

**INSTITUTE OF AFRICAN STUDIES.  
UNIVERSITY OF NAIROBI**

**GENDER ISSUES IN LAND INHERITANCE  
RIGHTS AND THE FEMINIZATION OF POVERTY**

*A case study of Nkuene location of the Meru district, Eastern  
province of Kenya*

**THIS IS A PROJECT PAPER PRESENTED BY  
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**Gender issues Land inheritance rights and the feminization of poverty.  
A case study of Nkuene location of Meru district of the Eastern province  
of Kenya.**

**Declaration**

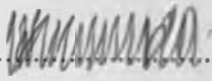
I declare that this project is my original work and has not been presented in any other university or college.

**By Anne Kajuju Ikiara**

Signature.....  ..... 11<sup>th</sup> / 11 / 2005

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Signature.....  ..... 11<sup>th</sup> / 11 / 2005

## **Dedication**

This project paper is dedicated to my mother

**Mrs. Tabitha Kirigo M' Ikiara**

Mama; Thanks you so much for believing in me and giving me your unconditional love and support even when all and sundry deserted and harshly criticized me. Thank you, for teaching me the value of hard work and a fighting spirit even when all seems lost and hopeless. You are one in a million mama! Thank you so much.

My late father;

**Mr. Silas M'Ikiara Mungania  
Baaba;**

Thanks for providing an enabling environment and being source of encouragement for me to be the best I can be. Thank you for never having used my gender to deny me opportunities even when it was normal practice to do so. Though physically gone, I still hear you encouraging me to soldier on especially when the going is really rough.

My beloved children

**Melvyn Guantai Kibaara, Alvyn Mutethia Kibaara and Ivy Kendi Kibaara;**

To you all I say this; I have done this against astronomical odds. I pray that life has a better deal for you all than it has had for me. But should it not turn out so, I challenge you never to be intimidated by challenges but rather see them as opportunities to make you life better. I believe you are equal to the task of overcoming whatever challenges life may throw your way.

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I also appreciate the understanding of my employer Nairobi Design School for being patient with me while I wrote this project. Thanks Nairobi Design School for availing the computer on which I typed this work.

## **Abstract.**

This project paper explores the gender issues in land inheritance rights in Nkuene location of the Meru district in the Easter province of Kenya.

It explores the attitudes of this particular community to women inheriting land. It also looks at the obstacles that constrain women who try to claim land from both their natal and marital homes. The researcher also explored the social networks that exist to assist these women when they are denied land inheritance and they attempt to claim the same.

Chapter four has the findings of the same that clearly show that women are disadvantage when it comes to land inheritance both as daughters and as wives. There are also inadequate social networks that assist women when they need to claim land. They are controlled by men who unfortunately are in most cases protective of this oppressive practice against women.

The researcher also found out the general attitude of the community towards the issue of land inheritance by women is a negative. Women who try to claim land when denied have to deal with extreme hostility even from women themselves!

Chapter five has the recommendations that the researcher thinks would be useful to address the imbalances in land inheritance patterns in the study community. The researcher hopes that readers will find the work intellectually stimulating.

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# Chapter One

## 1.0 Introduction.

Feminization of poverty is mainly based on the theory that households headed by women tend to be poorer than those headed by men. Statistics below show that women consist of majority of the poor in any community.

Only twenty nine of those engaged in formal waged employment are women, leaving the rest to work in the informal sector with no social security and with little income. (GOK 1997) The number of women in the informal sector is decreasing (GOK 2002).

Women head 37percent of all households in Kenya, and the number is constantly increasing owing to HIV/AIDS pandemic and other factors like rural urban migration. (ibid)

Many factors explain this unfortunate phenomenon. In African society the reasons for the feminization of poverty has a lot to do with the cultural practices of a people.

Most African societies are patrilineal. This means that most of the decisions and or resources are accessible to women only in their relationship to men. Women in most of Africa are excluded from decision making process.

For example Molokonne (1990) observes that in Botswana it is traditionally said "mosidike ngwan wa monna"-a woman is a child of the man, in reference to the position of women under the Twana customary law. The woman in traditional Africa was always supposed to have a man for a guardian. This is indeed, true of most of the African cultures. Women were for instance not allowed to inherit property and especially land in the Meru culture. Women's access to land depended on their relationship to a man. This was a father, husband or even a son.

Daughters are not given land as they are expected to access land from their husbands

The trouble is that the women who are single as a result of divorce, widowhood or choice. This group of women has a great deal of problems with land. They cannot access land unless they buy it. Land is more often than not acquired through inheritance. Since agriculture is the main economic activity depriving anyone of access to land is taking from them the most important economic resource. This could to a large extent contribute to the feminization of poverty.

### **1.1 STATEMENT OF THE PROBLEM.**

The rights of women to own property is equal to those of men before the statutory law of Kenya. However, their right to own, inherit, manage and dispose of property are constantly threatened by custom, many laws, and individuals including government officials who believe women cannot be trusted with or do not deserve to own property.

The devastating effects of property rights violations include poverty; disease violence and homelessness harm women, their children and the overall development of the country. Women in Kenya provide 70percent of the agricultural labor but own only five percent of land in Kenya (GOK 1997). This means they cannot access credit due to lack of collateral to give as security. This hampers both their individual development that of the agricultural and other sectors related to it and the economy as a whole considering its heavy dependence on agriculture. Further this continues to keep women subservient to men besides increasing their level of poverty and dependency on men as well as affecting negatively their overall position in society.

The Ameru of Kenya is a patrilineal community. In this regard inheritance is only possible for the male members of the family. In this community land usually passes from father to son or other male members of the family. Traditionally, women were well taken care of in the traditional set up. It was assumed that women will marry and thereafter access land through their

husbands. Women in their traditional settings got married and therefore were able to access land through their husbands. Those that got widowed were 'inherited' by male members of the clan.

However, owing to modernization, a large number of women are opting to live singly either after divorce, widowhood or just out of choice.

Furthermore those who get widowed are no longer inherited. The culture of inheriting widowed women is almost nonexistent in Meru district in the present set up. Instead women are stripped of their property and chased away from their marital homes.

Land is often acquired through inheritance. Women who are not attached to any male find themselves without any access to land. Our country being agricultural, lack of access to land deprives a person of a very key economic activity. This to a large extent contributes to the feminization of poverty.

There is concern that if this is not addressed poverty will continue to have a feminine face. Further, this will have a ripple effect for the development of this country.

This research, therefore, explored the following interrelated questions,

1. What are the attitudes towards women's land inheritance in the Nkuene location of Meru district, Eastern province of Kenya
2. What social networks and institutions are available for supporting women in inheriting land in the study area?
3. What factors work against women land inheritance in the study area?

## **1.2 Broad Objective**

The broad objective of this study was to investigate gender issues in land inheritance rights and the feminization of poverty in Nkuene location of Meru District of the Eastern province of Kenya.

### **1.3 Specific objectives.**

1. To describe the attitudes toward women land inheritance in the Nkuene location of Meru district, Eastern province of Kenya
2. To investigate the social networks and institutions for supporting women in inheriting land in the study area.
3. To investigate the factors that work against women land inheritance in the study area.

### **1.4 RATIONALE OF THE STUDY.**

This study is important because it sought to find out what the attitudes of the target population to land inheritance by women, what obstacles women face when they attempt to claim land inheritance if at all and what institutions exist to support them in their quest to claim land if any. It sought to document the above with a view of making recommendations on how this can be improved. It sought to farther heed the call of the current development paradigm that puts a lot of emphasis on equitable distribution of resources between the two genders for faster and just development. By examining and questioning the position of women and land ownership, this research can be used as a basis for advocating on the issues of women and property in Kenya.

It serves as a call to development planners, lawmakers, opinion leaders and advocates of human rights to take into account the fairness in the distribution of critical resources like land between the two genders for a more balanced and fair development. The results could be utilized to seek more productive and gender sensitive ways of ensuring fair land distribution and utilization between the two genders.

The researcher chose to carry out the research in a rural setting in Meru because of the following reasons;

The Ameru of Kenya is known to adhere faithfully to their culture and traditions. A case in point is their adherence to the age-old tradition of female genital mutilation. Lynn M. Thomas (1996) tells of how young women in 1956 defied a government ban to have them circumcised. Owing to government ban on circumcision the community refused to organize the same for them as was tradition. In reaction to this, the young girls organized the ceremony for themselves and circumcised each other.

This is consistent with the same attitude the Ameru have in regard to inheritance of land by women.

In the rural setting in Kenya in general and in the research site in particular, the major economic activity is agriculture. The researcher believes that contributing to the body of knowledge in this area will have positive impact in its development.

The researcher also feels that the Meru of Kenya needs to have research of this nature done in their area. This is for purposes of introducing well informed awareness creation. The researcher has made recommendations on what could be done to improve land inheritance rights and reduce poverty among the women. Through education and several other interventions it is hoped that women will be more aware of the rights to land. This awareness may lead women to claim what is rightfully theirs in this regard.

From the literature review, there is very little research related to this topic that has been done in this area. The research is therefore expected to contribute to the body of knowledge of scholarly work in the field of gender.

## **1.5 SCOPE AND LIMITATIONS**

Due to resources and time limitations, this study did not investigate all the issues pertaining to inheritance by women in the study area.

On methodology, participant observation which is the standard anthropological method of data collection was not fully used. The researcher used focus group discussions interviews and structured questionnaires.

## **Chapter Two**

### **2.0 LITERATURE REVIEW AND THEORETICAL FRAMEWORK.**

#### **2.1 Introduction.**

Most of the works on the subject of women and property concentrates mainly on the proportion of property owned by women in relation to men.

It is clear from almost all available literature that women own less property than men in any country.

This is despite the fact that women work longer hours than men all over the world.

Many factors come into play when it comes to ownership of property for the women generally and particularly inheritance for women in Nkuene location.

One very big influence is the culture and the custom of the community. Customary law to this day has a profound impact on the women's inheritance rights in Nkuene location of Meru district.

Customary laws exist side by side with statutory law. Kenya's legal system formally recognizes customary law. (The judicature act provides that courts jurisdiction must be exercised in conformity with the constitution, statutes and other sources of law, in addition courts should be guided by customary law as it is" applicable and not repugnant to justice and morality, or inconsistent with any written law" (Jackson 1998)

#### **2.1.1 Land ownership and inheritance among the Ameru women of Kenya.**

Traditionally, women in Meru had no way of owning land. According to Gideon S Were (1986) women in Meru only had usufruct rights. Were further states that even to this day women in Meru and Chuka communities have no rights over land that has come to their husbands through inheritance or the man's direct purchase.

Besides women were only allowed to own subsistence crops only to a very limited extent. When the amount was large enough that the man could exchange it for something, the ownership was withdrawn. (ibid)

In some cases especially after divorce or widowhood, some men went further to confiscate the property of the woman. (ibid)

Furthermore in the study area, cash crops and cattle were the prerogative of men.

