in African Literature: Essays on Criticism*, pp.71-82. Port Harcourt, Nigeria: Pearl Publishers.
- UNDP UN/DESA/DAW (2000). *Assessment of Gender Mainstreaming in Sub-Saharan Africa*. New York: UN.
- USAID (2010). *Property Rights and Resource Governance Profile*: Nairobi:USAID.
- Varley, A. (2007). Gender and Property Formalization: Conventional and Alternative Approaches. *World Development*, 35(10): 1739-1753.
- World Bank (2012). *World Development Report, 2012: Gender Equality and Development*. Washington, DC: The World Bank.
- World Bank (2000) *World Development Indicators*. Washington, DC: TheWorld Bank. Available at <https://openknowledge.worldbank.org/handle/10986/13828> License: CC BY 3.0 IGO. Retrieved on 15/5/2018.
- World Bank (1995). *World Bank Economic Report*. Washington, D.C: The World Bank.

APPENDICES

APPENDIX I: CONSENT FORM

Introduction

I am **Mary Chepkemai Bosuben** from the Institute of Anthropology, Gender and African Studies, University of Nairobi. I am conducting a study on the “**Barriers hindering access to, control over and ownership of land in Bomet East Sub County.**”

Purpose

The study seeks to find out the barriers that hinder women from land access, control and ownership rights among the Kipsigis women in this Sub-County.

Risks/Discomfort

There is no risk in participating in this study. Your participation is voluntary.

Benefits

The study will help to bring to light the barriers that face women from access to, control over and ownership of land in this Sub-County. The findings obtained will be used to find solutions on eliminating the barriers highlighted.

Confidentiality

Your confidentiality will be maintained at all times. There will be no mention of names or identifiers in the report or publications which may arise from the study.

Persons to contact

If you have any questions regarding the study, you can contact me through telephone number 0710148230. You may also contact the KNH/UoN/ERB Committee-0735-274288/0721-665077.

Your participation in the study will be highly appreciated. If you agree to participate, please sign below.

Signature_____Date_____

APPENDIX II: SEMI-STRUCTURED QUESTIONNAIRE

Questionnaire number: _____ Date of the interview: _____

Ward: _____ Cell phone no.: _____

I. Bio data

1. Age (in years) (tick appropriately)

(i) 18-25 _____

(ii) 26-30 _____

(iii) 31-35 _____

(iv) 36-40 _____

(v) 41-45 _____

(vi) 45-50 _____

(vii) 51+ _____

2. What is your marital status (tick appropriately)

(i) Married _____

(ii) Single _____

(iv) Divorced _____

(iv) Widowed _____

(v) Separated _____

(vi) Other (Indicate) _____

3. How many children do you have? (Aggregate them by gender)

Male

Female

4. What is your highest level of formal education? (tick appropriately)

(i) None_____

(ii) Primary school (incomplete)_____

(iii) Primary school (complete)_____

(iv) Secondary school (complete)_____

(v) Secondary school (incomplete)_____

(vi) College (TTC, Polytechnics, KMTC)_____

(vii) University_____

5. What is your occupation? (tick and specify)

(i) Formal

(ii) Informal

6. Are you a member of any group in the community (i.e., women group)? If yes, specify the name of the group.

7. Do you hold any leadership position in the community? If yes, state the position.

II. Women land rights

8. Has the land in which you live and/or farm been registered?

(i) Yes _____

(ii) No _____

If yes, please indicate whose name it is registered in.

9. If the land is registered under the name of your spouse, how does that affect your position with regard to land and decisions made about it?

10. What, in your opinion, do women land rights constitute?

11. Please state women land rights as you understand them provided by both the Kipsigis culture and the Kenyan legislations.

12. Are you aware of the provisions in the Constitution of Kenya and other legislations for women regarding their land rights? (tick appropriately)

(i) Yes _____

(ii) No _____

13. If yes in 12 above, please state them.

14. Have you ever participated in civic education forums on women land rights? If yes, how often?

15. Do you think that women in this area are aware of their land rights as stipulated in the Constitution and other legislations?

16. Do they, in your opinion, exercise these rights? (tick appropriately)

(i) Yes _____

(ii) No _____

17. If no in 15 above, please state why not

18. What, in your view, are the barriers to women exercising their land rights as provided for by the Constitution and other legislations?

19. What, in your view, can be done to overcome these barriers so that women can exploit their constitutional land rights?

APPENDIX II: KEY INFORMANT INTERVIEW GUIDE

Name: _____

Cell phone no.: _____

Date of the interview: _____

I) Bio data (Indicate where Applicable)

Gender: _____

Age: _____

Occupation: _____

Level at which you are involved in women land rights issues.

Are you involved with the community in Bomet East Sub County? If yes for how long have you been involved with them and in what capacity _____

II) Women land rights

What is the Kipsigis historical perspective of women and land?

2. What did women land rights entail in the past?

3. How different is that from what it entails today?

APPENDIX III: FOCUSED GROUP DISCUSSIONS GUIDE

Type of group: _____

No. of people: _____

Date: _____

1. Women's land rights as stipulate in the 2010 Constitution of Kenya.
2. Women's land rights as understood by women in the community.
3. Provisional rights for women regarding land in the 2010 Constitution of Kenya and international conventions.
4. Barriers to women exploiting these provisional rights.
6. Ways of overcoming these barriers.

