

**BARRIERS TO LAND OWNERSHIP AMONG WIDOWS IN KOLWA EAST WARD,
KISUMU COUNTY**

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DECLARATION

This research project is my original work and has never been presented for examination in any other university or institution of higher learning for examination or any other purposes.

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N69/10870/2018

Signature

Date: 18/08/2022.



Supervisor.

This research project has been submitted for examination with my approval as the university supervisor.

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Signature

Date: 18/08/2022.



DEDICATION

To my beloved husband Mr. Juma Nyamori, my daughters Anne, Magdalyne, Madeleine and Lulu for their indefatigable encouragements and from whom I drew strength and motivation.

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To my spouse, Mr. Juma Nyamori, love, tolerance and patience triumphs.

Finally, all glory to God for this splendid achievement.

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ABSTRACT

This was a cross-sectional study on barriers to land ownership among widows in Kolwa East Ward, Kisumu County. The study investigated the extent to which existing Kenyan legal frameworks and tools aid widows in gaining access to and control over land and the socio-cultural and economic factors that continue to bar widows from accessing and owning land within the context of the legal frameworks. The study population consisted of widows and data was collected through case narratives, focus group discussion, in-depth interviews and key informant interviews. The study was guided by Women Empowerment Framework. Thematic deductive approach was used to analyze the data and findings depicted in the form of themes. The study findings indicate that barriers to land ownership among widows in Kolwa East Ward, Kisumu County largely lie on the tedious process in accessing land documents, lack of support from relatives and local administrators and rules and norms on land ownership skewed in favour of men. Other major factors include widow inheritance, polygamy, religion, divorce and separation, education level and knowledge, unemployment and poverty as well as children. The study also showed that many widows are ignorant of the law on daughters being given land and even the few that are aware of this law are yet to come in to terms with it. By and large, the study results demonstrated limited ownership of land by women and that land largely belongs to men. The study concludes that lack of awareness creation on the new constitution has made widows face barriers in accessing and owning land with chiefs and the lands officer taking advantage of the widow's ignorance of the laws and the fee requirements and ask for bribes. The study recommends that there is need for the government to conduct civic education to all community members especially regarding land ownership rights. This would ensure that those who know the law sensitize widows on their rights. The study also recommends that to ensure equal shareholding in any family property, unlike joint ownership or if the property is registered in the man's name, registering the property in Common Tenancy should be encouraged and finally, women to be trained on economic empowerment and supported to start up income generating activities

for self-reliance. Given the limitations and scope of this study, the researcher recommends a similar study to be extended to other communities (besides Luo) for comparative purpose.

LIST OF ABBREVIATIONS AND ACRONYMS

AAK	Anthropological Association of Kenya
ADR	Alternative Dispute Resolution
CEDAW	Convention on the Elimination of All Forms of Discrimination Against Women
FGDs	Focus Group Discussions
FIDA	Kenya Federation of Women Lawyers in Kenya
GOK	Government of Kenya
HRW	Human Rights Watch
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
IDIs	In-Depth Interviews
ICRW	International Center for Research on Women
IOM	International organization of Migration
IWHRC	International Women's Human Rights Clinic
KELIN	Kenya Legal and Ethical Issues Network on HIV and AIDS
KIIs	Key Informant Interviews

KNBS	Kenya National Bureau of Statistics
NACOSTI	National Commission for Science, Technology Innovation
NGOs	Non-Governmental Organizations
NLC	National Land Commission
OHCHR	United Nations Human Rights Office of the High Commissioner
SDGs	Sustainable Development Goals
UDHR	Universal Declaration of Human Rights
UN	United Nations
UNDP	United Nations Development Programme
WEF	Women Empowerment Framework

CHAPTER ONE: INTRODUCTION

1.1 Background of the Study

Land rights pertaining to women and girls lie at the core of global security, peace, justice, democracy, and long-term prosperity for everybody. Assembly *et al.*, (1985) and Muntarhorn, (2016), list instruments propagating the rights of women with regards to land issues, namely UDHR article 17 and 2, ICESCR 2012, ICCPR and CEDAW. Gendered rights to land are acknowledged as a crucial component of decreasing poverty, achieving food safety and increasing health, and fostering social inclusion and empowerment in the Sustainable Development Goals 1, 2, and 5. The Urban Policy Framework (2016) outlines a common strategy to urban regeneration and offers guidance on how to accomplish the SDGs. It also stresses the significance of secure land tenure for women's empowerment.

In addition, the Beijing Declaration and Platform of Action of the World Conference on Women (UNDP, 2020) emphasizes the importance of providing women with equal opportunity to economic benefits, accessing, operating, managing, and owning land. States must prohibit all forms of racial discrimination in all aspects of parenting, including guaranteeing that spouses have equal access to property ownership, possession, management, oversight, consumption, and disposition (Oxaal & Baden, 1997).

As a result of biased laws and practices, feminists' having control over land and matrimonial property is limited. Unmarried daughters, unmarried, separated, or divorced women were given tiny parcels of land to farm until they remarried, whereas married women were given land rights by their husbands or sons. Via the processes of land adjudication, consolidation, and registration, customary laws ensured that males had complete authority and ownership of their land. Women rarely own land titles nowadays, either as an individual or a spouse (Radford, 1999).

Kenya enacted a new constitution in 2010, ensuring equal legal rights and protections for women, including the freedom to own and inherit property. Section 12 (1) safeguards matrimonial assets or interests in matrimonial assets against sale, gifting, leasing, or mortgaging without both spouses' approval during the duration of a monogamous marriage. Women's

entitlement to intestate for which they are not identified as single or joint proprietors are protected through this law.

The Land Commission, as well as any State officer or public officer, is required by Section 4(2) of the Land Act of 2012 to be driven by certain virtues, including the elimination of gender inequality, traditions, and practices; non-discrimination impartial and safeguards the disadvantaged; and rule of law, acceptance and tolerance, and participatory processes (National Council for Law Reporting, 2012b). Women must be made aware of existing laws and their rights to property acquisition, as this will allow for a smooth handover of property without confrontation with the customary law.

Notwithstanding the all of this international and national assistance and promises, women are still deprived equitable rights to, use of, inherit, administration, and ownership of land. States must change laws and societal practices that prevent women from accessing and controlling land in order for women to exercise their land and property rights. Changes in cultural habits are also required.

Kenya is patriarchal, meaning that it is the men who hold the land on behalf of others and customary practices often discriminate by allowing the opposite gender to access land only through spouses or men in their lineage (Deininger *et al.*, 2014). According to Gaafar, (2014), customs stipulate that female is not permitted to own land and has to seek approval to plough the land. It is therefore common for women to lose the property if they divorce even if they contributed to it since many cultures and traditions recognize men as property owners while limiting the properties that women can have.

In as much as there are laws governing property ownership, many leaders or family members may be ignorant of what the laws stipulate on women's and girl's property rights thereby simply following the customs that have been present for generations. As a result of this, polygamous unions leave women more susceptible to deprivation of their matrimonial property (Gaafar, 2014).

Widows in various Sub-Saharan African nations like Mozambique, Zambia, South Africa, Malawi, and Zimbabwe are still being disinherited and expelled from their family houses and property as noted by Nnoko-Mewanu *et al.*, (2020). Widows, according to Gunga (2009), require a supportive atmosphere that emphasizes the modest ways in which the society believes they should behave, as well as how they should be treated by their families and those of their deceased husbands. As a result, the sociodemographic and emotional support offered by family, community, and society as a whole has a significant impact on widows and widowers' ability to recognize and use coping methods.

Kenyan law makes it illegal to forcibly evict a widow from her matrimonial home and land. The law prohibits a widow's husband's relatives from taking her inheritance illegally, but it is rarely implemented, and justice is difficult to come by, especially in rural areas. Women are less likely to participate in land-related discussions because they have little authority over the land they rely on, leaving them exposed to displacement and exploitation in the event of their husband's death. The Law of Succession (Amendment) Bill, 2019 seeks to give legitimate dependents of a deceased person a claim and a right in the deceased intestate estate by introducing the term spouse as contained in the Marriage Act (*Law of Succession (Amendment) Bill, 2019.*)

1.2 Problem Statement

Despite the existence of a formal regulatory framework, discriminatory socio-cultural practices continue to obstruct women in Kenya, particularly widows, from enjoying their individual liberties. Women own minimal land and get inferior reliable rights to land than males across the globe. According to UN Women, (2017), women account for less than 20% of global land owners on average, while they account for 43% of the agricultural workforce. According to Namubiru-Mwaura, (2014), in remote communities of countries like Uganda, Brazil, China, Kenya, Liberia, India, Malawi women's land rights are limited, widows who are entrusted with their late husband's land are not allowed to sell it and must instead pass it on to their sons or male relatives. Kenyan legislation provides the framework of women empowerment in land ownership by granting women the ability to own land.

The Land Act of 2012 gives spouses and other interested parties statutory rights when it comes to land transfers (National Council for Law Reporting, 2012b). The provision that spousal consent must be given before any land transactions are approved has saved women who would have otherwise lost their land or property from being sold by their husbands without their knowledge. The Matrimonial Property Act of 2013 asserts that an asset or ownership in marriage may not be detached in any form, whether by sale, gift, lease, mortgage, or otherwise, for the course of committed relationship and without the validation of both parties (Republic of Kenya, 2013). Part V of the Marriage Act of 2014 (The Marriage Act 2014.) regulates customary marriages. This was previously unregulated, exposing women to a significant risk of being deemed as legal wives after remaining in the relationship and even raising children, and being denounced as a spouse might severely affect access to property obtained or established during the marriage.

Despite the above laws, women, particularly widows still face immense barriers in owning land. There is, however, a dearth of information on why despite the available legal frameworks such as the constitution of Kenya 2010 and other supportive laws, widows still find it difficult to own land. Hence, the gaps that hinder the full realization of the legal provisions need to be unearthed. Furthermore, the socio-cultural factors that continue to bar women from owning land within the context of the enabling legal frameworks also need to be revisited to understand their nexus with the legal regime. The following research questions were therefore used to fill in the gaps in this study

- i. To what extent does the Constitution of Kenya 2010 and other legal frameworks assist widows to realize their rights to access and own land?
- ii. What are the socio-cultural factors that continue to hinder access and control of land by widows within the context of existing legal provisions?
- iii. What is the role of economic empowerment in determining land ownership among Widows in Kolwa East?

1.3 Research Objectives

1.3.1 General Objective

The general objective of this study was to examine the barriers to land ownership among widows in Kolwa East Ward, Kisumu County.

1.3.2 Specific Objectives

- i. To determine to what extent existing Kenyan legal frameworks and tools aid widows in gaining access to and control over land.
- ii. To investigate the socio-cultural and economic factors that continues to bar widows from accessing and owning land within the context of the legal frameworks in Kolwa East.

1.4 Study Assumptions

- i. Existing legal provisions and instruments in Kenya have assisted widows to realize their rights to access and control land.
- ii. Socio-cultural barriers hinder the Widows of Kolwa East Ward from accessing and controlling land.
- iii. Economic factors determine access to land among Widows in Kolwa East ward.

1.5 Study Justification

This study aims at contributing to the existing knowledge on the barriers to land ownership among widows by documenting aspects of socio-cultural and economic factors that contribute to gendered allocation and ownership of land.

The conclusions of this investigation will be of great importance to the legislature, Constitution of Kenya Implementation Commission, Ministry of Land, County governments, and non-Governmental laws in the constitution and subsequent related laws. The study will also help other organizations and other gender networks on how to approach the implementation of land ownership.

Policymakers may find the study's results and recommendations vital in addressing issues of gender disparity in land ownership, as they highlight critical gender concerns that must be addressed both at the policy development and implementation levels.

Academically, the findings from this study will serve as a reference source for academicians exploring women's land rights. The study will also enlighten community and community leaders on the need for civic education on land rights and sensitize both men and women on the importance of ensuring that there is equality on land rights.

1.6 Scope and Limitations of the Study

The study reviewed the existing Kenyan legal frameworks and instruments in relation to women's access and control over land. It will also analyze the socio-cultural factors that bar widows from accessing and owning land within the context of the legal frameworks and finally examine the role of economic factors in determining widow's access to land in Kolwa East. The Study will be carried out in Chiga, Buoye, and Mahenya sub-locations of Kolwa East Ward, hence limiting its generalization for the whole country since the study findings may not necessarily represent the general pattern in perceptions and practices on skewed land ownership among women and men.

Owing to the emotive nature of the study topic and the patriarchal nature of the Luo community, the researcher anticipates getting reserved responses from the respondents especially women since discussions on matters of land are a preserve for the men.

CHAPTER TWO: LITERATURE REVIEW

2.1 Introduction

The literature related to the research problem and the theoretical framework that guided the investigation is reviewed in this chapter.

2.2 The Statutory Framework and Women's Land Rights

Land ownership is a prime determinant of affluence, authority, political and social security, as per (IOM, 2016). It's also a capital asset that may be traded, leased, loaned, or bequeathed, allowing for social and economic empowerment and hence a means of escaping poverty by providing social stability. According to Quan (2006), secure land rights provide a foundation for habitation, accessibility of services, and civic engagement.

Land has long been used to establish economic and social status disparities through unequal distribution, ownership, and control of land as property. Land ownership by women who become the heads of families owing to the death of their husbands, divorce, separation, or abandonment is particularly important (Kendi, 2018). This is because bettering women's living situations necessitates their having control and authority over land, other productive resources, and assets.