### **2.1.2 Inheritance.**

More often than not land is acquired through inheritance. Traditionally women married or unmarried were left out of this arrangement. When the male figure in the homestead passed on or wanted to share out his property, the following was the custom.

Land was inherited as follows, the first son of the first wife got half of the land and the other went to the clan which distributed it to the other sons. (ibid)

Little or nothing has changed since then. But back then, women could at least access land and have usufruct rights in relation to the men.

Today however, with the changing of the society, women who are single for one reason or another are left out of this arrangement.

### **2.1.3 Social networks and institutions for supporting women in inheriting land**

As has been argued by some authors, the problem of inheritance by women cannot be left to individual women.

This is because it is a new phenomenon that involves an age old custom that women are not in a position to deal with as individuals.

Traditionally there was no provision for single women in the community. Everyone was expected to get married and remain so. Even when this did not happen women were given the rights to use land and other properties but this was on the whims of some male relative(s). (Kamau et al 1991) They were never given the right to own the property. This situation is indeed precarious

for women. This is because ownership of property determines one's access to it and how it is used (ibid). This is worse in the case of widows and single women.

#### **2.1.4 Attitude to land ownership by women.**

In the African setting, the culture of a people more than the statutory law dictates how the issue of land is administered. It has been noted that traditional systems didn't allow women to own land on their own. Rather women accessed land through their male relatives.

However, times have changed making the circumstances and position of women completely different from what they were 50 years ago. Culture has been used to justify the inferior position of women. Whenever the issue of women land ownership comes up the readily available answer is that "it is our culture".

Culture is not some static body of practices that is handed down intact over the generations but is dynamic, contested and practiced differently at different times by different people in different places. (Peters 1984) Thus generations of elders have consistently complained about manners and mores of the young generation.

The changing nature of custom and its ability to incorporate women's rights is perhaps best stated in the 1997 white paper on South Africa land policy. (Department of land Affairs, 1997:67). It is essential that gender equity be ensured in the land redistribution and land reform programme so that women achieve a fair and equitable benefit. This requires the following: The removal of all legal restrictions on participation by women in land reform. This includes reform of marriage, inheritance and customary law which favour men and contain obstacles to women receiving rights to land.



Paradoxically change from the preservation of African customary law to modern ways of accessing land has negative impact to women as well. Basis of ownership have been eroded since the time of colonialism, making women's access to land significantly more precarious as the protections traditionally ensured by clan system have been peeled away. In recent years, with increased commercialization of land and problem of land scarcity, local leaders have felt mounting pressures to protect the clan system, and in so doing places even greater constraints on women's access to land. In particular, men and groups of men, organized through their lineage, have sought to renegotiate informal relationships that in the past supported women's access to land (Gray et al 1999).

However, the clan system they are seeking to preserve is no longer one that affords women the support it is once said to have guaranteed.

Interestingly there has been selective retention of the customary land tenure arrangements that subordinate women and deny them the right to inherit or own land.

Women's right movements have been particularly concerned that heightened protection of customary land tenure arrangements has been in a context that where the customary and religious laws have been retained selectively preserved those elements that subordinated women. These arrangements have included customary divorce and inheritance practices, keeping women as minors (e.g., Swaziland, Lesotho, Zimbabwe) bride-wealth, widow inheritance (levirate), dehumanizing rituals pertaining to widows, early childhood marriages, polygamy, and female genital mutilation (FGM) (Ewelukwa 2002, Hodson 2002). Here in Kenya in response to this some organizations are fighting for women's rights by seeking to preserve and at the same time to encourage traditional authorities to adopt more pro-women policies.

For example over 2000 Maendeleo Ya Wanawake Organisation (MYWO) women from Meru central district appealed to the Kenyan government to include women in land tribunal. ("Kenya include women in land Boards says Maendeleo Ya Wanawake Organization, The East African Standard 20<sup>th</sup> April 2002)

The Kenyan constitution outlaws discrimination on the basis of sex, but exemptions largely takes away vital parts of the nondiscrimination provisions. Article 70 of the constitution provides that all Kenyans are entitled to fundamental rights and freedoms, whatever their sex. Article 82(1) prohibits any law that is "discriminatory either of itself or in its effect" and article 82(3) defines discrimination to include discrimination on the basis of sex. However, article 82(4) exempts certain laws from the discrimination prohibition. It permits discrimination "with respect to adoption, marriage, divorce, burial, devolution of property on death or other matters of personal law" and with respect to "the application in the case of members of a particular race or tribe of customary law with respect to any matter to the exclusion of any law with respect to that matter which is applicable in the case of other persons. In other words, in areas vital to women's property rights, such as marriage, inheritance, and the application of customary law, discrimination is sanctioned. In addition, article 82(6) provides that if an official body controlling transactions in agricultural land (such as a land control board) gives or withholds consent to a transaction, this decision may not be deemed discriminatory. Thus, if a land control board permits a man to sell family agricultural land, a woman cannot challenge that decision as discriminatory. This is an obvious case of the law giving with one hand and taking with the other.

Considering that all these discriminatory clauses and laws in place, it is increasingly difficult for women to claim property even when it seems obvious it is their right to lay claim to it.

The Law of Succession Act of 1981, which attempted to bring some uniformity to succession in Kenya, should have improved women's inheritance rights. However, it contains several discriminatory provisions. This law governs both testamentary and intestate succession (succession with or without a will). Where there is no will, female and male children should inherit from their parents equally. If there is one surviving spouse and a child or children, the surviving spouse is entitled to (i) an absolute interest in the deceased's personal and household effects and (ii) a life interest in the rest of the estate.

This means the surviving spouse becomes the absolute owner of personal and household items and can use other property (such as land and houses) during the spouse's lifetime. The spouse cannot dispose of the second category of property without court permission. If the surviving spouse is a woman, her interest in the property terminates if she remarries. A surviving husband's interest does not terminate upon remarriage. When the surviving spouse dies (or, in a woman's case, remarries), the estate goes to the children. The intestate succession rules also provide that if one dies without a spouse or children, the estate goes first to the father, and if the father is dead, to the mother. Thus, even though women have inheritance rights under this act, men have greater rights

Furthermore, women generally feel let down by the attitude exhibited by the judicial system. Women are also circumvented by a judicial system that is so slow that many succession cases take up to 10 years to determine. ("Kenya include women in land Boards says Maendeleo Ya Wanawake Organization, the East African Standard 20<sup>th</sup> April 2002) From available literature, the same attitude that is with the general population leaks into the judicial system that is dominated by men. In an interview with Human rights watch, a justice in the highest Kenyan court remarked "The law of succession Act can't apply to (to rural land) because women are supposed to marry and go away" (Human Rights Watch 2003).

Therefore even if the law itself may provide legal provisions for the women, the interpretation and application is a completely different matter. Male judges, magistrates and other persons in authority make it increasingly difficult for women to claim what is rightfully theirs.

Examples of cases where women have lost property unfairly even when they seek legal redress in court abound. The following cases illustrate this case

IN THE COURT OF APPEAL AT NAIROBI, CIVIL APPEAL NO. 203 OF 1997

( FIDA 1998 )

*Customary Law- Customary Marriage*

*Family Law - Rights of Married Women under the Married Women Property of 1882 (MWPA)*

Tabitha Wangeci Nderitu, the appellant (*hereinafter called "the wife"*) got married to Simon Nderitu Kariuki, the respondent (*hereinafter called "the husband"*) in 1968 under Kikuyu customary law, to which they are both subject. The wife took out an Originating Summons, under Section 17 of the Married Women's Property Act, 1882 (the Act) against the husband, seeking amongst other orders, a declaration that a number of properties (movable and immovable) acquired by joint efforts and funds of both parties during their marriage, and registered in the sole name of the husband, and in possession, are owned jointly by the wife and the husband. At the trial before Justice Hayanga, J. both husband and wife gave evidence, and in a reserved judgement the learned Judge gave the wife 50percent interest on the matrimonial home. In relation to the rest of the properties the Judge gave the wife only 30percent leaving the husband 70percent all the way. The wife was aggrieved by this part of the Judge's order as she felt she should have been given a 50percent share in all the properties. Hayanga J. found as a fact that the wife had made indirect contribution to the acquisition of the assets but in deciding to give the wife a lower share of 30percent in the properties other than the matrimonial home.

Simon had no assets before his marriage to Tabitha. Three of the couple's children were born by caesarean sections. During the case Simon argued that delivery of his wife by caesarean section made Tabitha incapacitated and unable to make meaningful contribution to the family business.

There is no acceptable evidence that caesarean deliveries incapacitated her to the extent that the learned Judge thought. The appellant being dissatisfied with the judgment of the Superior Court appealed. The court of appeal awarded Tabitha 50 percent in all property and the cost of the suit was born by Simon her former husband

Dated at Nairobi this 26<sup>th</sup> day of June 1998.

In a publicized case republic versus Elena Muthoni was charged and convicted for seven years with hard labor on her husbands' complaint that she had stolen and sold his cow. In her defense, the woman had told the court that the cow was hers too as she had been taking care of it and she had sold it to pay school fees. FIDA (K) took over the matter on her behalf and asked for a revision in high court which was granted. She was freed after serving 30 days. (Ibid)

The attitude of the general population does not make the matters easier for women either. A majority of men and some women in Kenya believe women are not entitled to property rights. At least not on the same basis with men. Examples of these attitudes abound. Many aspects of life culture included are used as the reasons why women should not and cannot own land. Some are religious others economic as well as social. But all of it boils down to the ones attitude to women's ownership and control of property especially land. Some of the attitudes that are held by many people are represented here:

"Women should not own land. Women do not own their children so how can they own land?' The reason why women do not own land is because God created men first and latter created woman out of the man's lib. How can women own land? The woman sinned first so she has to bear more problems" Why should I give land to someone who is on transit?" and "If women own land they will grow horns "(Our laws do not help Women On land" The monitor, 6 May 2003)

Politicians who are the key decision makers in the country are also not supportive of the case of women. Examples of male politicians who oppose any amendments to law in an effort to empower women abound in Africa. For example in Uganda during the parliamentary debate over the co ownership clause that was passed in on 2<sup>nd</sup> July 1998, the male politicians who rejected the clause explained that they wanted to preserve the clan cohesion and power. Some said that with such a clause, women will marry old men so they can inherit quickly. Others suggested that women would marry men and later divorce them for the sole purpose of acquiring land; people would stop marrying to avoid co-ownership; through bride price women become property of men and property cannot own property; and how men treat their wives is a private matter that has nothing to do with co-ownership of land. Chibita Wa Duallo, president Museveni's legal advisor, argued that co ownership clause was an attempt to commercialize marriage and would destabilize families if passed. (New Vision 2002)

Indeed this is a true representation of what most of the male politicians in Africa and other developed countries think about women's ownership of land. In comparison to other African countries Kenya included, Uganda has done much better in the area of Gender mainstreaming.

### **2.1.5 Social networks for supporting women In their pursuit to land inheritance.**

More often than not it is expected that some institutions or social networks exist to help individuals to access resources or services in the community. This is so owing to the fact that things do not always go as one would expect and some form of intervention may occasionally be necessary. Women being a vulnerable group need this probably more than their male counterparts.

It is no longer valid to expect cultural institutions to provide assistance to individuals when the need arises.

As we have seen above, the situation of women and who they can turn to in case of need is grim. This has to some extent to do with the subordinate position of women in the African society. Social change has also taken place in the society. "Traditional societies" have undergone significant changes over the past century as forces of modernity penetrate the traditional structures (Whisson 1964) argue that even in societies whose custom is or was supposed to dominate as is with the case of the Baganda, people did not always obey it. Instead they made their individual and household decisions in relation to custom instead of making such decisions according to custom as it is done in most human societies. The importance of this observation is that in Buganda, Uganda and the whole of Africa, ' custom' does not dominate to the exclusion of the individual, household or familial choice. So what one does or how he does it is always an important element of individual choice.

There are several cultural institutions that are charged with the responsibility of safeguarding the rights of individuals to own land and other property. The most basic is the family. In traditional Meru, there was also the mwiriga or clan. The mwiriga clan is very much alive even today and is called to solve disputes that have defied the family unit or are between families. This is more so in matters of land since traditionally land belonged to the clan.

There is however dearth of data concerning the clan in Meru in literature. Slowly but surely however the clan elders are being replaced by the provincial administration. The clan was normally worked on a voluntary basis and within the traditional set-up. However things have now changed and society has become increasingly commercial and is also organized differently. Slowly, the roles that were played by the clan have been taken over by the provincial administration. Key among this in issues of inheritance and property is the chiefs, sub chiefs and headmen.

Next in importance to these are the land boards and the law courts. The arrangement is such that if the case cannot be solved by the clan, it is

referred to the chief by the headman who will mostly have taken part in the clan deliberations.

All these institutions have a critical role in the in the direction that cases involving women and inheritance take. Unfortunately, many men and some women believe that women should not be entitled to inherited property, at least not on equal basis with men. These attitudes influence the interpenetration of customary laws and vice versa. (Human rights watch 2003.)

Most administrators and traditional leaders in Kenya are men. Many of their views are influenced by the traditional attitudes of the communities that they come from. Most traditional structures and cultures have no place for ownership or land inheritance by women. So the men who are the occupants of these offices carry this attitude with them.

In an interview with Human rights watch a government appointed chief said this of the position of women and property in Kajiado district "The Maasai believe that the property within the homestead is theirs- the children, the wife, the cows, the land\_ all is man's property. There is no consent. She cannot slaughter [cows] unless she has clearance from the man. If a cow is to be given away, the man decides never the woman".

As we see in this example Women may be regarded as property themselves: In traditional Kenya societies, women may be regarded as if they are property. One implication of this is that property cannot own property. That is, women are not expected to own land in their own right. Thus, when a husband takes on a wife she moves to his house and utilizes land from his father's clan. The children from the union are considered to belong to the husband's line and when he dies the land is passed to his male children. Conversely, when a woman leaves her natal house upon marriage she does not take land with her. As she is not entitled to own land herself and because her children do not belong to her line but to her husband's, any land she might bring with her would be automatically transferred to the family of her husband and would be



lost to her natal family's clan. Thus, customarily many Kenyan women are not entitled to own land at any point in their lives.

"A major barrier to women accessing their rights are traditional customs which don't allow women to inherit land either from the father's side - 'You are a woman, you will get married and we will lose our family land', and from the husband's side 'You are a woman, you have just come here, we have paid for you through the dowry, you are not liable to get our land'(Women Advancement Trust)

In Kenya, the Constitution permits the application of customary law to personal matters and to the devolution of property. The Constitution contains no provision for gender as a basis for non-discrimination and as a result, even gender-biased practices are held as valid and constitutional. Women's access to economic resources in Kenya is consequently largely defined by customary laws. Inheritance is usually along the male lineage - hence, women do not inherit family property. An additional complication in the Kenyan situation is the growing number of cohabiting couples who found families outside of both the formal or customary legal regimes. When such unions terminates, the woman is usually left with no access to any household property or to entitlement to maintenance from her partner or his family.

#### **2.1.6 Factors working against women land inheritance and ownership in the study area.**

Women have usufruct rights to land only: The majority of Kenyan tribes are traditionally Patrilineal, a social structure in which inheritance of property is passed from a man to his sons. In this structure, women generally do not own property. Instead, they gain access to it through their male relatives (father, brother, son). In this way, many women, especially those in rural areas where traditions are held to more strongly, can spend their lives in two worlds: in that of their father and then, after they have been married, in that of their husband. If their husband dies or a woman is divorced she is then dependent on her

sons or ends up forming the statistics of those who are homeless or live in the unplanned urban slums.

Maitrayee 2001 urges that every property that is under state, community or clan ownership remains for the most part under the managerial control of selected men through their dominance in both traditional and modern institutions.

Also, in most societies it is men by and large who control the instruments through which property is regulated, such as the institutions that enact and control and enact and implement laws and play an important role in shaping gender ideologies (Agarwal, 1994)

This scenario is quite unfortunate for women because first they have to access land through their male relatives. If for some reason these ties break or do not exist, then they have no other way of accessing or owning land. Widows, single and divorced women fall in this category.

Worse still men most of whom are gender insensitive always head institutions that make laws or policy on administration of property land included. This farther disadvantages women in their practical in their efforts to access own or control property.

Women and men acquire property through inheritance, through marriage and via public policies of redistribution. The option of acquiring property through buying is not one that is open to most women because it entails command over other resources to be exchanged for the acquisition of other resources. (Maitrayee 2001) As we have already noted the option of inheritance is very rare in the African setting where the inheritance patterns are Patrilineal.

Some studies have argued that property registration is a also barrier to women's access and ownership of other properties.

Properties such as the matrimonial home and agricultural fields are recognized to belong to the husband and are often registered in the husband's name only. A husband can decide to sell the land at anytime and a wife may have little say even if she and her children are dependent on the production from that land. This decreases the ability of the family as a whole to be

productive as a woman will not necessarily invest in a plot that she feels may be taken from her. Also, while Kenya women undoubtedly labor in the fields and are the primary producers, as are other women across Africa, they generally do not own the land. Traditionally, a woman may be responsible for growing and harvesting the crops while her husband owns the produce by virtue of being the owner of the land. He is also the one who decides how much produce is sold and how much is kept for household consumption. It may also be the husband who takes the produce to market and sells it thereby taking control of income coming back to the household. Fiona A, ET et 2001 argues that there is a need to ensure that registration is gender sensitive if women are to reap any benefits and achieve greater control over their lives.

### **2.1.7 Summary**

In conclusion, it can be stated that the problem of land of access to and inheritance of land is real and a case for further investigations. It can no longer be assumed that women will always access land through some male figure. Women need to be considered as individuals capable of accessing owning inheriting and controlling land. If the current trend of denying women continues, it will continue to hurt the economy of this country. Women are the back bone in Agriculture need to be able to own land and use it as collateral to borrow bank loans and use it to further develop their farms. They need to be able to invest long term on land without the fear that they will be asked to leave any time.

Governments, donors and non governmental organisations therefore need to urgently develop policies and systems that will accommodate this scenario, and to develop culturally feasible and acceptable modes for accommodating women in their individual capacities.

## **2.2. Theoretical Framework: empowerment**

The theory that guided this study was theory of empowerment as coined by Caroline Moser. Caroline while furthering the concept of strategic and practical gender needs that was coined by Maxine Molyneux (1985a) urges that women in the third world can only improve their position if they address their strategic gender needs. Moser defines strategic gender needs as needs women identify because of their subordinate position to men in their society. They relate to gender division of labour, power and control and may include such issues as legal rights, domestic violence, equal wages and women's control over their bodies (Moser 1993). Quoting Molyneux she farther states that strategic gender needs may include all or some of the following: The abolition of the sexual division of labour; the alleviation of the burden of labour and child care; the removal of all institutionalized forms of discrimination such as rights to own land property; access to credit; the establishment of political equity; freedom of choice over child bearing; adoption of measures against male violence and control over women (Moser 1993).

Moser continues to argue that meeting women's practical gender needs which she defines as needs women identify in their socially accepted roles in society, are only responsive to immediate perceived needs and do not address women emancipation of gender inequality.

This theory was very relevant to the study. Women remain in their poverty and subordinate position in society because mainly of their lack of access to and control over productive resources. Land is a fundamental resource especially in Kenya where agriculture is the main economic activity in the rural areas. This lack of resources as Caroline argues is supported by both cultural and administrative institutions. Men and women traditionally have different levels of access to resources and control over resources, whether they exist in the private (household) or public spheres. Traditionally women have had a

subordinate position to men, where, for example, she may contribute materially to the household but her husband makes the decisions on how the income is spent. On a macro political level, most governing bodies are dominated by men; legislative and judicial decisions often lack a gendered perspective and do not represent women's interests. Instead of policy makers and development agencies addressing the strategic needs of women, they have over time continued to address the practical needs of women hence have failed to change the subordinate and relative poorer position of women to men in society.

Further the theory highlights the sexual division of labour as a constraint to women's empowerment. Women usually perform the reproductive roles in most communities. Besides they also perform the productive work for payment of cash and community managing roles. Even with the shift where women are now also working outside the home, they have still largely retained the reproductive role. This is what Caroline calls the triple role. This further burdens women and makes it increasingly difficult to afford time to acquire skills that would enable them afford productive resources like land. This division of labour is constraining to women to a large extent. Even when both women and men engage in agricultural activities, women will almost always have control over subsistence crops while men will have control over cash crops.

This was quite relevant to the situation of women in the areas of study and provided a lot of insights on what the researcher was look out for in the research. Besides pointing out why women remain poor due to land of productive resources like land, the theory further highlights the triple burden that women have to bear. This further reinforces the argument of this research that women despite being the source of most of the labour in the farms in the study area, they rarely own the factors of production especially land. This is surely one of the reasons why women are overrepresented in poverty statistics.

## **2.2 Hypothesis**

Static attitudes and practices towards the inheritance of land and other property contribute to women's lack of property ownership in the study area.

1. The attitudes of social and cultural institutions does not favour land inheritance and ownership by women in the study area.
2. There are no sufficient social networks and cultural institutions for supporting women in their property pursuit in the study area.
3. Women face quite a number of difficulties in trying to lay claim to or acquire land and other property in the study area.

## **Chapter Three.**

### **3.0 STUDY DESIGN AND METHODOLOGY**

#### **3.1 Research site**

The research was conducted in Nkuene location of Meru district. However not all households in the research sites were interviewed owing to time and financial constraints.