Kenya's legal structure is still experiencing significant changes despite the enactment of a new constitution in 2010. In Kenya, gendered individual property rights are governed by legislation, customary law, religious beliefs, and laws, according to Kameri-Mbote, (2006), and are protected by the Kenyan Constitution of 2010 and several national legislations. In practice, however, women continue to be disenfranchised because a woman's marital status is a determining factor in her ability to obtain or possess property. This explains why only 1% of titles are owned by females alone and 5 to 6 of land titled jointly by men and women (Gaafar, 2014). Musangi, (2017) qualified this view by stating that “women have been socialized to believe that they are not destined to own or inherit land or any other form of property despite legal and policy reforms”.

The land is communally owned under customary law (GOK, 2016). This, however, differs from one community to the next, resulting in disparities in land and property ownership rights. While societal norms grant women less land rights as a result of their relationships with male relatives such as sons, fathers, or husbands, the Kenyan Constitution of 2010 only allows customary law to the extent that it is not in conflict with the Constitution; any arbitration clause that is in conflict with the Constitution is illegitimate (Constitution of Kenya, 2010). Kenyan women are protected by the constitution, which guarantees equality and advocates against unfair customary practices based on national values and ethical standards such as social equality, individual liberty and marginalized people's protection (Constitution of Kenya, 2010).

Kenya's administration has put in place a variety of legal measures aimed at promoting gender equality and women's empowerment, including the NLC No.5 of 2012, the Land Act No. 6 of 2012, and the Land Registration Act No.3 of 2012. The Land Laws (Amendment) Act of 2016 amends the Land Act of 2012, the Land Registration Act of 2012, and the Land Commission Act of 2012, resulting in changes to Kenya's land management and eviction regime (Republic of Kenya, 2016).

Domestic labour, child care, companionship, family business management, and farm work are all defined as contributions under part I of the Matrimonial Property Act. Initially, these responsibilities were not seen as contributing to the acquisition of matrimonial property because they were not monetized. It also expands the definition of marriage property (part III) to include the matrimonial house, which was previously excluded (Republic of Kenya, 2013). The Act also provides for equal rights among married partners to amass, manage, possess, control, put in use, and dispose of property, whether fixed or non-fixed asset, regardless of any other legislation (Republic of Kenya, 2013). It also maintains family concurrence on the issue of matrimonial property, disposal in any form, whether by sale, gift, lease, mortgage, or otherwise, during the duration of monogamous marriage and without the assent of both partners (Republic of Kenya, 2013).

The Marriage Act of 2014 (Section 6 Part V) governs traditional marriages (Government Printer, 2014). According to Section 3 of the Act, it guarantees equal entitlements and expectations at the time of marriage, during the marriage, and when the marriage is dissolved (Government Printer,

2014). In this way, women are protected from being discredited as spouses and denied access to property acquired or developed during the marriage.

Women's land rights, according to Agarwal, (1994), have received little consideration in policy creation. While certain regulations have been constructed to address tenure security, it is unfortunate that they have not been followed up by social acceptance, resulting in an economic gender disparity between men and women, as (Namubiru-Mwaura, 2014) points out.

Feminists are still deprived property rights or disadvantaged, leaving only a handful of them possessing property to their names, despite the global commitment to eliminate gender imbalance and promote women's rights. Despite the enactment of the aforementioned legislation, men own more high-value assets, such as land, than women (Doss *et al.*, 2008). Nonetheless, the new Kenyan Constitution of 2010 provides optimism that, if well and properly implemented, women's land and property rights would be realized.

2.3 The Socio-Cultural Factors That Continue To Bar Widows from Accessing and Owning Land

The Constitutional Bill of Rights protects all Kenyans, regardless of gender, with the goal of recognizing and defending human rights and fundamental freedoms, preserving individual and community dignity, and promoting social justice and the fulfilment of all human potential (Constitution of Kenya, 2010). However, due to the continued dominance of traditional land tenure systems, which usually curtail their rights to property and land ownership is passed down through male generation (International Center for Research on Women, 2005). In Kenya, women's rights to access and control property are unequal to men's. The belief that women do not deserve or can be trusted with property ownership and administration has resulted in ongoing harassment from customs, laws, and persons, including public servants (Human Rights Watch, 2009).

A woman may have legal land and property rights, but these rights may not be accepted socially as legitimate, according to (Agarwal, 1994). For example, a man may allow his sister to use his

land as a gesture of goodwill, but she cannot claim it as a right and hence demand that it be enforced (International Center for Research on Women, 2005).

The socio-cultural barriers created by customs that bar women from owning land include; widow inheritance, patriarchy, and male dominance, polygamy, divorce and separation, and religion. In Latin America, for example, women inherit land from their fathers, brothers, or husbands, whereas in Sub-Saharan Africa, women have access to land and related resources through a father, brother, or spouse, depending on the community's lineage system (International Center for Research on Women, 2005). This demonstrates that inheritance is determined by whether a particular community is patrilineal, matrilineal, and or bilateral in nature.

2.3.1 Traditional Land Ownership Practices among the Luo

Traditionally, inheritance of land and property among the Luo's was through a patriarchal system whereby sons inherited from their fathers. Bearing male children was of much importance since they were viewed as the clan's security (Chabeda, 2008).

According to Ocholla -Ayayo, (1976), the Luo cherish land in the order of land for pasture, land for a village site, and lastly land for cultivation and communal use. Luo traditions and customs dictate that every 'Jaluo' has an inalienable right to a piece of land to cultivate. The land of one's grandfather (Lop Kwaro) and the people of one's grandfather (Jokakwaro) were the key units in the land settlements. Thus among the Luo, land is only inherited through the patrilineage system and land belonging to a brother would only be inherited by a brother if he does not have a male descendant. According to the findings of a case study of the Yaw Pachi women group conducted by Chabeda, (2008), women can get access to land in Siaya district primarily through marriage and relationship with a male relative, who could be the woman's father, father-in-law, brother, or son.

The paternal uncle's land (Lop owadu ma kwaru en achiel) could only be inherited if he did not leave a son or half-brothers. The land of one's mother was shared by the sons as they married. This meant that the land that a husband gives to his wife is the inalienable property of her or their

sons. (Ocholla-Ayayo, 1976). The wife, therefore, acted as the caretaker and could not claim ownership of the land.

Among the Luos, land decisions were frequently made by chiefs or elders on behalf of and in trust for the clan or family. Women's opinions were brought to the attention of the authorities, but they were not permitted to engage in the process (Chabeda, 2008).

2.3.2 Widow Inheritance and Women's Land Rights

In most African tribes, marriage and inheritance are the principal ways for women to gain ownership of land (Namubiru-Mwaura, 2014). According to Doss *et al.*, (2008) inheritance is a means of women becoming landlords. Land inheritance, therefore, has been skewed toward men since land rights are framed by customary marriage traditions. For instance, among the Luo, "lako/Ter" (women inheritance) as an institution is when a brother to the deceased husband takes up the roles and responsibilities of his deceased brother's home including the wife and the children. This practice is so much linked to the very meaning of marriage in the Luo culture (Nyarwath, 2012). Furthermore, upon the husband's death, wives are often disinherited of their husband's land and property. This happens despite the woman remarrying the late husband's brother or a close relative to guarantee her to stay on the land (Federation of women lawyers, 2019). These Cultural beliefs and practices stripe and deprive women of their marital property and assets making women vulnerable and helpless. The fear of being excommunicated from their matrimonial homes losing the estate of their deceased husbands makes it difficult for them to resist undergoing the ritual of inheritance (Gunga, 2009).

The Inheritance practices in Kenya are strongly male-biased since women have been denied property rights based on their gender. Low literacy and lack of exposure equally make widows in rural Luo communities in Kenya to be subjected to widow cleansing rituals. Widows are often stripped of their possessions and left with no choice, thereby opting to engage in risky sexual behaviours and practices to safeguard their property (Human Rights Watch, 2009).

Furthermore, spousal rights are weak when looking at widow's rights to land (Author *et al.*, 2016). According to Kameri-Mbote, (2006), women on some occasions are only allowed to

remain in their matrimonial land or home if they remarry a family member of her departed spouse. This demonstrates that eviction of widows and the seizure of their property and inheritances is still a common occurrence. The Succession Act of 2012 does not automatically follow the matrimonial property prescriptions since the property is treated as the departed head of the household without identifying the wife's half. If a widow remarries, the Act nullifies and restricts her right to use matrimonial property, but it makes no equivalent provision for widowers (National Council for Law Reporting, 2012a). According to Human Rights Watch, (2020), customary regulations regulate succession in this case, which discriminate against women and girls.

A study of a community in Western Kenya found that young widows are more vulnerable to land tenure security than older widows, possibly because they have had less opportunity to bond with their in-laws (Gaafar, 2014). Widow's rights often are delicate when they do not have children and her access to land often depends on her relationship with her in-laws. This is due to the belief that children forge widow's tie to her husband's lineage. For example, Human Rights Watch, 2020 reports that Kenya Legal and Ethical Issues Network on HIV and AIDS (KELIN) a non-governmental organization documented 640 succession cases in Kisumu, reporting that the step of accessing managerial authority over the departed property depends on factors such as who applies for the grant first, who has the death certificate or notification, and is supported.

Furthermore, the inheritance practices on which Kenya's customary laws are based frequently discriminate against women to the point where one cannot look at hereditary traditions without also looking at marriage customs, and any attempt to challenge these traditions usually results in threats of violence and aggression being directed at her (Federation of women lawyers, 2019).

2.3.3 Patriarchy, and Women's Land Rights

Patriarchy is a Latin word that means "rule of the father." As a result, patriarchy denotes men's domination on women, as well as the economic, social, political, and religious ideals that have imposed women's supremacy. Women are not treated similarly to men due to patriarchy. Maseno and Kilonzo (2010) define patriarchy as a structure of power against women through male

domination and traverses cultural and ethnic boundaries. As a result, it is a system passed down the centuries and inherited by men, maintaining male oppression, exploitation, and supremacy over women.

According to Walby (1990) patriarchy is a social system structures and practices that allows men to exploit, dominate, and oppress women. This, however, can happen in both the public and private realms.

The formation and preservation of patriarchal ideology is aided by social structure, faith, societal norms, the communications, and academic facilities (Wood, 2019). The assumption that men are inherently predisposed to dominate women leads to women's subjugation and male dominance. As a result, many males believe they have the right to dominate and control women. Women, for example, do not have a say over land as a resource in Africa, particularly in Kenya, despite the fact that they are always active in farm productive activities (Maseno & Kilonzo, 2010).

Furthermore, because men usually control family and community land, unlike women they are better placed to claim individual land rights when land scarcity converts the land into an asset or private property. In Kenya, this was evidenced when widows received less than normal parcel allocations during the segmentation of Maasai group ranches, despite their representation on the statutory committee (Kendi, 2018).

Gender inequality, according to Rawat (2014), imposes male characteristics and feminine character prejudices in society, which exacerbates power imbalances between men and women. For example, a woman may have the freedom to work, travel, and earn a livelihood but may not have control over her earning as it could still be managed by the men (patriarchs) in the family. Patriarchy thus de-powers women while creating room for men to benefit materially from it. Since it is men who control most property and productive resources in the family and are usually passed from father to son, they stand to benefit economically from women's subordination. This is despite women having legal rights to inherit such assets (Sultana, 2012).

Men employ their traditional authority to deny women access to land and other assets, leaving them vulnerable to economic and social insecurity. Both under customary and statutory land

tenure systems, male are the sole heirs of property rights in patrilineal societies. The reasoning was that sons stayed with their families while daughters married and abandoned their homesteads, thereby benefiting from their husbands' property. However, as seen in the case of *Mary Rono v Jane Rono & another*, community ownership of property, particularly land, was still fought by women who were unmarried and in their later years. Mary Rono challenged the Supreme Court's decision on the grounds that the superior court erred in considering Marakwet customary law or any customary law because the estate in question was governed by the Law of Succession Act, Cap 160 section 3(2) of the act, which defines "child" without discrimination on the basis of sex (Kenya Law, 2005). This renders the notion of equal land ownership for men and women meaningless. Furthermore, just because women have access to land does not mean they have authority over it. Women may have the right to use the property, but the property remains under the control of the husband. This is despite the fact that in Kenya, women have the legal right to inherit land under the law. However, male dominance and customary traditions limit the amount to which women can use this right.

Women's subjugation to men is common in many places of the world. Women frequently face discrimination and uneven treatment as a result of their gender distinctions, which are a social construct rather than a biological difference. The rights to food, health care, education, work, ownership over productive resources, and decision-making are all subject to unequal treatment (Akgul, 2017). To improve women's status in the community, the family must restructure the socialization of male dominance and female subjugation.

2.3.4 Polygamy and Women's Land rights

Polygamy has an impact on women's land ownership and use rights. Polygamy also forces women to divide their hard-earned matrimonial property and assets among several co-wives and their offspring, each of whom is obligated to receive a smaller and smaller share of the resources. Some spouses have been seen using property gained by the first wife to acquire multiple brides (The International Women's Human Rights Clinic, 2008).

Even with the new Kenya's constitution promulgation in 2010, women in polygamous marriages have yet to realize their land rights and other property because the law is unclear as to who's rights take precedence after a husband's death, even though the matrimonial property Act of 2013 states that ownership of matrimonial property recognizes both spouse's monetary and non-monetary contributions (Republic of Kenya, 2013). In polygamous marriages, determining the property each wife owns with the husband may take longer.

According to the IWHRC, (2008), it is necessary to register all polygamous unions assuring the protection of the wives' rights in marriage and matrimonial property. For instance, in Ethiopia, despite being illegal, polygamous marriages are still a common occurrence and this poses challenges with regards to land rights. 2011 statistics from Ethiopia indicated that polygamous marriages stand at 11% (Smith, 2017)

Polygamy not only leads to conflict among women but further degrades women's rights to matrimonial property. Women in polygamous unions always have to show proof of marriage as either being civil or customary to prove the validity of a marriage for them to have a say (IWHRC, 2008). Polygamy violates women's rights to equality and dignity.