##### **3.1.1 Administrative Boundaries**

Nkuene location is one of the locations of the large Meru district which is also part of the Eastern province. The district covers 9,922km<sup>2</sup>. It is bordered by Embu district to the South, Kitui and Tana River to the South East, Isiolo to the North and Northeastern, Laikipia to the West and Nyeri and Kirinyaga to the South West.

Administratively, Meru district is divided into seven divisions, Nkuene being one of them. Nkuene location is one of the locations of Nkuene Division. It consists of Uruku and Kathera Sub locations. Nkuene location covers an area of 39.4sqms (GOK 1999).

##### **3.1.2 Economic Activities**

Meru has got practically all the agro-economic zone of Kenya ranging from the cool upper highlands to the hot and arid lowlands.

Nkuene location is predominantly in the highlands and is mainly a tea growing zone. Other economic activities include daily farming, horticulture farming especially of perishable vegetables.

### **3.1.3 Health Situation.**

The area is generally inhabited by relatively healthy people.

Water resources are fairly adequate. This coupled with fertile soils and proceeds from tea and dairy farming make the inhabitants quite healthy. Health facilities exist in the area. There is Nkubu mission Hospital coupled with several government and private clinics are fairly adequate.

## **3.2 Study Design**

The design of the study was to a large extent aimed at collecting qualitative data. Cross sectional research design will be used. The study lasted only for one week .During this period; the research conducted interviews and structured questionnaire. There were also focus group discussions with selected persons who may have some knowledge on the subject.

Qualitative data was collected on age, household size, household economic indicators, and situation of land ownership and level of education among others. The study target wives, local leaders and those who may be involves arbitrate in land matters. This involved chiefs headmen and sub headmen social workers, head teachers, Clan leaders and opinion leader. These were purposefully selected. The researcher collected data by dropping and picking questionnaires to be filled by the literate wives. Those illiterate respondents were targeted in the focus group discussions.

### **3.2.1 Study Population and unit of analysis.**

The focal unit of analysis in this study was the household. This is because the household is the land owning unit and usually decides who the land will be transferred to when the need arises. All the households in the study area were included in the study. However, owing to limited resources and time constraints, not all houses in the study area were studied. In the household wives were interviewed. The number of households in the last population census is 6,532 (GOK 1999).



### **3.2.2 Sampling strategy and sample size.**

Because of the nature of the study, not all anthropological sampling methods were used because this needs a long time to obtain the required sampling size.

The study therefore used purposeful sampling strategy to reach wives who are literate to fill in the questionnaires and local leader for the interview and illiterate wives for the focus group discuss.

The researcher will distributed 80 questionnaires for the literate wives; held 3 focus group discussions with the illiterate persons

The focus group discussions were attended by between six and ten respondents. The researcher also interview 10 local leaders. The population universe in the Nkuene location is 26,438 persons and 2,534 households (GOK 1999).

### **3.2.3 Methods/instruments of Data collection.**

The researcher used qualitative methods to a large extent. However, some qualitative methods were used to a limited extent. Structured questionnaires were the main instrument of data collection.

### **3.2.3 Focus group discussions**

In this study about 30 persons who have knowledge on the subject of women and land inheritance in this area were involved. This was gathered from three focus group discussions. The respondents were purposefully selected from persons who are knowledgeable in the community about matters of traditional law governing inheritance. These are mostly elders both men and women. They were verbally invited by the researcher to houses in the neighbourhoods close to their homes. Before the start of the focus group discussion, the researcher asked one of them to be the moderator of the discussion. He was instructed to keep the discussion in focus and give equal chances to all the

respondents. During the focus group discussions the researcher thanked all the participants for their time and asked them give as much contribution as possible on the subject. The researcher recorded the discussion by the discussion down on pen and paper. After the discussions, the researcher thanked all for their time and contributions. The data was mostly qualitative and was consist of direct quotations from these persons. This was about their experiences, feelings, particular obstacles faced by women in claiming their property and the recommendations that they would make to the government or any other authority. The researcher was also interested in knowing how the community perceives inheritance of land and property by women. Other issues of interest will be what the respondents thinks can be done to improve the position of women in that respect. Wives were the main respondents in this study. The other groups like local administrators provided clarification and insights into what the community feels about the subject in question.

#### **3.2.3.4 Structured Questionnaires.**

These were used to obtain information from the literate wives. This was used mainly to test the attitude of the community to the issue of women's property ownership in general and land inheritance in particular. Wives will also explained their experiences, obstacles they felt stand in the way of women and land inheritance and what they feel should be done about it. The researcher was also interested in knowing how aware they are about the issue of land inheritance and what their entitlements are in the community.

#### **3.2.3.5 Interviews.**

The researcher also interviewed people who are knowledgeable about the situation of women inheritance and property ownership and who are some kind of opinion leaders in the community. Such people included local administrators, social development workers, land officers, and leaders of women groups. NGO workers who head organisations dealing with issues of

women and property were also interviewed. The researcher used a structured questionnaire to obtain the required information.

### **5.5 Ethical Issues.**

The researcher endeavoured to obtain information willingly from respondents. The study adhered to the code of ethics in conducting research. As such, the researcher explained to all the respondents the aim of the research, respect their privacy and emphasize on the need for an importance of open and free discussions with an informed consent of the informer. A letter of introduction was obtained from the University to enable the researcher get access in various places were visited.

Confidentiality was observed and in case names needed to be mentioned especially in the case of case studies, pseudonyms are used in the report.

### **3.4 Data Analysis.**

Primary data was collected, coded and analysed manually. Cumulative frequencies and percentages were obtained. These were described and explained in the reports.

Qualitative data mainly from the focus group discussions was analysed through explanations and interpretations as well as cross checking information gathered from different groups.

### **3.5 Problem encountered and solutions thereof.**

The researcher encountered a number of problems. First was the fear among the respondents of filling in the questionnaires. Some were afraid of the government as they feared someone will follow up on what they had said. A number of women were scared of their husbands finding them with the kind of questionnaires that some of them considered in defiance of their subordinate position to their husbands. The researcher solved this problem by dropping the questionnaires at the place of work and picking them from there. The women were also reassured that confidentiality will be ensured as no respondent was required to write their names anywhere.

The researcher also wanted to conduct at six focus group discussions. However due to the logistical problems involved in organising the same, only three focus group discussions actually took place.

The researcher solved this problem by getting as much information as possible from the three focus group discussions that actually took place. The researcher also initially wanted to use spss to analyse the data. But due to budgetary constraints, this was not possible. Instead, the researcher analysed the data manually.

# CHAPTER FOUR

## DATA ANALYSIS

### GENDER INHERITANCE RIGHTS AND THE FEMINIZATION OF POVERTY

#### 4.0 Introduction

Women's right to land is a critical factor in one's position in society, economic well being, and also indispensable in one's personal empowerment. Land is a basic source of employment, the key agricultural input, and a major determinant of women's access to other productive resources and services. Furthermore, land is also a social asset, crucial for cultural identity, political power, and participation in local decision-making processes. Women's access to other natural resources, such as water, fuel wood, fish and forest products is also intertwined with their access to land. Access and control of land is also crucial for food security and income, particularly as land becomes increasingly scarce and access becomes a growing problem for women and men alike, but more difficult for women.

The findings of this research testify to the fact the land accounts for extremely important economic activities in Kenya. Agriculture for example drives the Kenyan economy. This is extremely important sector in which, women provide the bulk of small-scale agriculture, which employs about 70 percent of the labour force. Furthermore women produce 80 percent (GOK 2001) of the food produced in Kenya. This is extremely important as the country has very few resources to import food from other countries. As rural urban migration escalated as men search for better jobs, other male heads of households died due to HIV/AIDS one quota of women are heads of households. Even with this heavy responsibilities and the big magnitude of contribution into the

economy of the country, women have only 5 percent of land registered in their names countrywide. (Celestine 2002)

Rural women work an average of nearly three hours longer per day than rural men (World Bank 2001). With so many women working in the agricultural sector and so few in formal employment, it is all the more devastating when women lose their land. Below are the findings of a research that was done by the researcher in the Nkuene Division of the Meru district of the Eastern province of Kenya.

## **4.1 RESULTS AND FINDINGS**

Gender relations in Kenya in all issues in general and land inheritance in particular are characterized by discrimination and unequal practices against women. These practices are echoed in the legal system and administrative structures of Government. Discrimination against women is also firmly rooted in the customs, traditions and usages of various ethnic communities in the country in general and among the study population in particular.

Research findings base on the objectives of the research which were as follows, the attitudes toward women land inheritance in the study area; the social networks and institutions for supporting women in inheriting land and the factors that work against women land inheritance in the study area. The findings of the questionnaires are presented first, followed by the focus group discussions and finally the interviews from leaders. The results also respond to the hypothesis one to three in the same order.

## **4.2 ATTITUDE TOWARDS WOMEN AND LAND INHERITANCE**

In this section, an analysis of data related to objective one of the study which seeks to investigate the attitudes of women and land inheritance in the study area. The section also addresses hypothesis number one. The hypothesis states that the attitudes of social cultural institutions do not favor land inheritance and ownership by women in the study area.

Meru generally and the study population in particular is predominantly patrilineal and patrilocal in inheritance and residence patterns, which puts women in a subordinate position in relation to men. The reasons for this gender inequality lie to a great extent in kinship and inheritance systems. Women's unequal status to that of men is seen most sharply in the private sphere of marriage. The roles which women play and which are not shared by men are regarded as inferior. Women's unequal status in marriage and the family is based on traditional, customary and religious attitudes that confine women to particular roles and place a higher premium on the male than the female.

The situation in relation to owning land is that generally, land is inherited by men, not women; but a woman might inherit land if she is widowed, divorced, or exceptionally, if she is an unmarried, but mature woman.

This was confirmed to be true by the findings of this research of the structured questionnaires that mainly targeted wives. Respondents confirmed that women have very little chance of ever inheriting land in this community.

**Table 4.0** showing, number of wives that inherited land from their parents.

<b>Frequency</b>	<b>Number of respondents</b>	<b>Percentage</b>
Yes	2	2
No	56	98
Total	58	100

As seen in the above findings, only two percent of all the female respondents said they had inherited land from their fathers. This was only in cases where their fathers did not have sons; the daughters were of an advanced age and did not get married or in very rare cases the fathers were very progressive. The general attitude of the population of men to women land inheritance was very negative. Women inherited only as second choices. There was no particular attention paid to whether women deserved the land or not.

**Table 4.1** showing how owned land was acquired.

<b>Frequency</b>	<b>Number of respondents</b>	<b>Percentage</b>
Bought	19	33
Inherited	39	67
Total	58	100

According to the findings of this research, sixty seven percent of the families that own land inherited it from their parents. This means that in this community, land is mostly acquired by inheritance than by direct purchase.



This means that denying women land inheritance is denying them sixty seven percent of the chances that exist for them to own land. It for sure denies them an important economic factor of production. This denial in an economy that agriculturally driven is critical for the empowerment and economic independence of women.

**Table 4.2** showing distribution of land registered owners.

Frequency	Number of respondents	Percentage
Husband	37	65
Wife	2	3
Husband and wife	0	0
Father/mother in law	8	14
Others	8	14
No response	3	4
Total	58	100

Interestingly, as seen in the above table, only three percent of the women in this area have land registered in their names. This is in similar to the national statistics of land registered in women's name which stands at only five percent (GOK 2000). It is disheartening to note that though women in this area are the ones who till the land while men work outside of the home, they have no legal right to piece of land that they till. This means that they cannot use the same piece of land collateral for a bank loan to improve their observably backward farming methods or even to invest in any other venture like even seizing business opportunities the same way men would.

Furthermore, women do not own most of the land, so they do not have the managerial or decision making power to decide what to plant where. Since men own the land it was clear that the women got the poorest portions for their crops. In this area which is largely a tea growing area, the men own the tea portions in the land as this is a cash crop. It was clearly observable that the

poorest portions of the land are the ones allocated to women for their food crops. Given this scenario then, it is no wonder Women work 12-15 hours a week more than men and spend correspondingly less time on leisure and sleep. Falling real incomes mean that women have to economize on household expenditure often in ways, which require more domestic labor. Despite the heavy workloads women are still seen by policy makers primarily as a source of voluntary labor for development activities just at the community level. Her invaluable socio-economic contribution goes unrecognized while in the political arena, she has remained marginalized (World Bank, 2000).

This significantly reduces their capacity to improve their production even though they work extremely hard. Given this scenario, it would not be difficult to see the link between this and the reason why women are over represented in poverty statistics. This grim picture goes further to complicate matters further nationally. Women produce eighty percent of national food, yet they own less than five percent of the total land registered in Kenya.

The study found out that only three percent of women have land registered in their names. This means that only this percentage can really have control over land in the same ways that men do. The other ninety seven percent cannot of course have any control over what happens to the land that they think they own.

**Table 4.3** showing women that reported they inherited land

<b>Frequency</b>	<b>Number of respondents</b>	<b>Percentage</b>
Inherited	25	43
Did not Inherited	33	57
Total	58	100

One of the most striking things was the concept of ownership. The researcher got statistics as represented in the above table of wives that reported they inherited land. Forty three percent as represented in the above table said they

did inherit land. However, in a subsequent question that asked how many of them had land registered in their names only three percent that replied to the affirmative. The reason for this is that in the traditional concept of ownership, women “owned” the plots of land that they cultivated. Although this was based on a relationship with a male relative, it was more secure than it currently is. This is because the land belonged to the clan or “mwiriga”. Individual members of the clan were not allowed to sell land leaving their families destitute. But with the land registering and titling individuals who hold title deeds legally own the land. They are legally able to dispose of the land without having to get any other persons consent. Unfortunately, the issuance of title deeds was always given to the male head of household. Worse still, women still seem to think that they own land that is registered in their husband’s name. In actual sense the wives are confusing access with ownership.

They also tend to think that when their husbands have inherited land they too have! But legally, the recognized owner of the land is the one whose name appears on the title deed.

**Table 4.4** showing Circumstances under which women inherit land

<b>Frequency</b>	<b>Number of respondents</b>	<b>Percentage</b>
In case of Husband death	8	38
Women is mature and unmarried	3	13
Parents have no sons	5	22
Others	6	27
<b>Total</b>	<b>25</b>	<b>100</b>

Thirty seven percent of all respondents responded that women do inherit land in the study area. Asked when women are allowed to inherit land, they gave the following reasons as represented in the above table; incase of death of

husband thirty eight percent, if one does not get married thirteen percent, parents have no sons twenty two percent and other unspecified reasons. The above reasons give an impression that women are being treated as second class citizens. It makes it clear that women rarely inherit land as a first choice. They almost always become a choice as a last result when there is no other alternative. But even then, it is not without restrictions. Like in the first case, a woman may have land belonging to her late husband transferred to her. But this is always in trust until the children (male) have grown up enough to have the land transferred to them. According to the laws of Kenya, a woman usually loses her right over her husbands' estate upon remarriage. This is not the case for the men. Even when they inherit the estate of their late wives, they do not have to forfeit the same upon remarriage. From here we see that the same negative attitude that exists in the in this particular community is further reinforced by the statutory law. In a constitution that recognizes the equality of the sexes, it is repugnant to have discriminatory laws against one gender. According to the findings also women do inherit land sometimes when parents have no sons. The picture created here is that women only get things as second choices. Even with the current trend of gender equality in every respect, this area of women and land inheritance seems to really drag behind. This of course is very grave given the plan of economic empowerment in the women's struggle for equality. Women's emancipation will need a big push from the economic front. We sure cannot talk of women emancipation without economic empowerment. Even if women know their rights, it will be difficult to claim them without economic empowerment. Kenya being an agriculturally dependant economy, ownership of economic resources of land cannot be overemphasized. Further more it is critical for women who are mostly the ones who have to till land and more often than not do not have marketable skills to make a living otherwise.

**Table 4.5** showing percentage of women's contribution

Percentage of contribution	Number of respondents	Percentages
1.0-20percent	2	11
20 percent – 50 percent	4	21
50percent-70 percent	6	31
70 percent-100 percent	1	6
No response	6	31
Total	19	100

In a total of fifty five per cent of cases where the land was bought with contribution from husband and wife, the land was still registered in the name of their husband alone. Asked why they did not demand for the land to be registered in their names or in both their names, thirteen percent of them said their husbands would not agree. It is contradictory that men would be willing to have their wives contribute to land buying but would not agree to have them register the same land even in both their names. Respondent wives on the other hand also have had seem to have accepted things as they are hence the response "I did not think it was necessary".

**Table 4.6** showing Reasons Why land is not registered in both names

Responses	No of responses	Percentages
Not necessary	13	19
I was afraid to demand	3	4
I did not think it was necessary	18	26
Husband would not agree	9	13
I did not think about it.	11	16
I its best for husband to be the registered owner	11	16
No response	4	6
Total	69	100

On the question of why the land they contributed to the buying was not registered in their names or both their names twenty six percent said they did not think it was necessary. This again reinforces the perception that women have about the concept of ownership and access. The women clearly do confuse the two. They think it is not necessary to have land registered in their names because when it is in the husbands' name, it is theirs as well. But while this may be true at the face of it, it happens in some cases that the wife is chased out of the marital home empty handed even when she has clearly contributed to the buying of land and other property in the homestead. In situations where the property is held in joint partnership, the women may have a bigger chance of getting their due share in case of a legal intervention.

**Table 4.7** showing women's contribution to land buying.

Responses	Number of respondents	Percentages
Yes	13	69
No	6	31
Total	19	100

On the question of whether the wives contributed to the buying, thirty one percent of them responded that they did not contribute to the buying. One would also question the fact that they understand what contributing means. It is clear that those who said they did not contribute to the buying were thinking of contributing in terms of monetary contribution directly to the land buying. But unless the land was bought before the marriage took place, one would argue that there is some form of contribution from the wives. Even if she was taking care of the children and the household chores, that is contribution. This is so because if she were not there, the man would need to hire someone to do the job for him and pay him/her some money. But just it is in national statistics; women's contribution is always ignored or assumed to be insignificant. Women themselves have been indoctrinated to also devalue their own

contribution. That explains why they simply do not think they contribute to the buying of family assets when they do not give direct monetary contributions.

**Table 4.8** showing number of wives who would allow their daughters to inherit land.

Response	Number of respondents	Percentages
Yes	56	97
No	2	3
Total	58	100

Out of the entire respondent (wives) that filled questionnaires, Ninety seven per cent said they would allow their daughters to inherit land if they were given a choice. The reasons that they gave for this were a reflection of what they themselves thought they wish they had. They felt that if their daughters would have land they would not need to go through some of the hardships that they themselves have had to go through. Surprisingly for a rural area Forty four of the respondent wives sited gender equality as one of the reasons that they would give daughters to have to through the sufferings they have gone through themselves.

### **Focus group Discussions**

The attitude of this study community was clearly evident in the findings of the focus group discussions. The general outcome of the focus group concerning this attitude was very biased to women. Generally even women seem to have accepted the status quo. One woman gave a story that was very reflective of what happens when one woman's husband died.

"I know a woman whose husband died. She had just been married and had two children one of them a two year old boy. The father in law had already subdivided the land and the diseased husband had land registered in his name. Once the husband died the woman was only allowed to bury the

husband before hell broke loose. She was given two days ultimatum to give up all the husband's documents like identity cards, pin numbers, the death certificate and valuables like title deeds and insurance certificates. If not she risked dire consequences. The woman refused and stayed put. After the two days ultimatum expired hell broke loose. The diseased husband's relatives hired thugs who broke the woman's house and gave her a through beating before they raped her. They broke into her metal box and stole all the documents she had refused to surrender. The following day the woman left the home to report the case to the police and to seek medical attention. She was admitted in hospital for three days due to the severity of the injuries. Upon coming back, she found her house had allegedly burnt down on its own! Fearing for her dear life and with nowhere to stay, the woman left the homestead. Efforts to seek legal redress have failed due to frustration for lack of recourses to follow up the case and corruption of those concerned by her late husband's family".

The above case is a clear indication the vulnerable situation that most women find themselves in. The land is usually in the name of the husband with women only accessing it based on the relationship the woman has with the man. Her access is also dependant on the whims of her husband or other male relatives. If for any reason the relationship breaks down, then women will always be condemned to poverty more often than not after having been denied access.

The findings of the research revealed another interesting attitude towards land inheritance for women. During another focus group discussion, one old man said that he would never think of giving land to his daughters because they will get married and benefit from what the husband will inherit. In the same discussion another person said they would never have the name of their wives together with him in the title deed because women were people who just come to the home and where not born there. The begging question for women then is where do they really belong? Who owes them an inheritance? In their natal homes, the relatives say that the girls will one day get married and belong to the husbands' home. But in the marital home women still do not



belong. They are always seen as strangers who really should not be let into the family property.

In another focus group discussion, one man said this in response to a question that required respondents to give their experiences with women and land inheritance.

"I know women are well taken care of in the present arrangement. Women have never inherited land in the past! That is our culture and we need to make sure we do not lose it otherwise we will all be lost. Those who try to change this will only have themselves to blame. I know a stubborn woman who dared. And for sure she lived to tell the story. She could not live her husband because she was lazy and rude. When the husband tries to discipline her with only a few slaps, she decided to come back home. She had to stay there for the rest of her life because no other man would want her. So she decided to destabilize her natal home by demanding land. The father and brothers could not go against our culture and give land to a woman of course! She was thrown out of the home and we now hear she is living in one of the slums of Nairobi with her children in abject poverty. This is what will happen to all these women who dare try to claim land. Who will ever allow women to inherit land here; they should get married and remain so! Otherwise they can forget about ever accessing land. These women organizations telling women it is their right to inherit land are just a batch of divorced women trying to get others to break their homes and keep them company".