Because males frequently utilize property obtained with the first wife to marry other wives, Kenya, as one of the member states, must provide the protection from the dangers produced by engaging in polygamy through legislation. In general, men inherit property outright while women only inherit lifetime use rights to land, and can only sell the property if there are no male relatives (Author *et al.*, 2016).

2.3.5 Women's Land Rights and Religious affiliation.

According to Abdulla, (2018), religious beliefs and cultural norms have a substantial bearing on human rights. The influence on gendered ownership and control over land, as well as men's access to and control over land, is distinct. Because Hinduism, Islam, and Christianity each have their own affirmation and intestate succession laws, this is the case.

The Bible is the foundation of Christian belief. Many individuals read it differently, but it outlines how Jesus' followers are required to behave. Women's inheritance and property rights were endorsed by the Bible. Furthermore, according to the Bible, if there were no sons to inherit, it was to be passed down to daughters. There was no male head in the case of Zelophehad in Numbers 27: 1-11; 36, thus land was given to daughters (Ahiamadu, 2005). In the event of a son's death, the daughters were entitled to inherit if they married within the clan (Welch & Clark, 2011). Furthermore, like Job did, a parent could name his daughters as heirs with equal rights to their brothers. However, because Job lived longer after the gift, this was intended as a dowry in this circumstance. -Job 42:15(Welch & Clark, 2011).

In some cases, it is claimed that gender inequity, marginalization, and female subjugation are as old as the Bible's history (Wood, 2019). This could be because the Levirate legislation (Deuteronomy 25) was predicated on the belief that only male heirs could be successors, with the firstborn expected from a levirate marriage being the only one to "succeed to the name" (Welch & Clark, 2011).

The right of a woman to inherit is negligible in Islamic law. The usual rule in Islamic law contends that inheritance is the female receive half of what their male brothers receive. Despite the fact that the Qur'an mentions women's rights to property and inheritance, this is not the case (Udoh *et al.*, 2020). Islamic law, therefore, favors the property rights of men over women. For instance, women in Pakistan face social and economic constraints in comparison to men with judges who are not trained in gender issues and other religious laws impeding the attainment of justice for women (Naznin, 2014).

Nonetheless, Islamic law ensures that women retain some authority regarding assets that they got from their parents before marriage, purchased with their own money, or received as presents (mahr) from their husbands after marriage. This ensures financial independence and security for women (Evelyn *et al.*,2012). Overall, the Islamic law of inheritance on the share that widows and daughters receive demonstrates that men are better off in terms of land than women.

According to (Mehra & Sharma, 2015) there have been no reforms in Hindu law leaving women with no right to divorce nor equal rights to succession of immovable property in their natal

home. Whereas the Hindu law permits polygamy, the law does not require registration of marriage making it difficult for Hindu women to demand maintenance and assert other matrimonial remedies in court. For example, larger sections within the Hindu community argue that giving inheritance rights to women could lead to a situation where Muslim men will marry Hindu women to take their land (Mehra & Sharma, 2015).

Sisters in Bangladeshi Muslim families often receive half of their brothers' share, while Hindu women receive nothing. Only Christian women receive an equal portion of property as their male counterparts (Sultana, 2012).

2.3.6 Divorce, Separation and Women's Land Rights

Kenyan women confront a slew of challenges not only throughout their marriages, but also when their relationships breakdown. Due to a lack of equal land and property rights following a divorce or separation, which leaves women as the primary provider of their children's needs, they are frequently forced into poverty (The International Women's Human Rights Clinic, 2008). A woman's relationship with a man determines her access to property such that when the relationship is dissolved, the chances of the woman losing her home, land, and any other household goods is high. While the Matrimonial Property Act ensures equality in the administration of matrimonial property, it contradicts this by taking into account conventional laws pertaining to divorce or dissolution of marriage, which discriminates against women, during the distribution of matrimonial property (Republic of Kenya, 2013). Furthermore, the failure to an equal division of property including land among spouses after divorce dispossesses women of property which in turn puts much pressure on them to search for alternative income (COHRE/WHRP, 2008). According to Human Rights Watch, (2009), women fear pursuing their property rights due to threats and violence that they receive from their husbands and in-laws. (Human Rights Watch, 2009)

Furthermore, an inadequacy of awareness and knowledge of rights, as well as women's incapacity to question their husbands, may result in women not being able to claim any share of the property. Furthermore, if a marriage ends due to divorce, separation, or death of the husband,

the wife becomes vulnerable since they may be evicted by a relative of the husband, and their access to land is jeopardized.

Despite the fact that the Kenyan Marriage Act of 2014 allows for the division of matrimonial assets in the event of divorce, Kenyan women are frequently violently chased away after separation or divorce, and their equal share of matrimonial property is rarely taken away (The International Women's Human Rights Clinic, 2008). Customary law marriages frequently leave separated or divorced women with no portion of family property, regardless of how much they contributed to its acquisition or development (Kendi, 2018).

2.4 The Role of Economic Factors in Determining Widow's Access to Land

Land is a significant determinant of economic empowerment. Women are left out of charge of property when they do not have access to land. Women who are economically empowered, according to International Center for Research on Women, (2005), can drive growth in their communities, for their families, and can utilize their property or homes as collateral for credit for investment purposes. Women who own land benefit from economic development and improve their well-being as household members or as household heads in female-headed families.

2.4.1 Education Level and Women's Knowledge of Land Rights

Illiteracy is a serious impediment to property ownership because it hinders the understanding and the ability of women to claim their rights. The vast majority of Kenyan women are unaware of their legal property rights or how to pursue them. On the death of one of the personal representatives, the Succession Act, Cap.160, vests authorities and obligations in the survivor. However, many widows because of a lack of information on the succession process are left vulnerable and are often deceived of property left by their spouses (National Council for Law Reporting, 2012a). According to Human Rights Watch, (2020), women's awareness of their legal rights is low and so there is a need to provide basic information about succession in regards to the property at hand. It further emphasizes that the process of claiming the land is always time-consuming, expensive and that women often face a lot of stigmas if they attempt to claim land or property.

While men are generally aware about regulation and statutory processes in respect to land registration and ownership, women are constrained by gender norms such as home tasks and paternity, and are thus viewed as incapable of handling property and dealing with land dealings. Women are unable to claim or exercise their rights without adequate knowledge. As a result, a lack of understanding is a significant barrier to women owning land.

Similarly, government authorities in charge of human rights frequently undertake gender sensitization training for their employees but do not provide educational programs on women's individual rights, resulting in a failure to address women's property rights (Human Rights Watch, 2009). Bangladeshi males, for example, have greater access to education than females, making women's right to education a cornerstone of fulfilling one's rights to suffer. As a result of these limits, Bangladeshi women are either unaware of their rights or unable to claim them (Chikkanna and Mahalinga K, 2016).

Low socioeconomic female who are uneducated and do not have access to the constitution, which protects their land and property rights, are frequently unable to successfully claim their land and other assets when the need comes (Federation of women lawyers, 2019).

2.4.2 Unemployment, Poverty and Women's Land Rights

Poverty is a contributor to and determinant of women's exposure to and sovereignty over land and property, in addition to prejudice against them. In addition, for the vast majority of women, inaccessibility to land and property translates into a lack of economic resources for survival.

Women's jobs, in general, are geared toward extending their social reproductive functions, such as nursing, waitressing, and sales, and so pay lower earnings than men's managerial professions (MaeEstrella and colleagues, 2019). Women continue to be concentrated in the "unpaid" family work, necessitating the need to empower women and assist them in balancing their professional and personal lives. According to (Chikkanna and Mahalinga K, 2016), women have no easy access to credit and other income-generating opportunities, earn less than men since they occupy low-paying jobs, and are still underrepresented at the managerial and policy level.

Poverty is a source of burden for women to finance the costs of pursuing property claims. Women's property acquisition is hampered by a lack of economic resources, such as money. Women often fail to seek justice from the judicial or alternative dispute resolution systems to help secure their rights to land and other property because they are not empowered, lack means, access, and resources, and often do not seek redress from the judicial or alternative dispute resolution systems to help secure their rights to land and other property (Human Rights Watch, 2009). Furthermore, women have been trained not to pursue their rights, and those who lose their economic foundation often fall into abject poverty, which is a key contributor to property violations against women.

According to Rawat, (2014), the ratio of female-headed homes among lower-income households is increasing, with women earning less than males for the same employment. Poor women were unable to meet the legal price services and documentation required for their property claim, as well as travel to the courts or land offices, according to a post-conflict Rwanda report (Rose, 2005). According to estimates from the 1990s, with an aspects of urban unemployment rate of around 25%, female unemployment was at 38%, compared to 12.5 percent for men (Maseno & Kilonzo, 2010).

2.5 Theoretical Framework

The theory that guided this analysis is discussed in this section. The theory establishes the foundation for the investigation. A model is a description of a certain field of knowledge that explains how it operates (Chermack, 2013). A theoretical review derives from a long study process that employs empirical evidence to create assertions based on a descriptive and analytical analysis of the facts, according to (Kivunja, 2018). This is why a theory is critical since it will direct the research and give it significance.

2.5.1 Women Empowerment Framework

The Women Empowerment (Longwe) Framework, designed by Sara Hlupekile Longwe, a gender equality advocate in Lusaka, Zambia, in 1994, will lead this research. Empowerment is attained, according to (Longwe, 2002), when women have more control over public decision-

making. She highlights that when women are empowered, they may modify discriminatory behaviors and legislation, resulting in a fairer gender division of labor and resource allocation.

The framework aids in the analysis of gender issues and is predicated on the idea of 5 dimensions of inclusivity, with dimensions of women's empowerment focusing on women's ability to access resources, exercise self-awareness of their rights, mobilize around their rights, and control their environment on an equal footing with men. These dimensions are interrelated and one is often required to realize another (Baines, 2001). Women's enhanced control in general leads to better access to resources and, as a result, improved socioeconomic standing (Longwe, 2002).

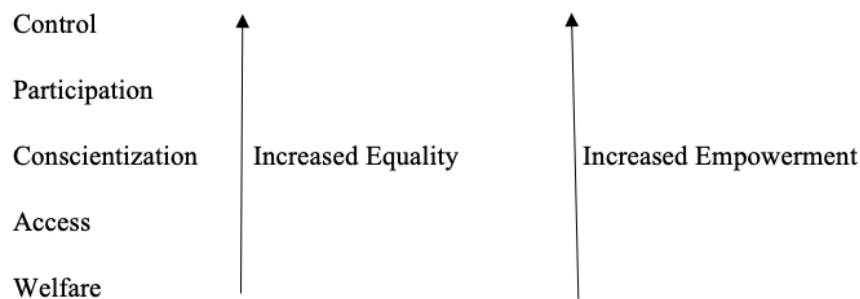


Figure 2.1: The Women's Empowerment Framework by Longwe-Five levels of equality (1995 Page 92. (March *et al.*, 1999 page93)

2.5.2 Relevance of the Women Empowerment Framework (WEF) to the Study

Empowerment, according to this theory, empowers individuals to take charge of their own lives, helping them to avoid poverty, which is seen as a result of injustice rather than production. The importance of the WEF is that it provides a framework for analyzing issues involved in land ownership by women and men.

Since the levels of equality dimensions are interrelated, it, therefore, means that for women to gain access and full control of their rights, there is a need to banish gender discrimination and customary practices by aiding women and men's conscientization and mobilization around

gender equality. Conscientization refers to being aware that gender roles, as well as unequal gender relations, can be changed since they are not part of the natural order (Baines, 2001). Thus, realization by women and men that women's marginalization and deprivation of economic opportunities to women is imposed by a patriarchal system that can be altered will enable women to contend with men on equal terms in the public sphere.

Power and control are a reflection of the patriarchal system in the society since it is men who always head the household and controls economic resources leaving women with little control over land and capital. There is a need to address issues of women's oppression and subordination for them to be empowered. Recognizing that inequality is immoral, inappropriate, and unjust aids in resolving the underlying causes of equality issues, such as the gender disparity in respect to property ownership and access to land, because it demonstrates that a gender issue exists (Longwe, 2002). The theory simplifies the understanding that women encounter empowerment barriers ranging from social, economic, political as well as self-perception hurdles. Land tenure security should be accessed and controlled equally by both women and men. However, this is not often the case and so the framework explains how decision-making and conscientization can be exercised by women to influence land ownership.

2.6 Conceptual Framework

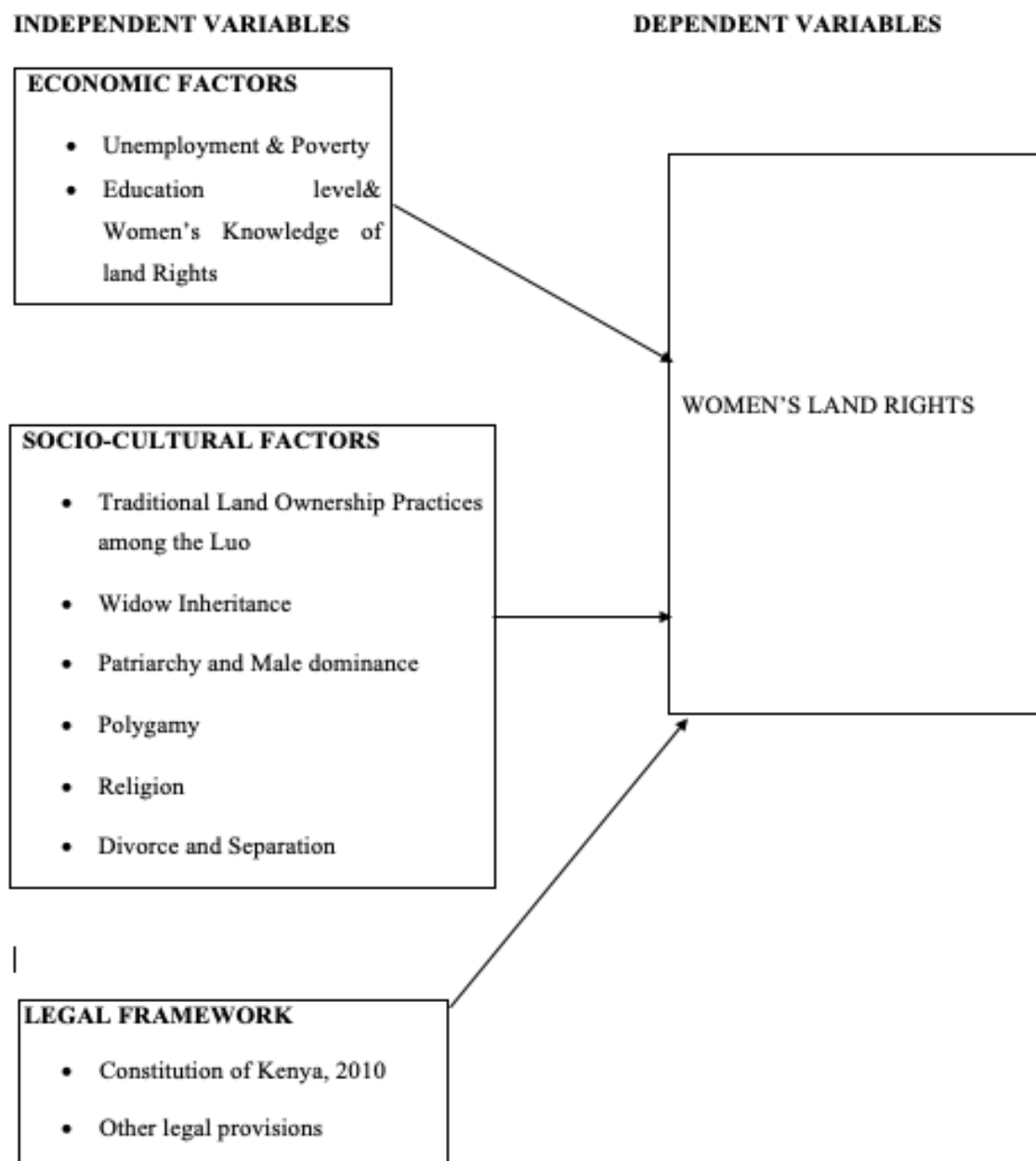


Figure 2.2: Conceptual Framework Source: (Researcher, 2021)

2.7 Definition of Terms

Economic Factors: These are factors that can affect and influence an individuals' financial status. For this study, these factors include unemployment and poverty, education level, women knowledge of land rights, employment status and income.

Socio-Cultural Factors: This include the ways in which specific features of a cultural context influence specific aspects of the lives of women and men. These include traditional land ownership practices among Luo, widow inheritance, patriarchy and male dominance, polygamy, religion, as well as divorce and separation.

Legal Framework: This provides tools for ensuring the continuous integrity of the regime, that is, through governance structures, mechanisms for monitoring, evaluating and facilitating compliance, and dispute prevention, and settlement. In this study, legal framework is designed to include constitution of Kenya, 2010 and other legal provisions.

Women's Land Rights: Entitlement of women to instruments of land access and ownership

CHAPTER THREE: METHODOLOGY

3.1 Introduction

This section discusses the methods that were utilized to conduct the research. It lays up the study's location, research approach, population, sample design, data collection and analysis. Finally, the chapter concludes with a discussion of the study's ethical standards.

3.2 Research Site

The study was conducted in Kolwa East Ward in Kisumu County. The County of Kisumu covers approximately 2086 Km. Square land area and 567 Km. Square of water. This represents 0.36% of the total land area of Kenya's 580,367Km. Square (County Government of Kisumu, 2018).

Kolwa East ward forms part of Kisumu East Sub-county being one of the seven administrative sub-counties namely; Kisumu East, Seme, Kisumu Central, Kisumu West, Nyando, Muhoroni, and Nyakach with a total of thirty-five wards. Kisumu East Sub County is further divided into five wards namely; Kolwa East, Kolwa Central, Manyatta B, Nyalenda A, and Kajulu Ward with Kolwa East ward having three Sub-locations namely; Buoye, Mahenya, and Chiga (County Government of Kisumu, 2018).

The study area is justifiable given that, the gender situation in Kisumu is dire and presents real concerns for prospects for fair treatment and access to justice. Additionally, women and girls make up about 50.1% of the total population of the slums of Kisumu City and the gross inequalities and gender-based barriers, they endure in such areas both as a result of poverty and poor infrastructural development, and in general, is a key factor contributing to Kisumu city's extremely poor human development index in the slum areas (Kenyan Census, 2019).

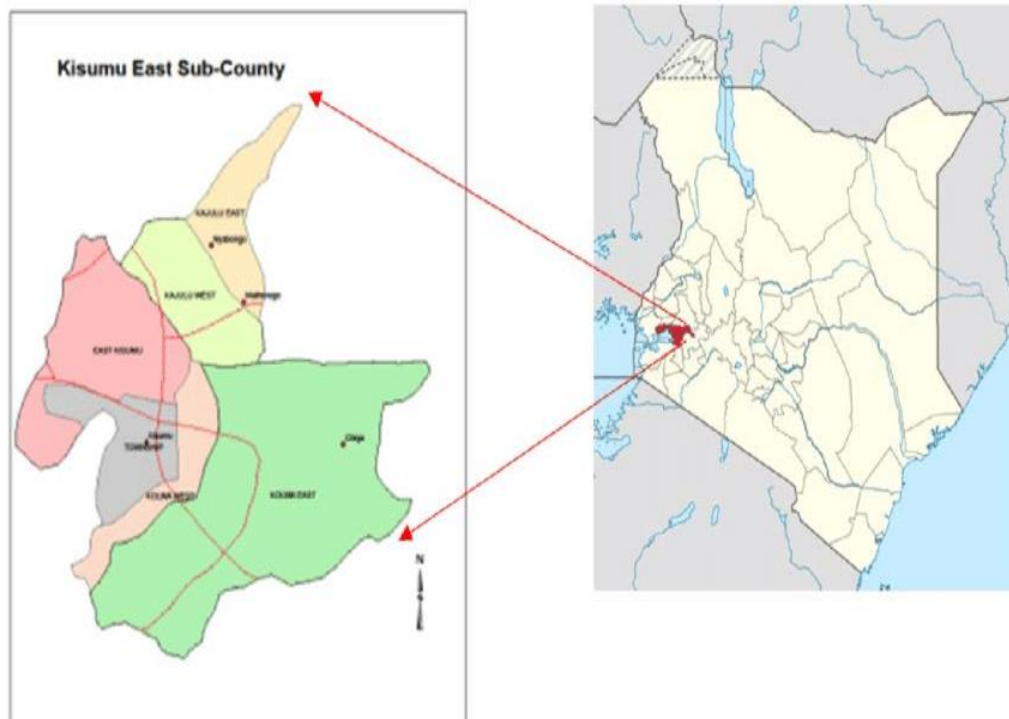
3.2.1 Population distribution in Kolwa

This table provides a summary of the distribution of the study site which is enumerated by sex.

Table 3.1: Population Structure by Gender, Landmass, and Population Numbers by Sub-County

Source: (KNBS, 2019)

Sub-County	Sex			Population	Land Area (Sq. Km)	Population density No. per Sq. km
	Male	Female	Intersex			
Kisumu East	108,304	112,689	4	220,997	141.6	1,560



Map 3.1: Kisumu East Sub-County

Source: (Kisumu East Sub County Map, 2019).

3.2.2 Socio-Economic Activities

A majority of people in Kolwa East Ward depend on agriculture as their main source of livelihood. The main crops planted are maize and millet. Livestock farming is also practiced but on a small scale. However, poor agricultural technology and frequent floods aggravate the poverty in the ward. The ward is usually affected by floods leading to economic loss in response to the flood disaster.

3.3 Research Design

This analysis was cross-sectional. According to Creswell (2018), this is a form of design in which the researcher converges or merges qualitative data from different units in order to provide a comprehensive analysis of the research problem. In this study, the researcher collected both forms of data roughly the same time and then integrated the information in the interpretation of the overall results. This enabled him to explain or further probe contradictions or incongruent findings by utilizing qualitative approaches such as focus groups, narratives, in-depth interviews, key informant interviews, and observation.

3.4 Study Population and Unit of Analysis

The study population comprised widows living in Kolwa East ward, Kisumu County. The unit of analysis consisted of the individual widow defined as a woman who has lost her husband due to death and living in Kolwa East ward.

3.5 Sample Size and Sampling Procedure

Purposive sampling is the deliberate picking of certain units from the population to make up a sample that represents the entire sphere (Kothari, 1990). Purposive sampling procedure was used to identify study participants who were people knowledgeable on land issues that affect the widows in the study area. The main method of data collection for this study was narrative method. A sample size of 22 widows was purposively selected for participation in the study out of which 7 widows participated in narrative method, 15 widows participated in FGDs while 10 widows were further identified to participate in IDIs. The narrative method participants were

reached through the Key Informants. Key Informants were selected based on their availability and knowledge of barriers to land ownership among widows in Kolwa East Ward.

3.6 Methods of Data Collection

3.6.1 Narrative method

Narrative method is a form of qualitative inquiry that helps to capture data within stories. This was the main method of data collection and involved widows who had faced hurdles and challenges of registering land in their names, those who have managed to register their land and have title deeds as well as widows who had sought legal support to obtain their rights (IOM, 2016). The personal narratives were used as evidence to demonstrate how legal, economic, institutional, cultural, and social factors enable or obstruct women from accessing and exercising their land rights.

A total of seven stories from women who had suffered land dispossession because of being widows and those who had risen to become role models by owning their land as a result of economic empowerment were used. An interview guide was prepared and used (Appendix 1).

3.6.2 Focus Group Discussion

A focus group discussion (Appendix 2) is a sort of panel discussion in which data is gathered through communication among research subjects. People's knowledge and experiences, as well as what they believe, how they think, and why they think the way they do, can all be investigated using this method (Kitzinger, 1995). The methodology involved carrying out four Focus Group Discussions (FGDs) in Buoye, Chiga, and Mahenya sub-locations. Each group comprised five widows. One separate FGD comprising five men was conducted to get their opinions on land ownership among the widows in the community. The FDG helped the researcher to gain more perception into the research problem considering that the method helped in providing an insight into different opinions, perceptions, beliefs held by the community members in regards to the subject of study.

The researcher was the moderator during the FGDs and sought the permission of the participants to record the discussions for future reference. Thus, the discussions were audio-recorded and notes taken during the discussion. Participant observation was also used where necessary. The information sought through the FGDs was participants understanding of the laws or legal policies that have been progressive in enhancing women's land rights in Kenya; factors determining widow's access to and control of land in Kolwa East and their view on what can be done to overcome the barriers to enable the widows to exploit their constitutional land rights.

3.6.3 In-Depth Interviews

This method allowed the researcher to get detailed information from the widows on barriers to land ownership among widows in Kolwa East Ward since it involves conducting intensive individual interviews (Appendix 3) with a small number of respondents to explore their perspectives on a particular idea, program or situation (Boyce, 2002). The study drew 10 participants from the list of FGD participants. An In-Depth interview was used as a means of triangulating findings from FGDs and Key Informants. All interviews were conducted in English, Kiswahili and Dholuo, the local languages spoken by most people, and was audio recorded using a phone with permission from the study participants. The questions sought to get the respondents view on their understanding of the historical perspective among the Luo community on women and land ownership; whether there are any changes in regards to women's land rights; their opinion on the barriers hindering widows from exercising their land rights and if they are aware of progressive steps taken by the government in ensuring widows are afforded their land rights.

3.6.4 Key Informant Interviews

This method involves interviewing people who have knowledge about the study topic. The purpose of a KII is to get information from people such as community leaders and residents or professionals who have first-hand information and knowledge about land ownership situations in the community (USAID, 1996). The Key informants therefore provided insight regarding the issue at hand and provide recommendations and remedies to the problem.

A total of 14 informants were recruited to participate in the study. An interview guide (Appendix 4) was prepared and used during interviews. The questions focused on getting the informants opinion on factors affecting land and property ownership among widows in Kolwa East ward and recommendation for resolving these factors; whether they have instituted any cases on behalf of the widow's in a bid to enhance their land rights and what the outcome was like; Historical perspectives of Luo Community and land ownership and the steps that can be taken to ensure that land and property rights of widows especially in Kolwa East are respected, protected and fulfilled; whether the government should be held accountable to promoting and protecting widows land rights and how they should do it.

The following individuals are proposed for key informant interviews.

- i. Location Chief -1
- ii. Sub-Location chiefs-3
- iii. Village Elders -3
- iv. Maendeleo ya Wanawake Representative-1
- v. Woman Political Leader-1
- vi. Land official-1
- vii. Court official-1
- viii. Widows-2
- ix. Advocate-1

With the consent of the informants, the interviews were captured using a phone during the interview in addition to taking notes.