The sentiments of this one respondent summarize what the general attitude towards women and land inheritance is like. From this statement we get not only what this attitude is like but also what it does to the women. The woman in question in this outburst is said to be living in the slums of Nairobi. This is arguably the most direct link to feminization of poverty and the lack of inheritance rights by women. Women who are disinherited because of this issue of land inheritance usually end up in abject poverty. Women are not only overrepresented in poverty statistics; they are also overrepresented in illiteracy statistics. Women in Kenya form the majority of illiterate people in

Kenya. This is fifty two percent of women are illiterate compared to men who have a lower illiteracy rate at nineteen percent. What this means is that if you take land from them, they will most likely end up destitute in the slums and other informal settlements for lack of better livelihoods (UNESCO 2003)

Women in the focus group discussions confirmed that it was very difficult to claim land from both their natal and marital homes. The major hindrance according to them was the culture of the community. It is very rare that a woman has the courage to claim land from their male relatives who are more often than not in possession of land. The society has got its own structures and systems that are meant to safeguard their traditions. This particular tradition of male inheritance is very well safeguarded since land is held in very high esteem. Women are discouraged from claiming land by being ostracized by the whole community if they dare to claim. The whole community including fellow women ceases to associate with a woman who dares claim land. She is considered a spoilt woman and one that has offended tradition. The whole community then cut her out of their social contacts until she is forced to give up.

This same attitude according to the outcome of the focus group discussion also is seen in the offices where the women go to seek redress. In most cases issues to do with land are presented to the mwiriga or clan. More often than not, and in all cases according to the experience of respondents in the focus group discussion, all the persons that sit in the mwiriga are men. These are the same people who the community looks up to uphold the traditions of this community. It is therefore always the case that when women present cases concerning land claims by women, they almost always find the officials uncooperative or with a negative attitude to them. This was clearly said when one respondent said that "How do you expect to get justice for women in cases of land when those charged with the responsibility of judging are also charged with the responsibility of safeguarding the very tradition you are challenging?"

During one of the focus group discussions, one of the women said that the daughters are sometimes killed because they do not want to leave their marital home for fear of having nowhere to go. According to her, these

women would not need to die if they knew they had a fallback in way of land inheritance from their natal homes.

### Interviews with opinion leaders

The attitude of men to women inheritance of land by women was clear even from sentiments expressed in an interview with one of the opinion leader in the community. The man told the researcher that even if the he did not have sons, he would be happier leaving his land and indeed all his estate to his brother in law's sons! According to him, the girls are supposed to be married and benefit from their husbands inheritance. Even if his daughters do not get married, he would never imagine giving any property to them. He stated categorically that his daughters should count themselves lucky to have gotten education from him. This he felt was enough of what he termed as putting "manure on another man's tree", in reference to the transitional nature of daughters to their marital home.

His sentiments were reinforced by the trend of land registration in the table below, the trend of land registration as perceived by the leaders that were interviewed. Even more depressing was the response when the leaders were asked what the percentages of women that owed land were.

**Table 4.9** showing Percentages of women that inherited land.

percentages	No of respondents	Percentages
0 to 10	11	100
10 to 20	0	0
20 to 50	0	0
50 to 70	0	0
70 to 100	0	0
Total	11	100

The above finding of this table clearly agrees with what the women in questionnaires reported only three percent of them have land registered in their names.

**Table 4.10** showing leader thoughts on women and land inheritance

Thoughts on women and land inheritance	No of respondents	Percentages
Should inherit	6	55
Should not inherit	5	45
Total	11	100

From the above, we realize that forty five percent of leaders still believe that women should not inherit land. This is extremely critical considering the critical role that leader play in these communities. Given that leaders are the opinion shapers in the communities, it is a tragedy that forty five percent of the same leaders do not believe women should inherit land. These are the same people women should ideally seek redress from when they are denied property. That almost half of them do not believe women should inherit land deals a very heavy brow to this issue of critical importance.

**Table 4.11** showing leaders' views on women land inherit in the area.

Response	Number of respondents	Percentages
Very few	6	55
No	5	45
Total	11	100

The above summarizes the picture that is land inheritance for women in the study area. One hundred percent of leaders interviewed reported that very few women or none at all do inherit land. When asked further how many in percentages do inherit land, the response was as follows;

**Table 4.12** showing leader's Comments about the number of women that inherit land.

Comments	Number of Respondents	Percentages.
Very few	3	27
Face challenges	4	37
Others	4	36
Total	11	100

**Table 4.13** showing leaders responses when if there are problems that happen due to lack of land inheritance by women.

Responses	Number of respondents	Percentages
Yes	10	90
No	1	10
Total	11	100

**Table 4.14** showing problems leaders associate with land of land inheritance by women.

Responses	Number of respondents	Percentages
Lack of fall back	9	90
Others	1	10
Total	10	100

This attitude is further evident in the perception that the members of this community mostly the male ones have concerning inheritance of land by

women. In an interview with one of the leaders in this community, the leader had this to say to the researcher concerning women and land inheritance.

“What are you suggesting we do with what you are now bringing up? Are you suggesting we give land to women? Have you forgotten our traditions child? Do you want to come here and break the families? The situation as it I now serve all of us well. Suggesting otherwise is inviting trouble for our community. Why do women need to inherit land? Do you realize what you are saying? Women are strangers, do we give our land to people who will get married and belong elsewhere. How can we give what we fought for and have protected for generations to strangers? We get land from our ancestors and we keep in within our lineage. It will be an abomination if we were to let it leave! Now do you understand what I am saying child? Do you see what this means?

This sort of outburst summarizes what the feeling of the community feel about women and land inheritance. Women will get married and get their inheritance elsewhere. Culture and tradition is also used to deny women what is rightfully theirs. It is considered abomination to let ancestral land leave the clan since women will get married and move elsewhere. Even in that other place women are also seen as strangers who just come there from somewhere is.

In conclusion therefore culture is used as a way of justifying discrimination against women. It is the basis of most arguments against the any challenge to the community to consider the needs of women.

In the same one of the interviews for leaders, the following was what the response was when they were asked what they feel about whether or not women should inherit land.

“All women who want to be taken care of in the community know what to do. They know they need to get married and remain so. Then they will have all the access they need to land. Inheritance of land in our community is the preserve of me. Inheritance of land by women is a foreign concept we know nothing about.”

### **4.3 OBSTACLES TO WOMEN LAND INHERITANCE AND CLAIM OF THE SAME WHEN THEY DO NOT INHERIT.**

This section addresses objective three of this research project that sought to investigate the obstacles that hinder women from claiming their land inheritance. It also covers the third hypothesis that stated that women face quite a number of difficulties in trying to lay claim to or acquire land and other property in the study area.

Women do experience quite a number of obstacles when they dare attempt to claim land inheritance from either their parents as daughters or even from their husbands family as wives. These are as a result having a lot to do with this particular society being patrilineal. Land usually passes from father to son with no provision left for women to inherit land. This is further complicated by the fact that marriage is patrilocal. A woman's father might not let her inherit, not least because this would mean that the land would leave the lineage/his family, the descendants of those who cleared and defended it over the centuries. This land is the main symbol of her lineage's history and social identity. The land is not just an economic asset, but also a social asset. If a woman were to inherit and then marry, the land would be transferred to her husband's lineage. Dividing land in this way or so it was argued by one official could undermine her lineage and other social groups, which are the very building blocks of social order.

**Findings from Structured Questionnaires wives.**

**Table 4.15** showing whether or not women encounter obstacles when claiming land inheritance

Frequency	Number of respondents	Percentage
Yes	58	100
No	0	0
Total	58	100

One hundred per cent of respondents reported encountering obstacles when the women in the study are attempting to claim land. They reported this to come from immediate relatives, the community in general, administrators and opinion leaders among others.

**Table 4.16** showing Types of obstacles faced by women who claim land.

Obstacle	Number of respondents	percentage
Resistance from relatives	47	21
Threats from relatives	48	21
Uncooperative administrators	38	17
Lack of resources to follow up cases	46	20
Lack of knowledge on women's rights	45	20
Others	3	1
Total	227	100

Concerning familiar obstacles twenty one percent of women reported that they receive threats from even blood relatives when they attempt to claim land.



Surprisingly, the blood relatives are the ones who were reported to be the most obstructive of all the obstacles quoted. This was especially when women needed to claim land as daughters. As cited above, women can very rarely claim land. One of the times that they are allowed to claim land is when they are mature daughters and they have not gotten married. This is still extremely restricted. So even then, blood relatives especially brothers become very hostile to the person of the woman. So because according to them, she will benefit from the share of the land they would have inherited. Cultural and traditional hindrances also constrain women wishing to claim land. Sixty four percent of leaders interviewed and thirty four percent of wives cited tradition as one of the reasons why women do not claim land. According to tradition, land usually passes through the male lineage. Land in the Ameru culture is not just an economic asset it also has cultural, social political and even religious significance. It gave the individuals in particular and the community in general a sense of belonging. Before land was privatized it did belong to the clan which gave that clan a sense of belonging. Women do not always get acceptance as members of the natal or marital clan. So if women were to get land inheritance as daughter and subsequently get married, then that means land is going to leave the original clan and lineage. The children born by the woman are going to belong to a different lineage because the society is patriarchal. The arguments advanced are that women have no lineage of their own; they adopt the lineage of the man they marry of the lineage they are married into. So if they inherit land then it means it leaves the family lineage which is not acceptable according to the traditions. This is one of the biggest hindrances to inheritance by women.

At the community level there are obstacles as well. When asked how helpful these administrators are seventeen per cent of the women cited uncooperative administrators as one of the obstacles that discourages women from pursuing their land inheritance claims. The government has entrusted the interpretation of both the cultural and the statutory law to the provincial administration in the all locations in Kenya. Their word is taken as law to people in the village especially. Their powers are recognized even more when it comes to land issues. The government of Kenya from time to time is always

urging the communities to let the local administration including the elders in the village deal with land cases to relieve the court of the backlog of cases that clog the courts. It is clear this arrangement do not favour women. To begin with is the constitution of this administration.

**Table 4.17** showing gender of the officials that occupy offices where help is sort.

Responses	Number of respondents	Percentage
Mostly men	50	87
Mostly women	1	2
Both men and women.	5	9
No response.	2	3
Total	58	100

Asked who occupy these offices as represented in the above table, eighty seven percent of respondents said they find men. It is telling that offices are occupied by men. What this means is that first of all, it is men that will have denied the woman land inheritance in the first instance. So for the woman that is claiming land, it is not a very welcome scenario that she has to deal with men officials. Further, men are known to protect patriarchal structures because they favour them. It is therefore an obstacle to the claims of women to have the offices where women seek help occupied by men only.

**Table 4.18** showing the perceived attitude of these officials to land inheritance claims by women

Response	No of responses	Percentages
Sympathetic	12	21
Good	0	0
Bad	41	71
Others	5	8
Total	58	100

Even much worse another seventy one percent said the attitude of the officials to claims of land inheritance by women as bad. Given the above scenario it is then no wonder that woman have not been able to claim land beyond the two percent that is reported in the findings of this research. There are various issues that are pertinent in this issue. First traditional law is unwritten and its interpretation largely depends on the intentions of the person that is interpreting it. Traditional Meru culture as it is now is in favour of Men. It is detrimental for the welfare of women if the same men are the ones that are interpreting the traditional law. It is very unlikely that people will make an interpretation against a fellow male and create a jurisprudence that might later be used against them. Furthermore, the same administration is charged with the responsibility of interpreting the statutory law. With no training at all in either law or human rights, and least of all any appreciation of women's rights, it is unrealistic to expect that the men will make decisions that will favour women. The absence of women in these arrangements makes the whole process miss out of the perceptions and critical issues that affect the female gender. Uncooperative administration therefore becomes one of the obstacles to women's land inheritance in the study area.

**Table 4.19** showing recommendations on women and land inheritance

Response	Number of respondents	Percentages
Government to enact Gender equality laws	44	77
Women should agree with Tradition	2	3
Encourage gender equality	10	17
Others	2	3
Total	58	100

The researcher also noted that women may not know their rights in a question that asked them to recommend what can be done to improve the situation of women. In response to this question seventy seven of the women said that the government should be encouraged to enact laws that allow women to inherit property. Unknown to these women, these laws actually exist. The laws of Kenya allow both girls and boys to inherit from their parents. But most rural women are not aware of this law and only think about the traditional custom that does not afford women any form of inheritance. This lack of knowledge is clearly seen when the researcher asked if there were any joint ownership in form of land registered in both names. There was not a single joint title deed registered in the name of both the husband and wife among all the women respondents interviewed. Asked why they do not demand that the title deed be registered in both names sixteen percent of the women reported that they did not even think about it. Twenty three percent responded that they did not think it was necessary. This shows that the women are really not aware of their rights to the land or property that belong to either their husbands or their parents.

**Table 4.20** showing whether or not women contributed to buying land owned by the husband.

Responses	Number of respondents	Percentages
Yes	13	69
No	6	31
Total	19	100

Further, in response to a question that asked if they contributed to the buying of the land in cases where the land was bought, thirty one percent of the wives reported that they did not contribute. Yet they were talking about land that was acquired within the marriage. If the land was bought while the marriage existed then they sure must have contributed. The wives could have had in mind direct monetary contribution. But even if they did not give money to the husband they sure must have been engaged in some income generating activity that must have been generating some income. Even if it was taking care of the home as house wives, these are contributions that should be recognized and accounted for when it comes to quantifying the contribution to familial property. If for instance she was not there, the husband would for sure need to get paid help for all these chores. Why then does it not count when the women do it? The women themselves have been socialized to believe that this is not contribution. Consequently they do not value their own contribution as of any value to familiar property.

### **Interviews with opinion leaders**

**Table 4.21** showing leaders' thoughts about women and land inheritance.

Responses	Number of respondents	Percentages
Very few	3	28
Face challenges	4	37
Others	4	35
Totals	11	100

Twenty eight of leader agreed that very few women inherit land while thirty seven per cent of them admitted that women face challenges when they try to

claim land. The provincial administration and specifically chiefs, headmen and elders are the ones who are normally consulted by women who have been deprived of their rightful inheritance. If they are not on the positive about land inheritance by women, those women for sure have a formidable obstacle to deal with.

**Table 4.22** showing if leaders agree that women should inherit land or not

Response	Number of respondents	Percentages
Yes	7	63
No	4	37
Total	11	100

Unfortunately, quite a good number of leaders are not positive on women and land inheritance. As seen in the above table, thirty seven percent of the opinion leaders do not think women should inherit land. As one opinion leader put it in an interview with the researcher “How on earth can you give land to a woman? It is against our tradition, we get land from our forefathers, and we have to it in trust for our children and our children’s children! Women are not part of this arrangement, they get married they get land from where they get married. What is the problem with this arrangement? How can you bequeath property to property? Laughing, Women are themselves men’s property! How then can property own property?” Unfortunately, some women believe this. As a result of socialization, indoctrination and lack of information concerning relevant registration, women, and even educated ones believe that land inheritance and ownership is the prerogative of men.

**Table 4.23** showing leader recognition of lack of land inheritance by women as a problem.

Response	Number of respondents	Percentages
Yes	10	91
No	1	9
Total	11	100

From the above table we see that an impressive ninety one percent of interviewed leaders reported that they indeed recognised this as a problem.

**Table 4.24** showing whether or not leaders are doing anything to promote land inheritance by women.

Response	Number of respondents	Percentages
Yes	6	55
No	4	35
No response	1	10
Total	11	100

From the above table an impressive fifty five percent of all the interviewed leaders said they had something about the above so perceived problem.

Probed further to explain what exactly they had done, the following was the response.

**Table 4.25** showing what leaders have done to tackle the problem.

Responses	Number of respondents	Percentages
Awareness creation	4	67
Seminars	2	33
Totals	6	100

**Table 4.26** showing reasons why some leaders have not done anything to deal with the problem of women's lack of land inheritance.

Response	Number of respondents	Percentages
Women should not inherit land	4	80
No response	1	20
Total	5	100

It is disappointing to note that nearly half of the interviewed leader thought that women should not inherit land. Given that these are the opinion shapers of the community, this is indeed of grave concern. Worse still these are the same people women would turn to for support when they are denied the right to inherit land. That women cannot get positive support from nearly half of them puts women in a very precious position and indeed complicated their claims. This does support the conclusion that leaders serve as one of the obstacles standing in the way of women and land inheritance claims.

**Table 4.27** showing Hindrances to land inheritance by women.

Response	Number of respondents	Percentages
Tradition	7	63
Others	4	37
Total	11	100

From the above table, we see that leaders believe tradition is the main obstacle to women and land inheritance. It is indeed true that the community holds so many of its traditions so dear to themselves. However, traditions and culture of any community is not static but dynamic. It is surprising to not that there has been selective preservation of traditions that oppress women while the few that disfavour men have slowly changed.



## **Focus Group Discussion**

According to the findings of one group discussion, the woman may inherit something small but not always on the same basis with men. This accounts for the hostility that the men may have on any woman who is claiming land. According to the findings of another of focus group discussion, the woman who is allocated land has to live under constant threat of the brothers and other male relatives. She has always to live as amicably with them as possible otherwise she could risk being thrown out of the land. Furthermore, in most of the cases, the women are hardly ever having the land registered in their names. It is always in the name of one of the male relatives in the hope that one day the woman will leave the home and hence the land will revert back to the male siblings. As a result of what happens to those who dare claim, women even those who do get married or those who do are discouraged from claiming land. It can therefore be concluded based on the above that one hindrance to women's claim on land is the negative attitude of the community toward that same.

Another respondent in one of the focus group discussions claimed "Most of the women here prefer to be out there and fend for themselves even when they know they deserve land from their parents. Who wants to live a life of always trying to be invisible so that one does not offend males? One would rather be in the slums where they can be themselves". This is one of the reasons why women do not dare claim land. They do not want to have to be ostracized by members of their families because they claimed land. Surprisingly for the researcher, even women educated behold secondary school were not willing to claim land. They cited issues like not wanting to offend tradition or hurting the harmonious relationships that exists with their brothers.

Taking the above into account, it must be acknowledged that women do not claim their inheritance for fear of offending custom. The social arrangements in the process complicate the process of land inheritance for women. The

concerns to this process were voiced by one woman in a focus group discussion. Her story and concerns as they were narrated to the researcher went as follows;

“My child, I would really want to inherit land from both my father and husband. But don't you see there are problems involved. If I were to claim land from my father who is long dead, I would have to claim land from my brothers who inherited all the land. Now that will mean I will have a bad relationship with them because it will mean going to sue them in court. Now if I have a sour relationship with my brothers and I happen to disagree with my husband where will I go for refuge? I am not going to spoil the relationship with the people who I would fall back to in case I have problems? I also do not have resources to pursue such magnitude of a case. Cases like these take a long time and cost so much money. Where do I get the money, time and permission to run around following up a case like this? Let us assume I get it after agonizing with them in court for so many years. I am married more than fifty kilometres from where I was born. That will mean I will have to travel all those kilometres to till the land because I have to sleep in my husbands house every day. In the event that I want to go and till the land I will need permission from my husband to go there. Remember he will have been offended by the claim in the first place. Do you really think I will be able to get it? Even if I get the permission where do you think I will get the time and money to travel all that way? As I farm in my husbands land I have to do other things as well. Like I have to cook the midday meal for my family and do other household chores. Now while I am more that fifty kilometres away who will do all these things for me? Now do you see the problem child? Tell me; just tell me, how do I deal with all these issues?”

As we see from this direct quotation from this respondent, there are practical problems that need to be deal with when it comes to women and land inheritance especially from the natal home. There is so much that can be said about the issues that have come up in this story from this particular focus group discussion. First, the issues that the women talked about can be looked at differently. They affect men as well. Let us take the example of one being

unable to access the land because of the distance between where they live and the land. But these issues affect the men as well. Looking at the population of the men who migrate to urban areas in search of better life, one would conclude that they also did inherit land. But they are able to make different arrangements for other people to take care of the land while they are away. This is also possible for the women if the social arrangements were more accepting. But as it is now, the patriarchal nature of the study population has anything but an enabling environment for the women to claim and manage land regardless of whether it is their right or not. Men who feel denied their rightful share of inheritance claim the same. They are not afraid of offending any custom because it favors them neither do they have to worry about offending the relatives that have denied them their rightful inheritance. But women have been socialized to always give up their interests for other people. They have been indoctrinated to accept their second class status without questioning. This is for sure one of the reasons why women think it is not possible to claim land and administer the same with or without support from the community.

The current state of gender relations in the study community treats male dominance as legitimate, natural, obvious and inevitable. The effect is to create a social-power hierarchy, in the context of which women are, by-and-large, reduced to powerlessness, economic marginalization, social vulnerability, and cultural inferiority, without any regard to their actual level of contribution to the processes of social production and development. Unfortunately, women have not been exposed enough to acknowledge this and seek change.