3.6.5 Response Rate

The researcher drew the sample of 22 widows for participation in the study out of which 7 widows were purposed to participate in narrative method, 15 to participate in FGDs while the 10 widows were identified form the FGD to participate in IDIs. 14 Key Informants were also identified to participate in the study

3.7 Data Processing and Analysis

Qualitative methods of data processing and analysis were utilized in the study. The interviews were recorded, transcribed verbatim, and translated after each session. Thematic deductive approach was used to evaluate data from IDIs, FGDs, and KIIs, whereas narrative data was analyzed using narrative analysis. Analyzed data was depicted in form of running themes with information captured being organized into themes in line with the study objectives. Data was gathered from four categories of respondents' namely case narrative, focus group discussion, in-depth interviews and key informants interviews. Responses from all the respondents were grouped together for each question and then categorized based on the objective that each question addressed. Thus, for every objective, there were a set of questions with each question having all the responses grouped together. It is from this grouped information that the major themes were discussed in light of the objective that was being addressed. To enhance the understanding, some of the information in the discussion was captured in verbatim to emphasize the issue being put forward by the informant(s) with each respondent given a pseudo name in form of a serialized abbreviation code as follows:

- I. Case narratives were abbreviated CN with CN1, CN2, CN3, CN4, CN5, and CN6 being narrators drawn from widows living in Kolwa East ward, Kisumu County.
- II. Focus group discussions were abbreviated FGD with FGD1, FGD2, FGD3, FGD4 and FGD5 being discussants involved in Discussion-1 and who were drawn from widows living in Kolwa East ward, Kisumu County. Discussion-2 also involved widows discussants labeled as FGD6, FGD7, FGD8, FGD9, and FGD10. FGD11 to FGD18 involved men discussants that formed Discussion-3 and whose information was used for triangulation of the mainstream responses from the widows' discussants.
- III. In-depth interviews were abbreviated IDI with interviewees labeled as IDI1, IDI2, IDI3, IDI4, IDI5, and IDI6. All interviewees were drawn from widows living in Kolwa East ward, Kisumu County
- IV. Key Informants Interviews were abbreviated KII with informants being village elders (KII1 and KII2), widows (KII3 and KII4), assistant chiefs (KII5 and KII6), area chief (KII7), a land registrar (KII8), a court clerk (KII9), and a court advocate (KII10).

In this study, therefore, the researcher gave attention to both case narratives and focus group discussions and then used in-depth interviews and key informant interviews to provide a much deeper interpretation and understanding of how the predictor variables (Kenyan legal frameworks and tools, as well as the socio-cultural and economic factors) influenced the dependent variable (barriers to land ownership among widows).

3.8 Ethical Considerations

The study was conducted with the relevant ethical concerns in mind. NASCOSTI and the university graduate school authorization were obtained before going to the field in addition to seeking ethical clearance from the Anthropological Association of Kenya (AAK). The study's goal and methods was explained to the participants. Informed consent (both written and verbal) was sought, as well as permission to publish the study's findings. The use of pseudonyms during data collection and subsequent analysis ensured and safeguarded the confidentiality and identity of respondents. Finally, the researcher guaranteed that the participants' time and comfort are not jeopardized during the interview by allowing them to schedule conversations and interviews at a time that is convenient for them and informing them of how to access the study findings.

3.9 Limitations of the Study

The study examined the barriers to land ownership among widows in Kolwa East Ward, Kisumu County. The size of Kisumu East Sub-County is relatively large and therefore it would have been a hard task for the researcher to travel to every part of this expansive area to gather data. The researcher therefore sampled Kolwa East Ward to represent the study site. Further, the study did not manage to engage all conceivable stakeholders. There researcher overcame this limitations by ensuring that those sample were key informants with adequate knowledge on different aspects attributable to this study. Literature review was also limited as very few studies have attempted to look at the land ownership barriers among widows within the current study context.

CHAPTER FOUR: BARRIERS TO LAND OWNERSHIP AMONG WIDOWS IN KOLWA EAST WARD, KISUMU COUNTY

4.1 Introduction

In this chapter, findings from field data are presented. The findings are also interpreted in line with the study objectives. The chapter discusses results of data analysis collected from the respondents and then proceeds to present the extent to which existing Kenyan legal frameworks and tools Aid widows in gaining access to and control over land, the extent to which socio-cultural and economic factors bar widows from accessing and owning land and remedies to barriers in widows enjoying constitutional rights in accessing land.

The first objective (extent to which existing Kenyan legal frameworks and tools aid widows in gaining access to and control over land) was further organized into six subsections. These included access to land, laws or legal policies enhancing women's land rights in Kenya, knowledge on available laws protecting the rights of widows and women to own land, person(s) of assistance to a widow/woman in land registration, benefits of widows having rights over land, progressive steps in ensuring widows enjoy their land rights.

The second objective (extent to which socio-cultural and economic factors bar widows from accessing and owning land) as well as the third objective (economic factors determining access to land among widows in Kolwa East ward) were addressed in fourteen subsections. These included land value /proximity to town, traditional, land ownership practices, the constitution, education level and knowledge, tedious process in accessing land documents, lack of support from relatives and local administrators, and widow inheritance. Other subsections included rules and norms on land ownership skewed in favour of men, polygamy, religion, divorce and separation, unemployment and poverty, children, remedies to barriers in widows enjoying constitutional rights in accessing land.

4.2 Extent to Which Existing Kenyan Legal Frameworks and Tools Aid Widows in Gaining Access To and Control Over Land

This section sought to address the first specific objective by establishing the extent to which existing Kenyan legal frameworks and tools aid widows in gaining access to and control over land.

4.2.1 Access to Land

The researcher enquired on respondents to narrate how they managed to buy and own land despite being widowed. All the six respondents revealed that they did not have any meaningful source of income to enable them purchase land and indicated buying land as not a priority given the urge to meet more demanding obligations like payment of school fees for their children. CN3 narrated that she has land problem. *“There is a piece of land that my husband bought and after his death, I learnt that the person who sold us the land sold it again to someone else”* She explained that she has tried contacting him but every time he refuses to have a meeting with her CN6 nonetheless mentioned that she was able to own a piece of land that was bought by her son. She is now at piece since the son has built a house for her and she can now grow crops and vegetable for food. *“My in-laws now respect me and cannot come to my home to pick a fight or quarrel with me”*.

These findings supports that of Chikkanna and Mahalinga (2016) who also found out that majority of women have not been a position to access land since they concentrate in the "unpaid" family work, necessitating the need to empower women and assist them in balancing their professional and personal lives. Women have no easy access to credit and other income-generating opportunities, earn less than men since they occupy low-paying jobs, and are still underrepresented at the managerial and policy level.

4.2.2 Laws or Legal Policies Enhancing Women’s Land Rights in Kenya

The researcher also sought to get some insight on whether there have been progressive laws or legal policies that enhance women’s land rights in Kenya. It was established that, those women

with land issue particularly with their in-laws are supposed to first report the matter to the area chief or the assistant chief although they are required to have important details like land allotment number/parcel number for the subject piece of land. One of the men discussants (FGD12) added that the current Kenyan constitution (Constitution 2010) grants daughters the right of inheriting their parent's property including land. They have equal rights just like the sons. They need to be involved when land is being divided in the family.

Although these findings reflect a departure from the situation in the past where women's land rights received very little consideration in policy creation (Agarwal, 1994), it is still unfortunate that the existing policy frameworks have not been followed up by social acceptance, resulting in an economic gender disparity between men and women. Women are still deprived property rights or disadvantaged, leaving only a handful of them possessing property to their names, despite the global commitment to eliminate gender imbalance and promote women's rights (Namubiru-Mwaura, 2014).

This finding is supported by some biased laws and practices for instance, Married Women's Property Act. (1882) where women having control over land and matrimonial property is limited, as shown in the scenario above. Unmarried daughters, unmarried, separated, or divorced women were given tiny parcels of land to farm until they remarried, whereas married women were given land rights by their husbands or sons. Via the processes of land adjudication, consolidation, and registration, customary laws ensured that males had complete authority and ownership of their land. Women rarely own land titles nowadays, either as an individual or a spouse.

Further, in as much as there are laws governing property ownership, many leaders or family members may be ignorant of what the laws stipulate on women's and girl's property rights thereby simply following the customs that have been present for generations. This findings confirms that of Gaafar, (2014) who also found that polygamous unions leave women more susceptible to deprivation of their matrimonial property

Nevertheless, Kenyan law makes it illegal to forcibly evict a widow from her matrimonial home and land. The law prohibits a widow's husband's relatives from taking her inheritance illegally, but it is rarely implemented, and justice is difficult to come by, especially in rural areas. Women

are less likely to participate in land-related discussions because they have little authority over the land they rely on, leaving them exposed to displacement and exploitation in the event of their husband's death.

4.2.3 Knowledge on Available Laws Protecting the Rights of Widows and Women to Own Land

Community Land Act No. 27 of 2016 prohibits any form of discrimination to any person on the basis of their gender, disability, minority, culture or material status (Community Land Act, 2017). Succession Act Cap 160 gives the definition of a wife to include a woman who is separated from her husband and introduces the terms 'spouse' and "widow". It further states that a surviving spouse is entitled to a life interest in the property left by the spouse (Kenya Law, 2005) and the Marriage Act No.4 of 2014 which provides that spouses have equal rights to property ownership and obligations at the time of the marriage, during the marriage and at the dissolution of the marriage (The Marriage Act2014), are some of the important laws and legal policies that do protect the rights of widows and women to own land. FGD8 enlightened the researcher that, ancestral land should be divided equally amongst the children with FGD10 emphasizing that, the widow is supposed to inherit the husband's property and the land should be divided equally amongst the sons. The law says daughters should also be given but this law is not being implemented. Nonetheless, majority of the widows disclosed that they are not in possession of the knowledge on available laws protecting their rights. This was also stressed by the male discussants who signaled existence of gaps on progressive legal policies and laws that enhance women's land rights in Kenya. For instance FGD11 indicated that,

"... the only law that I'm aware of is that if you marry then you should either do a Christian wedding, civil or customary marriage. Then write a will making your wife the main beneficiary. This will help solve any property dispute cases if you die."

This lack of awareness on laws is very common among the study participants the Luo community to an extent that, *"it is common for brothers In-law of the widow to take their deceased brother's properties including land, leaving the children, daughters, women and the*

widow in distress and much trouble” (FGD12). It is also very difficult to know the laws when you do not have any land problem or issues as noted by (IDI2).

The findings supports that of Human Rights Watch, (2020), who also found out that women's awareness of their legal rights is low and so there is a need to provide basic information about succession in regards to the property at hand. It further emphasizes that the process of claiming the land is always time-consuming, expensive and that women often face a lot of stigmas if they attempt to claim land or property. While men are generally aware about regulation and statutory processes in respect to land registration and ownership, women are constrained by gender norms such as home tasks and paternity, and are thus viewed as incapable of handling property and dealing with land dealings. Women are unable to claim or exercise their rights without adequate knowledge. As a result, a lack of understanding is a significant barrier to women owning land.

4.2.4 Person(s) of Assistance to a Widow/Woman in Land Registration

Chief's office was mentioned as the place where much of the assistance to a widow or a woman who would like to register land in her name would come from. Other discussants mentioned the village elders, lands officer, FIDA office, and the Ombudsman despite a few objections that *“you must have money to get any support/help”*. FGD4 was more particular and lamented that village elders do not help and *“always collude with ones in-laws to dispossess them of their land”*. Even the family members including brother in-law do not normally help, instead they take away what belongs to the widows although this depends on how you relate with them and varies from home to home.

Men discussants also shared the same views as widows that, most of the land cases, which are about the land beacons or demarcations, are normally resolved through chief and land surveyor's office with village elders also being involved in solving some cases. To settle on the importance of chiefs office as well as that of Department of Lands, IDI2 stated that Kenyan law are clear that that if you have a problem then you go to the lands office if you know the land allotment number. *“The law also gives one the express permission /authority to do anything with or on the land i.e. farm, build or sell”*, IDI2 affirmed

4.2.5 Benefits of Widows Having Rights Over Land

Regarding the benefits of widows having rights over land, discussants unanimously agreed that a right over land assists widows to establish a home and even engage in farming. If one has the title deed then that's the confirmation that it is their land and can erect structures on it. FGD1 underscored this by stating that, *“You are able to do anything you want on it. You can give your children to build on it. You can build rentals too”*.

FGD2 added,

“If you do not have title deed then you can't plough the land and plant. You cannot even cut a tree but when the land is in your name then you can decide to sell and get money for paying school fees or build a house”.

4.2.6 Progressive Steps in Ensuring Widows Enjoy Their Land Rights

It was also necessary to seek respondents opinion on whether the Kenyan government has taken progressive steps in ensuring widows are afforded their land rights. In affirming existence of such steps, IDI5 stated that the government has put in place laws that allow women to report in case their rights are being infringed. Key informants interviews also confirmed this

KII5 said:

“Widows have a right to own land. They are the next of kin of the deceased. There are legal provisions for obtaining land title deed in Kenya. Widows also have the right to make decisions regarding land.”

An assistant chief (KII6) also expressed that if someone wants to take a widows land then they are normally invited to the Baraza where the administrators question them to establish its owner and whose name the land is registered in- (Her husband or the father In-law). This is an indication of existence of a progressive law that ensures widows are not denied their land ownership rights. Nonetheless, this study found that widows can only claim their rights if they use the right order in reporting infringements of their rights. KII6 had this to say:

“My office will only get to know of a case if it reported to us by the widow. The order of reporting is Widow-Village Elder-Assistant Chief-Chief. Family conflicts arising over land distribution are common in Buoye Sub-location where most of the time widows get sidelined.”

Other key informants (including KII8 and KII9) were more elaborate and enumerated some of the laws and legal provisions ensuring widows are afforded their land rights. These include the Matrimonial property Act, Marriage Act (which recognizes spousal right whether it is Islam, Christian, Hindu, Civil or customary marriage), Succession Act (which guarantees widows of the husband’s property for purposes of maintenance and child custody) and the Bill of Rights. KII7 added the Children Act that recognizes both girls and boys. In particular, KII9 particularized that, under the Succession Act, widows and all women are entitled to share the property whether married or not. *“Daughters must give consent if they do not want to inherit any property and brothers to the decease normally have interest on their brother’s property leading to dispute”*, explained the informant. Over and above and buoyed by the virtue of their position in the government, KII10 was able to explain that, the Bill of Rights, and more specific Article 27 talks of equality between men and women before the law with Article 45 explaining the rights of parties in a marriage.

Progressive steps in ensuring widows enjoy their land rights was also assessed on how the new constitution, which was adopted in 2010, has provided the necessary options to enact legislation that protects women's property rights. Results indicated that, the 2010 Kenyan constitution allows daughters to inherit land from her parents and they need to be present during land division.

KII2, in his capacity as a village elder, was also able to complement that, the constitution provides that if you are married then you are entitled to be given land by your husband’s family. If you remarry after your husband’s death then you are not given land but if your late husband’s children come back, then the children will be given land. If you come back after the land had been divided then you do not get any land. You will have to seek the intervention of the authorities because the clan members won’t help you. This means that if legal procedures are followed and implemented accordingly, only then will women get and enjoy their land rights. It was also noted that there are cases though few of girls who have been given land by their fathers

and have built on the land or sold it and bought land elsewhere. In most cases these girls are either single or separated or divorced their husbands.

Contrary to this, KII1 censured that they have not seen any woman/daughter who has been given land.

“What I have seen is that they are always involved on land succession matters and when asked if they want their share, almost all of them say that they do not want. I think they normally fear their brothers. There is only one girl who asked for her share of the land and later sold it to get money for building a house where she is married.” Said the informant

Such instance, according to one of the assistant chief (KII6) have been witnessed in Kisumu County where the men have died and so the family land is divided amongst their wives and the sisters In-law. Cases that we mostly handle include; Unequal division of land with the widow given a small parcel, cases of displacement by the brother in-laws or them refusing to show her where to build/establish a home referred to as *goyo dala* in dholuo. KII7 also added that land cases where girls/daughters have demanded for their share of the land have been instituted and they have been given. Families in my location where there are girls only have succeeded in giving the girls land.

To counter such challenges, KII4 called for transparency in all officers involved especially for assistant chief and the chief given that women are entitled to inherit their parents as well as their husband’s property and a widow is the legal dependent of her husband. KII1 also added that the law that grants daughters to inherit land from their parents to be changed. This law is biased since it makes women to inherit more than men. There should be law that prohibits polygamy. Everyman should only be allowed by law to marry one wife since polygamy is a major cause of family wrangles (KII2) while widows need to be involved in the process since they are married in those homes because widows are never involved in decision making. KII3 gave an account of how widows are helped.

“If a widow has been left for property, we refer them to the chief to obtain a letter confirming that she is known to them and then she can proceed to the lands office to do a search to confirm

property ownership. The widow then files a case for transfer of property to her name.” KII9 narrates

Besides, the key informant elucidated that,

If they had been blocked from taking control of the property or the property had been sold without her knowledge then she files for an objection. The court will listen and give a ruling that she gets a portion depending on the number of dependents. The court can direct that the land be surveyed and be divided equally. Tittle deed is then given according to the court directives.``

These findings therefore imply that progressive steps need to be undertaken to ensure widows enjoy their land rights. For instance Gunga (2009) emphasizes that widows require a supportive atmosphere that emphasizes the modest ways in which the society believes they should behave, as well as how they should be treated by their families and those of their deceased husbands. As a result, the sociodemographic and emotional support offered by family, community, and society as a whole has a significant impact on widows and widowers' ability to recognize and use coping methods.

4.3 Extent to which socio-cultural and economic factors bar widows from accessing and owning land

This section addresses the second specific objective by assessing the extent to which socio-cultural and economic factors bar widows from accessing and owning land. The section first examines the factors affecting ownership of land and property among widows then establishes the challenges widows face in their quest to access and control their piece of land, and finally the ways of overcoming these challenges.

4.3.1 Land Value /Proximity to Town

Key informants unanimously agreed that closeness to town is a factor that has increased value of land in Kolwa East Ward in Kisumu County given that the demand is very high. For instance KII9 highlighted that with town expansion; demand for residential is high making the land value to rise. *“We are close to town and this has made the land value to rise”*, KIII1 echoed the

assertion. Informants also revealed that since demand for land is quite high some people, more so the widows, are now opting to sell their pieces of land and relocate. The Land holding has also since changed from being freehold to leasehold making the land value to go up due to high demand and sellers are convinced to sell their land below the market value since they do not value their properties.

Findings, nevertheless, indicated oppression of widows on land value matters where land brokers normally take advantage of the widow's ignorance of the land value and swindle their money by convincing them to sell their land at a lower price than the market value. KII1 confirms this and indicates that there are several cases of fraud and most of the time it is the widows who fall victims to the unscrupulous land brokers. The (KII1) informant exemplifies that the widow will be told that a parcel whose value is KES. 1,000,000.00 sell at KES. 200,000.00. It is the land brokers who are benefiting from it and not the widows.

KII9 also stated that;

“It is the land cartels who hoodwink widows and take advantage of their economic situation and ignorance and give them little money for their land e.g. If a land is sold for KES. 400,000.00, the widow will be given KES. 100,000.00 only”.

4.3.2 Traditional Land Ownership Practices

Findings revealed presence of traditional land ownership practices that affect land ownership by widows in Kolwa East ward, Kisumu County. This included a disclosure by key informants that there is notion and fear within Luo community that if women are given land ownership, they are likely to dispose of the land and misuse the proceeds. For instance, KII7 expressed that advocacy on land rights is very low and *“fear about women and land ownership is that they may dispose of it and misuse the money.”* Additionally, findings indicated that women are not exposed and so are not aware of the benefits they get by having the title deed considering their closeness to town.

KII14 added;

“ women are never invited into family meeting to discuss on how land it is to be divided. We only wait to be informed by our husband on which parcel he has been given. It is even worse if your husband is dead or you don't have a male child since you will wait for them to inform you about your piece when they wish to”.

Focus group discussants unanimously agreed that land is often used as a measure of wealth and belongs to the men and not women.

The above findings confirms that of Longwe (2002) who also found out that traditionally, power and control are a reflection of the patriarchal system in the society since it is men who always head the household and controls economic resources leaving women with little control over land and capital. There is a need to address issues of women's oppression and subordination for them to be empowered. Recognizing that inequality is immoral, inappropriate, and unjust aids in resolving the underlying causes of equality issues, such as the gender disparity in respect to property ownership and access to land, because it demonstrates that a gender issue exists.

Kenya is patriarchal, meaning that it is the men who hold the land on behalf of others and customary practices often discriminate by allowing the opposite gender to access land only through spouses or men in their lineage (Deininger *et al.*, 2014). According to Gaafar, (2014), customs stipulate that female is not permitted to own land and has to seek approval to plough the land. It is therefore common for women to lose the property if they divorce even if they contributed to it since many cultures and traditions recognize men as property owners while limiting the properties that women can have.

4.3.3 The Constitution

The Kenya constitution was mentioned as another factor affecting ownership of land and property among widows. Key informants to a large extent agreed that not many people know what the law says especially on succession of ancestral land and thus there is need for awareness creation on the new constitution (Civic education). This ignorance extends even to county land laws with resident being expected to pay land rates annually. Many community members are not

aware of this and the rate charges keeps accumulating. This is a deterrent factor when they want to develop their lands since they can't get approval from the city planner. Further inquiries designated that the law on gender is not fully embraced by majority of residents in Kolwa East ward with KII2 being more particular that *“many people are yet to accept the law on gender equality that women should also be given land just like men”*. Even women themselves feel bad when their sister In-law come back to ask for a piece of land.

4.3.4 Education Level and Knowledge

Education level was also mentioned as key factor affecting land ownership by widows in Kolwa East ward, Kisumu County. It was established that due to literacy limitations, the widows do not know the procedures to follow when disposed of their property or how to get the land title deed. Majority of widows do not know the process of getting their property documents and have low self-esteem. At the same time, widows who do not know how to read are normally asked to sign thumb print documents by their In-laws in the pretext that they are helping them process the title deed and in the process changing land ownership.

To affirm this, KII6 shared their opinion on what happens in case a father died before dividing the land to his sons and expressed that there are cases where a widow is convinced by the brother in-law that the whole parcel including his, be registered under his name after which he will now subdivide and give the widow her portion.

“They later on change their agreement and deny the widow their share of the land. This mostly happens if the widow is illiterate, not able to pay the land processing fee, threats from the In-law and so she obliges to their demands. She also sees the arrangement/agreement as a form of security only to realize when it's late that she was cheated”. Expressed the informant”

Focus discussants unanimously agreed that lack of knowledge has made many widows to lose their land. The researcher established that someone can ask for a widow's national identity card in pretext that they are helping them process the land documents only for the widow to learn that her land has been sold or they have registered the land in their name. This means she will have to rely on someone to help them. Majority of them do not know where the lands office is or that the

chiefs are supposed to help solve land cases. This has made many widows loose hope since they do not know the law and the procedures to follow. FGD8 gave a shocking revelation on problem faced by widows due to lack of education by declaring:

“Lack of education is a big problem. They do not know the procedures to follow to secure the title deed. At times even the Assistant chiefs do not give relevant advice so it is good for them to go to the lands office. The lands registrar can summon the area chief and give directives on how the widow can be helped since the land registrar’s word is final. The land registrar can as well engage the County Commissioner to help solve the case”.

Key informants interviews also confirmed the results from focus group discussions with all interviewees supporting that a widow who is schooled and knows her rights stands a better chance of getting the properties while the one who does not know her rights or has no information will always face challenges. She will be abused and decide to leave her home. At the same time, the one who is educated is able to process the land tittle deed and has a voice. The interviewees further indicated that majority of women do not know their land rights. They get married and do not bother to find out who the legal owner of the land is or even the parcel number. To single out one of the responses, KII6 explained that when displaced, widows find themselves in situations of not knowing where to start from since they do not know the parcel number or whom to consult.

The above findings are consistent with that of Federation of women lawyers, (2019) who also found out that low socioeconomic female who are uneducated and do not have access to the constitution, which protects their land and property rights, are frequently unable to successfully claim their land and other assets when the need comes.

4.3.5 Tedious Process in Accessing Land Documents

Possessing the paperwork that gives widows access and control of a piece of land was found to be a major challenge as reported by respondents. One case (CN1) showed that they are aware of several cases where widows do not have any document to show that the land belongs to them or late husbands. This then makes it difficult to process the tittle deed. CN1 further recalled that at

times she contemplates leaving her home and going back to her paternal parents for fear of her life. The same sentiments were echoed by CN3 and CN5 whose case were plights was further advanced by lack of support by the local authority who told her that the land belonged to her father In-law and *“he is at liberty to do whatever he wants with it”*.

CN5 stated that:

“The government should be truthful to their word of helping widows. If you report your matter to the Chief/assistant Chief, you realize that they collude with the person who has offended you and so they do not solve your case. They are biased”.

Processing of the land document was also found to be demanding money which is hard to come by, especially for widows in Kolwa East Ward. For instance, CN1, narrates that, she is jobless and do not have an employed son/daughter who can help her financially to follow up on the tittle deed. CN3’s case was even more agonizing. *“I do not have money for following up on the land that was taken away and sold...”* she lamented. CN5 indicated that, she does not have money that she can use to get the tittle deed for the small remaining parcel.

“I have not fenced the land so they can still come and sell the remaining unfenced part too. I have one son and two daughters and they do not recognize them as their brother’s children,” Said CN5.

FGD3 added to this by stating that, her land was taken by the brother In-Laws because she did not have any documentation and still do not know where to start the process.

These findings confirms that of Human Rights Watch, (2020), who also found out that the process of claiming the land is always time-consuming, expensive and that women often face a lot of stigmas if they attempt to claim land or property.

4.3.6 Lack of Support from Relatives and Local Administrators

This study found that, relatives as well as the area authorities have not been affording widows the much needed support to access and own land. For instance CN3 disclosed that when she

reported to the Assistant chief, she was advised to follow up with the lands office and does not know how to approach the matter. CN4 also complained that, she engaged the village elders and family members to help her get back her land. Her father In-law christened her a promiscuous woman who does not deserve to be given any land. She reported the matter to FIDA, and she is yet to get any assistance. The same was resonated by CN6 who had this to say:

“My In-laws told me to stop disturbing their father over his property that he has sold. I presented my case to FIDA-Kenya office in Kisumu but I was disappointed when they told me that the land belongs to my father In-law and there is no way they can help me get back the land.”

Even so, there were a minority of widows who were hopeful of a successful process in getting their title deeds. CN3 was optimistic that a day will come when she will have the tittle deed and only then that *“I will have a peace of mind”*. Another case (CN6) was also confident that even though she do not have the tittle deed for the land was bought by her son though she has the sale agreements and the son is following up on the tittle deed.

The study reveals the vulnerability of women in accessing land. This confirms findings of Gaafar, (2014) who also found out from a study of a community in Western Kenya that young widows are more vulnerable to land tenure security than older widows, possibly because they have had less opportunity to bond with their in-laws. This is further confirmed by Human Rights Watch, (2009),who also found out that women fear pursuing their property rights due to threats and violence that they receive from their husbands and in-laws.

4.3.7 Widow Inheritance

This was highlighted mainly from focus group discussion whose participants unanimously approved that, if a widow is not inherited by her brother in-law then chances are high that they will not be given land or if given then just a small portion. FGD2 was specific that the in-laws will constantly keep reminding you that the person who inherited you have their land, adding that, *“if you have given birth to a boy after your husband’s death, then your husband’s family will not give you land not unless you take the child back to his father”*. This was also attested by

FGD3 who elaborated that a child born after the death of a widow's spouse is normally discriminated against by fellow children and they are always looked at as outcasts. The disclosure can be confirmed by Federation of women lawyers (2019) which indicates that upon the husband's death, wives are often disinherited of their husband's land and property. This happens despite the woman remarrying the late husband's brother or a close relative to guarantee her to stay on the land.

Results also indicated that if a widow is not inherited then her In-laws will sideline her and not involve her in family matters. They will give her a small piece of land and retain the land documents. This will make their husband's family even sell land that belonged to the husband without involving the widow and with the sale proceeds not given to her (the widow). Nonetheless, one of the discussants, (FGD11) denied existence of forced widow inheritance in Kolwa East Ward indicating that any widow inheritance in the ward is voluntary.

FGD11 indicated that,

“Forced widow Inheritance is not happening anymore in Kolwa East, however, it is common to hear widows being reminded that the land does not belong to them and they should hand it back to the larger family”.

In-depth interviews also supported findings from the focus group discussions. IDI1 confirmed that widows are normally disinherited off their properties by their In-Laws immediately their husbands pass and when they get some piece of land, most of the time, the land is not divided in equal measure. IDI2 accounted that if you separate or divorced your husband and the land is divided in your absence then it becomes difficult for one to report the case and follow up with the authority.

“If you separated with your husband and married elsewhere, and your grown up children comes back to their fathers' home, then it becomes difficult for them to get land if it has already been divided amongst the sons. They might just be given a small portion. I live on my husband's piece of land though I do not have the tittle deed, though I have the allotment number”, accounted IDI2.

Key informant interviews, further, confirmed the contribution of wife inheritance in land ownership by widows. KII3 expressed that a woman is expected to get inherited after burying her husband, and if that is not the case, then the family members will summon the widow to a meeting where they will let her know of the man they want to inherit or else they are not given family land. KII4 gave a personal experience:

“I am suffering because I was never inherited. They constantly refer to me as a squatter and want to take back land given to me by mother In-law.”

The interviewees further explained that if you remarry, then you have to forego land given to you by your husband. However, your children are still entitled to inherit the property with KII5 confirming that the practice is still being observed in the community though it not done openly as it used to be before. KII6 also added that it is the Widow inheritors, who normally convince the widows to sell their land, live abundantly and forgets to take good care of the children.

These findings are support that of Gunga, (2009) who also found out that the fear of being excommunicated from their matrimonial homes losing the estate of their deceased husbands makes it difficult for the widows to resist undergoing the ritual of inheritance.

4.3.8 Rules and Norms on Land Ownership Skewed In Favour of Men

This study also established that rules and norms on land ownership are skewed in favour of men with FGD1 enlightening that the men who are born in Kolwa village have rights to land ownership and a woman is normally told that she does not have a voice. Women are also denied attending land division boards with FGD2 describing her ordeals:

“I was asked why I attended a land division meeting. I was told that neither my child nor I have any right to claim land. The land belongs to their father and so I should keep off. Men disrespect women. You are not considered part of the family once you lose your husband. Do not expect to be given land if your husband died before the subdivision was done”.

FGD6 was more precise and concise on rules and norms on land ownership being skewed in favour of men:

“Land belongs to men. A widow can be given a small piece compared to the men. Ancestral land is normally on the fathers name and so they are at liberty to sell without consulting you. If you ask you will be told that you did not come with land from your maiden home”.

To triangulate these results, key informant (KII1) expounded that, according to the Luo customs, a girl will eventually get married and so is not entitled to inherit anything from her parents. She will inherit from her husband’s family. Inheriting from her parents family means that they will benefit twice compared to the son’s and that’s considered unfair. KII2 added that, it is the sons who inherit land from their fathers. Women and daughters do not. The new law that daughters are to inherit land is still not known by many village elders or the community. KII3 mentioned traditions and Luo customs as the foundation of every problem in the Luo community where *“men do not recognize their sisters or even the widows as heirs with everything in the home belonging to them”.*

The in-depth interviews also confirmed that, land documents are always in the name of the man who is at liberty to do anything he wishes. Women are never consulted even if land is to be sold and they also do not get any money from the sale. KII3 described that,

“Men control everything in the home. Their sisters recognize them as the decision makers and we the wives or widows are never invited to family meetings discussing land matters. I feel that I’m not part of that family.”

There was unanimity among the interviewees that, it is only men who are allowed to discuss land matters and women/widows are never involved even when she is claiming land that had been sold by her in-laws without her knowledge. This is because men do not involve their wives when selling land and their wives do not sign the sale agreement forms. This entrenched even to the local authority, where KII6 attested that the chief never used to involve the man’s wife when sealing a sale agreement, before the promulgation of the new constitution. This has since changed and both wives and children who are above the age of 18years must be involved in any land transaction be it sale or succession.

The findings confirm that of Nyarwath,(2012) who also found out that among the Luo, "lako/Ter" (women inheritance) among the Luo as an institution is when a brother to the deceased husband takes up the roles and responsibilities of his deceased brother's home including the wife and the children. This is also supported by Author *et al.*, (2016) who also found out that men inherit property outright while women only inherit lifetime use rights to land, and can only sell the property if there are no male relatives.

4.3.9 Polygamy

Polygamy has an impact on women's land ownership and use rights (The International Women's Human Rights Clinic, 2008). It also forces women to divide their hard-earned matrimonial property and assets among several co-wives and their offspring, each of whom is obligated to receive a smaller and smaller share of the resources. This study confirmed this where FGD1 submitted that if you were three wives and he only favoured one wife then when he dies, the wife who has the property will refuse to share with the other wives. FGD6 added that, in a polygamous family, the lastborn son stays in his father's home and inherits the whole parcel of land where the home is. Other discussants (FGD2, FGD7, and FGD14) said that even if land is divided equally, the house with more male children will suffer with land being divided according to the number of children (FGD2) and usually the wife who was the man's favorite is given a bigger parcel although there are cases where the man divides the land equally amongst his wives (FGD7). FGD14 crowned these results by stating that it is the first wife who normally divides land to the other women. If she refuses to give land to the co wives then it means that the husband has to buy land to the other wives.

Findings from KII also indicated polygamy as one of the "enemies" to widow's land and property rights since there are always wrangles regarding land division in any polygamous home. The Children are always fighting amongst themselves and the second or third wife is always fighting with the first wife. The second always feel that they are more entitled to inherit the property more than the first wife. KII2 accounted that according to the customs of Luo people, it is the first wife that is normally given priority regarding family property division. The second wife will only get land after the first wife has been given her share. KII3 added that it all depends

with which house is more blessed with money. They are the ones who will control the land and decide on how division is done.

FGD3 and FGD4 were of a contrary opinion regarding how land is divided among wives in a polygamous family and hinted that in most cases, it is the second wife who is troublesome. This view was also supported by KII1 and KII6 who affirmed that the elders/men always favour the second wife by making her in control of all the property and this makes the first wife vulnerable and suffers. Moreover, the wife who has no children in a polygamous marriage is normally overpowered by the one who has children and controls all the family property since she gets support from the husband and her children. To validate this KII8 elucidated that polygamy brings a lot of land issues/problems upon the death of the man. Women should ensure that they get the marriage certificate. Always the woman with the highest number of children gets the highest percentage of the property. Problem also arises when the property is registered in the name of one spouse leaving out the rest and causing conflict among children of the deceased.

The findings are consistent with that of International Center for Research on Women (2005) who also found out that some socio-cultural barriers created by customs including widow inheritance, patriarchy, and male dominance, polygamy, divorce and separation, and religion by design do bar women from owning land. In Latin America, for example, women inherit land from their fathers, brothers, or husbands, whereas in Sub-Saharan Africa, women have access to land and related resources through a father, brother, or spouse, depending on the community's lineage system. This demonstrates that inheritance is determined by whether a particular community is patrilineal, matrilineal, and or bilateral in nature.

4.3.10 Religion

Religion was also found to be a socio-cultural barrier that bars women from owning land. FGD1 approved that the church does not always get involved in land cases contrary to the Bible teaching that *“a widow has the right to inherit the husband’s property and you shouldn’t touch or take anything that belongs to a widow unlawfully”*. FGD16, on the other hand, felt that the man is the head of the family and wife should submit to the husband’s authority. This therefore means that it is the man who divides land in the family.

These findings are in contradiction to that of Ahiamadu, (2005) who unveiled that according to the Bible, if there were no sons to inherit, it was to be passed down to daughters as it was in the case of Zelophehad in Numbers 27: 1-11;36.

4.3.11 Divorce and Separation

Divorce and separation was mentioned by majority of the focus group discussant as a major factor barring women from accessing and owning land in Kolwa East Ward. This mostly affects the widow given that in Luo culture, if you have children, then it is the children who will be given land (FGD1). FGD2 confirmed this and exhibited that if you are separated, then a woman is normally given land on behalf of the children. This means that it is the children who get the land and not the woman.

Findings also established that, even in separation/divorce, land ownership predicament for widows could be different when there is support from at least some members of the in-laws, particularly the father in-law. FGD8 gave her own experience that she was given land where she has been assisted to build a house by her father in-law. This happened despite objection from other in-law members. FGD13 was more or less interrogating the legal stance in case a woman is widowed amid divorce/separation. *“What does the law say about this?”* the discussant enquired. *“If we separated and you’ve come back and found when the land has been divided, then you need to talk to your husband’s family ‘anyuola”*, continued the male discussant indicating that every widow has the right according to the constitution that she inherits her husband’s property however small. Thus, if it is divorce, then the court will divide the properties equally and depending also on the number of children.

IDI4 also concurs that there is discrimination where if one separated with her husband and then come back after some years, then the late husband family does give you land easily especially if you are childless. Their main aim is always that you leave their home so they can take whatever belonged to you husband. IDI6, on their opinion added that some widows after burying their husbands leave their home and do not take care of properties left by the deceased husband. *“When your brothers In-Law realize that you are having a fair with other men, then they will refuse to give you land”*, explained the interviewee.

Consistent to a report by Republic of Kenya, (2013), this study indicates that a woman's relationship with a man determines her access to property such that when the relationship is dissolved, the chances of the woman losing her home, land, and any other household goods is high. While the Matrimonial Property Act ensures equality in the administration of matrimonial property, it contradicts this by taking into account conventional laws pertaining to divorce or dissolution of marriage, which discriminates against women, during the distribution of matrimonial property.

4.3.12 Unemployment and Poverty

Findings established that, unemployment and poverty has played a key role in accessing and owning of land by widows in Kolwa East ward. According to the discussants, if you do not have money then you cannot get your land rights and every official asks for money so corruption makes it difficult to follow up where in-laws always take advantage of the widow's vulnerability, under values their land and gives them little money. Most of the time, according to the findings, brother in-laws sell land without involving the widow and never share any money with them.

Results from focus group discussion also triangulate with those from key informants interviews with all interviewees assenting that poverty makes many widows not to follow up on the husband's property and pension. The one with money can pay for the charges at the land office and even attend court hearing. Thus widows are not economically empowered-they do not have any source of income and are often convinced to sell their land way less below the market value. To demonstrate this, KII6 explained that the widows do not have money that they can use to process the land title deed. The interviewee added that,

“It is poverty that demoralizes them from following up on the land documents. They will tell you that “They do not have money for buying food so where do you expect them to get money for processing the title deed”

Another interviewee (KII8) also indicated that majority of widows living in the rural areas are poor. The fee for processing land title deed were revised downwards to allow even the poor and the vulnerable to be able to pay for it. However, charges are relatively high when it is a land

succession matter. This includes; lawyers, surveyor, valuers and physical planner's fee. KII7, nonetheless, had reservation that poverty is not the main factor affecting widows on accessing their land rights.

These results are supported by human rights watch, (2009) who states that poverty is a source of burden for women to finance the costs of pursuing property claims. Women's property acquisition is hampered by a lack of economic resources, such as money. Women often fail to seek justice from the judicial or alternative dispute resolution systems to help secure their rights to land and other property because they are not empowered, lack means, access, and resources, and often do not seek redress from the judicial or alternative dispute resolution systems to help secure their rights to land and other property. The findings is further supported by Rose, (2005). who also found out that, poor women were unable to meet the legal price services and documentation required for their property claim, as well as travel to the courts or land offices, according to a post-conflict Rwanda report. Furthermore, women have been trained not to pursue their rights, and those who lose their economic foundation often fall into abject poverty, which is a key contributor to property violations against women.

4.3.13 Children

Children were found to also contribute to the access and ownership of land by widows in Kolwa village where focus group discussants unanimously agreed that, if a women is childless then it is hard for them to be given land due to socio-cultural factors. In some instances, even a woman/widow who has borne girls only will be asked why she needs the land.

Thus a widow will only be given land because of the children though a small piece (FGD6). The plight of the childless widow could be more distressing given that they are not given any piece of land, in case of separation. *"...If you only have girls, they do not give you. They tell you that the girls should follow their mother"* (FGD6), and *"if you go back to your parents, you are not given land instead your parents together with your brothers tell you to leave their home,* (FGD7). However, FGD12 says that a childless widow may at times be given a small portion of land where she can only build her house. The same case will happen for a widow with girls who only

get a small portion of land. One with both boys and girls will be given a bigger portion compared to the two above.

Key informant interviews also confirm these (FGD) findings with majority of interviewees concurring that in most of the Luo families, it depends with which house has more sons or is considered wealthy than the other. It is the man's role to ensure that land is divided equally amongst his wives irrespective of the number of sons that each wife has given birth to. Thus, a lot of consideration is made with the boy child in mind. A huge percentage of the property is held in trust by widow for the children. Barrenness leads to stigmatization and this has direct correlation in access to resources. The brothers In-Law normally take the land belonging to the widow on the grounds that their brother has no children and so it is them who are entitled to inherit the land. Girls are not valued and so shouldn't inherit land. KII4 exhibited this by stating that

“If you have given birth to girls only then you do not get any land except where you have built your house. You are considered as someone who has not given birth. However, there are some families who despite of one having girls only give the women/widows land.”

KII5 also affirms:

“On land division, it is men who are entitled to get land from their fathers. This is according to the Luo customs. Things are however starting to change slowly and girls are now being involved on land division”.

Nevertheless, a few interviews opined that children are never involved in land distribution or succession. Girls are to be given land yet they also inherit land and other property where they are married. This is quite unfair since the men end up getting small piece of land.

The findings confirm that of Chabeda, (2008), who also found out that inheritance of land and property among the Luo's was through a patriarchal system whereby sons inherited from their fathers. Bearing male children was of much importance since they were viewed as the clan's security. Widow's rights often are delicate when they do not have children and her access to land

often depends on her relationship with her in-laws. This is due to the belief that children forge widow's tie to her husband's lineage.

4.3.14 Remedies to Barriers in Widows Enjoying Constitutional Rights in Accessing Land

The researcher wished to know what can be done in regards to overcoming these barriers and ensuring that widows enjoy their lands as enshrined in the constitution. These remedies were found to revolve around the civic education, customary laws, and widow inheritance. On the civic education, FGD6 advised that details of widows should be collected and taken to respective authorities to help them with FGD7 sharing the same opinion that civic education on land rights should be entrenched even to the sub-county & county level especially to the women and widows.

Regarding the customary laws discussant largely recommended that, people should be made to know that both husband and wife are equal in marriage and should be treated as members of the family and not as an outsider. This is necessitated by the fact that there is male dominance among the members of community in Kolwa East ward. To address the widow inheritance, that necessary laws to be enhanced to ensure that the culture of widows' inheritance should be completely abolished. Women should also be empowered on decision making, it is only then that they will enjoy their land and property rights.

CHAPTER FIVE: SUMMARY OF FINDINGS, CONCLUSION AND RECOMMENDATIONS

5.1 Introduction

This chapter presents the summary of findings, conclusions and recommendations. The chapter also highlights suggestions for further studies.

5.2 Summary of Findings.

This study has found out that, the existing Kenyan legal frameworks and tools have not adequately managed to aid widows in gaining access to and control over land especially to those who do not have any meaningful source of income to enable them purchase land. In addition, the policy frameworks have not been followed up by social acceptance, resulting in an economic gender disparity between men and women. It was established that, those women with land issue particularly with their in-laws are supposed to first report the matter to the area chief or the assistant chief although they are required to have important details like land allotment number/parcel number for the subject piece of land.

Lack of awareness on laws is very common among the study participants the Luo community to an extent that it is common for brothers In-law of the widow to take their deceased brother's properties including land, leaving the children, daughters, women and the widow in distress and much trouble. Key informants to a large extent agreed that not many people know what the law says especially on succession of ancestral land and thus there is need for awareness creation on the new constitution (Civic education). This ignorance extends even to county land laws with resident being expected to pay land rates annually.

Nonetheless, this study did find that, Kenyan law makes it illegal to forcibly evict a widow from her matrimonial home and land. The law prohibits a widow's husband's relatives from taking her inheritance illegally, but it is rarely implemented, and justice is difficult to come by, especially in rural areas. The findings also supports that of Human Rights Watch, (2020), who also found out

that women's awareness of their legal rights is low and so there is a need to provide basic information about succession in regards to the property at hand.

Regarding the extent to which socio-cultural and economic factors bar widows from accessing and owning land, demand for land that are close to town has elbowed out widows who would wish to own such land parcels. The study has additionally revealed that, within Kolwa East Ward, land holding has since changed from being freehold to leasehold making the land value to go up due to high demand and sellers are convinced to sell their land below the market value since they do not value their properties.

Another barrier cited was existence of traditional land ownership practices that affect land ownership by widows in Kolwa East ward, Kisumu County. At the same time, the study divulged that land is often used as a measure of wealth and belongs to the men and not women with a patriarchal system in the society dominating since it is men who always head the household and controls economic resources leaving women with little control over land and capital. It is therefore common for women to lose the property if they divorce even if they contributed to it since many cultures and traditions recognize men as property owners while limiting the properties that women can have.

Education level and knowledge is also another major barrier cited by interviews with revelation that, due to literacy limitations, the widows do not know the procedures to follow when disposed of their property or how to get the land title deed. In addition, presence of tedious process in accessing land documents that gives widows access and control of a piece of land, lack of support from relatives and local administrators, widow inheritance and rules and norms on land ownership skewed in favour of men have played as key barriers to widows land ownership. Other barriers cited included religious believes, numerous divorce and separation, as well as the unemployment and poverty. Children were found to also contribute to the access and ownership of land by widows in Kolwa village where focus group discussants unanimously agreed that, if a women is childless then it is hard for them to be given land due to socio-cultural factors. In some instances, even a woman/widow who has borne girls only will be asked why she needs the land.

Nevertheless, a few interviews opined that children are never involved in land distribution or succession. Girls are to be given land yet they also inherit land and other property where they are married. This is quite unfair since the men end up getting small piece of land.

5.3 Conclusion

From the study, it can be concluded that Kenyan legal frameworks and tools are not effective enough to assist widows in gaining access to and control over land especially to those who do not have any meaningful source of income to enable them purchase land. This is complicated by lack of awareness on laws particularly those provisions highlighting that it is illegal to forcibly evict a widow from her matrimonial home and land. This discourages widows from pursuing justice on what rightfully belongs to them. At the same time, men are still holding on to traditional rules of only giving the sons land and other property.

Lack of knowledge on what the constitution says on property inheritance is also a hindrance to women's access to and control of land and other property. Many widows are also ignorant of the law on daughters being given land and even the few that are aware of this land are yet to come in to terms with it. The law must be adhered to and so they have to abide by the lands office, chiefs or the courts verdict on daughters being given land. Therefore this study has found that land largely belongs to men. A woman can only plough it but cannot control or make any decision regarding the land.

Women/ widows are reluctant to push for their rights on land ownership. On other instances, accessibility of formal court processes is not easy since lawyer's service fee is high. Widows also face challenge in owning land that is considered highly valuable, particularly those near urban Centres given that their demands are high. Other major factors include widow inheritance, polygamy, religion, divorce and separation, education level & knowledge, unemployment and poverty as well as children. Traditional land ownership practices.

5.4 Recommendations

There is need for the government and other stakeholders to conduct civic education to all community members especially regarding land ownership rights. This would ensure that those who know the law should sensitize widows on their rights. Civic education will empower widows/women on how to get the land documents and the benefits of having the documents in their names. Widows will in turn be able to sensitize their children on their inheritance rights regarding the properties left by their late father. Eventually, civic education would slow down community perceptions where some people, especially men, do regard the sale of land as the only source of livelihood. This can be done at the chief Barraza's or any community gathering. Land's office should also be obliged to protect widows from losing their land by ensuring that due procedure is followed during the processing sale agreements or tittle deeds. Over and above, civic education will ensure a change of attitude towards retrogressive cultural practices that have been overtaken by events. A widow's family should be able to solve land disputes peacefully and ensure that widows are granted their rights.

There is a need for the state and non-state actors to create awareness to the public. The chiefs need to be sensitized since their word is final and also to avoid conflict of interest. The Judiciary should also, in addition to their service week and other current sensitizing activities, organize for open days where they meet with the public to enlighten them on their rights considering that the majority are ignorant of the law. This would help in removing back logs on land cases filed where parties involved are informed that the case is going to be dismissed and ensuring that the widow is informed of the courts intention and is given an opportunity to be heard. Sometimes the case is filled and the widow is not aware of it.

To ensure equal shareholding in any family property, unlike joint ownership or if the property is registered in the man's name, registering the property in Common Tenancy should be encouraged. Contribution as stated in matrimonial Property Act also ought to be revised. Women normally do not agree to share the properties equally if she is the only one who has been working in the family.

To ensure that women are economically empowered, there is need for the state and development organizations to create policies for educating and training women on financial inclusion and entrepreneurial skills to enable them to start up income generating activities for self-reliance.

5.5 Suggestions for Further Studies

Given the limitations and scope of this study, the researcher recommends a similar study to be extended to other communities (besides Luo) for comparative purposes. The study should further include other variables not considered in this study given that the current study has focused on the barriers to access and ownership of land.

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APPENDICES

APPENDIX I: INFORMED CONSENT

CONSENT TO TAKE PART IN RESEARCH

BARRIERS TO LAND OWNERSHIP AMONG WIDOWS IN KOLWA EAST WARD, KISUMU COUNTY

Principal Investigator: Beatrice Adhiambo Otieno

Institute of Anthropology, Gender & African Studies, University of Nairobi.

I..... Voluntarily agree to participate in this research study. I understand that I can withdraw at any time or refuse to answer any questions without any consequences of any kind, I understand that I have two weeks following the interview to withdraw consent to use data from my interview, after which the content will be erased. In addition, I have been briefed of the study's purpose and nature, and I will be able to ask questions about it. I understand that my participation may include In-Depth interviews, Key Informant Interviews, Narratives, or Focus Group Discussions, and I consent to having my interview audio-recorded. I understand that the information I supply will be kept private and that my identity will be kept anonymous, which means that my name will not appear in any research report or publication. In addition to the foregoing, I am aware that my participation in this study will not benefit me personally. The notes and recordings will be kept in a secure location and destroyed at the conclusion of the project.

I have understood the information above and I give my consent to participate in this study.

Sign Date

Meeting Venue:

APPENDIX 2: NARRATIVE GUIDE

1. Tell me a story of how you got disposed of your land as a widow.
2. Tell me a story of how you managed to buy and own land despite being a widow.
3. Tell me the challenges you faced in your quest to access and control your piece of land.

APPENDIX 3: FOCUS GROUP DISCUSSION

Meeting Venue:

Date:

1. I will introduce myself to the group and then introduce the topics of discussion. I will then ask questions as guided by the following themes: Laws or legal policies that have been progressive in enhancing women's land rights in Kenya

- i. Land Law.
- ii. Matrimonial Property Law.
- iii. Marriage Law.
- iv. Succession Law.
- v. Community Land Law.

2. Factors determining widow's entitlement and ownership of land in Kolwa East.

- i. Widow inheritance
- ii. Rules and norms on land ownership skewed in favour of men
- iii. Polygamy
- iv. Religion
- v. Divorce and Separation
- vi. Education level and Knowledge
- vii. Unemployment and Poverty
- viii. Children
- ix. Patriarchy and male dominance

3. What can be done in regards to overcoming these barriers and ensuring that widows enjoy their lands as enshrined in the constitution.

- i. Civic education
- ii. Customary laws
- iii. Widow inheritance

4. Knowledge on available laws protecting the rights of widows and women to own land

- i. Marriage Act
- ii. Community land Act
- iii. Succession Act
- iv. Customary law
- v. Matrimonial Law

5. Who in the community/family would be of assistance to a widow or a woman who would like to register in her name.

- i. Chief
- ii. Brother in law
- iii. Lands officer
- iv. Village elder
- v. Son
- vi. Daughter

6. Benefits of widows having rights over land

- i. Access to credit,
- ii. Reduction of dependency on men & poverty level
- iii. Security
- iv. Self esteem

APPENDIX 4: IN-DEPTH INTERVIEWS

Meeting Venue:

Date:

I will introduce myself and ask questions as guided in the list of questions below.

1. Are there any changes in regards to women's land rights? If yes, which ones
2. Which barriers hinder widows from exercising their land rights in Kolwa East
3. Do you believe the government has taken progressive steps in ensuring widows are afforded their land rights? If yes, which are some of the steps that you are aware of.

APPENDIX 5: KEY INFORMANT INTERVIEW

Meeting Venue:

Date:

I will introduce myself and then ask questions following the question guide below. I will probe where necessary.

1. The legal provisions that enable and /or constrain widows from accessing land
2. Difficulties faced in putting the laws into practice
 - i. Illiteracy
 - ii. Poverty
 - iii. Polygamy
 - iv. Traditional Land Ownership practices among the Luo
 - v. Male dominance
 - vi. Widow inheritance
 - vii. Children
3. How the new constitution, which was adopted in 2010, has provided the necessary options to enact legislation that protects women's property rights
4. Changes that should be made to the existing laws and legal provisions to make it more women-friendly.
5. Factors affecting ownership of land and property among widows in Kolwa East ward.
 - i. Land Value/Proximity to town
 - ii. Traditional Land ownership practices
 - iii. The Constitution
 - iv. Education level
6. Ways in which the above factors can be resolved.
7. Cases instituted on behalf of widows in a bid to enhance their land rights and the outcome.
8. Progressive steps that can be taken to ensure that women's access to and control over land and other property rights in Kolwa East are respected, protected, and fulfilled (Probe on civic education).
9. Obstacles to implementing women's land rights in practice.

10. Have you had any gender-related training?

APPENDIX 6: RESEARCH LICENSE

 <p>REPUBLIC OF KENYA</p>	
	
	