Women do lack legal education to enable them appreciate their rights; to enable them identify options that exist for them in law. Even those that were aware of their rights in law, they did not know how to get them. The only thing of common knowledge to the women that court cases take long and they require a lot of time and money. They do not seem to appreciate the kind of options that exist for them in law and how they could go about it. They are intimidated by even the thought of going to the main towns where courts are located. The judicial system infrastructure itself does not help matters. The

courts are located so far away from the people the distance itself discourages women from attempting to follow up their cases. These sentiments were expressed several times by the women in the focus group discussions. This impediment is critical because much as the courts may be ineffective, costly and out of reach for most of the women, one cannot ever hope to claim property without involving the courts. That, women fail to find an enabling environment to enable them to access justice when they are violated is of critical concern.

Even when women are aware and can afford to take seek legal redress, they at times shy away from doing so for fear of social stigma. As was evidently articulated by the above quoted woman, it takes quite a bit of courage for a woman to take her relatives to court. The community normally views women who do that as bad women. They are likely to be ostracized and isolated by both men and women alike. This makes women shy away from the same even when they have all that is required to seek legal redress.

As a result women are left to relay on traditional law which does not favour them at all. As one woman said in the focus group discussions, 'traditional law is in the person that is interpreting it' Given that the attitude of these the male only constitution of these institutions make things difficult and biased for women.

#### **4.4 SOCIAL NETWORKS SUPPORTING WOMEN TO CLAIM LAND INHERITANCE.**

This section relates to objective two of the research which sought to test the social networks in the study population that support women in claiming land inheritance. It also addresses the second hypothesis that stated that

there are no sufficient social networks and cultural institutions for supporting women in their property pursuit in the study area.

In Africa, Kenya generally and Nkuene location of the Meru district in particular arable land is most the valuable form of property and productive resource. For a significant majority of households in this community, land is the single most important security against poverty. It is an asset with permanence that few other assets possess. For this community, land especially ancestral land symbolizes a sense of identity and root in the community. It also symbolizes continuity of kinship and familial ties. While this is of critical importance, and has been appreciated widely, their importance especially to women has not received its due attention. This is clearly evident in critical examination of the institutions and social networks that exist to support individual and communities in their pursuit of these entitlements. Findings in this research clearly demonstrate that the positions of the social networks meant to support women in this regard are wanting.

**Table 4.28** showing whether or not women encounter any obstacles when they claim land inheritance.

<b>Frequency</b>	<b>Number of respondents</b>	<b>Percentage</b>
Yes	58	100
No	0	0
Total	58	100

One hundred per cent of respondents responded to the affirmative when they were asked if women encounter any obstacles when they attempt to claim land. This makes one want to find out if there are any support systems that one would turn to in case of these obstacles.

**Table 4.29** showing Obstacles faced by women claiming land inheritance

Response	Number of responses	percentage
Resistance from Relatives	47	21
Threats from relatives	48	22
Uncooperative administrators	38	17
Lack of resources to follow up cases	46	20
Lack of knowledge on their rights	45	19
Others	3	1
Total	227	100

The social networks in this community that one would expect to work for women work in exactly the opposite according to the finding of this research. One would normally expect to get help from relatives, and administrators. However, women reported resistance from relatives and said women who try to claim land also experience threats from relatives. Twenty two percent also said women experience discouragement from uncooperative relatives. This is really of critical concern on the rights of women. If relatives are hostile to a course, the individual woman may really be constrained when moral support and even financial resources are needed. It is common knowledge that most of the property is in the hands of men. So if they do not support a course then it is really difficult for any person under their care to do so. Male members of the community do not just have economic control they also have social control over member of their immediate families. They also do have the community role to safeguard the traditions and culture of any community. Given that this is a patriarchal community, it is evident that men do protect the part of culture that serves them.

**Table 4.30** showing reasons why women do not claim land.

Response	Number of responses	Percentages
Lack of knowledge	25	27
Lack of resources	30	33
Lack of support	20	22
Tradition	17	18
Total	92	100

To a large extent, this constraints women in their quest for their rightful share of productive resources. This is evident in the fact that a total of fifty five per cent of the women respondents reported lack of support and lack of resources as some of the reasons why women do not claim their land inheritance when they do not inherit land either from their natal or marital parents.

**Table 4.31** showing how helpful places that women seek help from are.

Response	No of respondents	Percentage
Very helpful	5	8
Fairly helpful	16	28
Unhelpful	18	31
Hostile	19	33
Total	58	100

It is also telling that the majority of women respondents view the structures where help is sought as being fairly helpful or unhelpful. Twenty eight percent of the women respondents view the institutions as being fairly helpful and unhelpful; while thirty three percent view the institutions as being hostile. From the above findings, it is safe to conclude that the most important social network namely the administration is not helpful to women. This is of critical importance because this is the officially recognized institution where help by all those offended by anyone can seek help. When this is not helping, then it leaves women with very few choices indeed.

**Table 4.32** showing the Gender of the officials that occupy these offices

Responses	Number of respondents	Percentage
Mostly men	50	86
Mostly women	1	2
Both men and women.	5	9
No response.	2	3
Total	58	100

From the above table the offices that women have to seek redress from are occupied by men. Women respondents reported that eighty six percent of offices are occupied by men.

Considering the attitude of men as seen in the table below, the above grime picture even gets worse. Women are not likely to have much confidence in males because they are the people who will have violated them in the first place. It would have been more attractive to women to have more women occupying these offices.

**Table 4.33** showing attitude of these officials to women's claims.

Response	No of respondents	Percentages
Sympathetic	12	21
Good	0	0
Bad	41	71
Others	5	8
Total	58	100

Worse still for the women claimants, the attitude of these officials is bad. A total of seventy one percent of respondents perceive their attitude as bad. It would have been a bit better for the women if the officials occupying these offices were men but had a good attitude to the claims. But as it is now, women perceive them as having a bad attitude. This indeed paints a



grim picture of the networks women can rely on in case they want to claim land inheritance.

**Table 4.34** showing percentages of women that claim land.

Responses	No of responses	Percentages
Yes	55	95
No	3	5
Total	58	100

Ninety five percent of women respondents said women attempt to claim land when they are not allowed to inherit or when they feel they have the right. However, from the statistics of the women who have land registered in their names standing at three percent, it is does not look like they are very successful in doing so. The researcher sought to find out why this is so by taking a look at what social networks exist to support women's legitimate claim to land.

**Table 4.35** showing where women that claim land get support.

Response	No of responses	Percentages
Blood relatives	29	20
Husbands clan	35	23
The chief	37	24
The law courts	19	12
Provincial administration	6	4
Religious leaders	13	9
Opinion leaders	12	8
Total	152	100

From the above, it is clear that women rely on the provincial administration as represented by the chief and the general provincial administration. It is evident from the above that the courts are not very popular with this population as four percent of the respondents said aggrieved women relied on law courts for help. Furthermore only twenty

percent of those interviewed said women relied on blood relatives to lay claim to that that they may have been denied. This is testimony to the fact that women cannot even relay on their blood relatives to help them claim land. It is not unusual that even those blood relatives are at times part of the conspiracy to deny women land inheritance.

Twenty three percent of the women said they claim from the husband's clan. This reinforces the earlier findings of this research that women in this community have a better chance of inheriting as wives as opposed to inheriting as daughters.

**Table 4.36** showing gender of interviewed leaders

Sex	Number	Percentage
Male	10	100
Female	0	0
Total	10	100

As shown in the above can be concluded from the finding of the researcher who had questionnaires for leaders in the study area. One hundred percent of all interviewed were men. Women in this community hardly ever have any leadership positions of any significance to gender equality of positive to the unique needs of women.

**Table 4.37** showing where women receive assistance from in cases of land inheritance.

Responses	Number of responses	Percentage
Paternal kin	17	13
Maternal kin	31	25
Church body	11	9
Women groups	17	13
Friends	21	17
Government officials	19	15
NGOs	10	8
Total	126	100

Only thirteen percent of the respondent women said women would expect to get assistance from women groups in the locality when they attempt to claim land. This is usually in the form of moral support as was reported by twenty eight per cent of the women. While moral support may be important, the researcher noted with concern that most of the other critical things to claiming land inheritance were not forthcoming. For example, only seventeen percent of the respondents said the women usually get financial support when they claim land. This matter is of grave concern bearing in mind those women who have been denied their inheritance. As stated above, women are more often than not reliant on land for their survival as they may not have other marketable skills to enable them to survive. When they loose land which is their most valuable resource especially in the rural areas, they are reduced to destitution. Financial assistance would therefore come in handy in this grave matter. As was evident from the findings of this research, this is only available on seventeen percent of the cases. This fraction given in mind the minimal number of women who claim land is very low.

**Table 4.38** showing type of support women gets from the community

Responses	Number of responses	Percentages
Financial	13	17
Moral support	21	28
Information	19	25
None	18	25
Others	4	5
Total	75	100

From the above table only thirty three percent of the respondents said one would expect to get relevant information from the locality. This is also of grave concern given that information is the enabling factor for one to claim what they are entitled to. Women not only need to know what is due to them, they also need to know how to get the same and also what is exactly the process involves to be able to pursue their cases knowledgeably. They need to know where to find the offices where they can find help. They also need to know the laws that relate to their claim and what exactly they are entitled to. Knowledge about the personalities that can provide the needed support can not be overemphasized.

To make this situation worse, thirty two percent of women said one would not receive any form of support from the community. This is critical considering that women are a vulnerable group in terms of access to information, resources, and literacy. As already discussed above, women are overrepresented in poverty and illiteracy statistics. This means that they need all the assistance that can be afforded them in all respects. For thirty two percent of the respondents to report lack of any type of assistance is very unfortunate indeed.

#### **Interviews with opinion leaders**

As from the above finding, one hundred percent leaders that were interviewed by the researcher were male. It is unlikely that women who will most probably have been let down by the same men by being denied land

will seek help from another male. This already weakens the effectiveness of the social networks that women can use to claim land inheritance.

**Table 4.39** showing what leaders have done to tackle the problem of lack of land inheritance by women.

Responses	Number of respondents	Percentages
Awareness creation	4	67
Seminars	2	33
Totals	6	100

Sixty seven percent of all leader interviewed all of who were men reported that they have attempted to create awareness to women on what really their rights are on land rights. However, from the findings of the women respondents, it clear that most of them are not aware of what their rights are in matters of land inheritance. Asked what they recommend would be done to enable women claim land; seventy five of them said registration should be passed that allows women to claim land. Unknown to them the law of Kenya recognizes the rights of both daughters and sons to inherit land and other property from their parents. They mistake the traditional practice of denying land inheritance to the female members of society to be the law of Kenya. This means that there not sufficient social networks to help women access accurate information on their rights to inherit land. With information almost absent from the access of these women, it difficult for them to know their land and of course they cannot claim rights that they do not know exists.

Furthermore, it is also unfortunate that the occupation of all leadership positions by men stands at one hundred per cent. For example, the provincial administration is the system that the government uses to deliver its messages to the citizenly. There was not a single woman sub-head man, headman, sub chief, chief or District officer in the whole of the division when the research was carried out. The officers mentioned are the ones who are charged the responsibility to educate people on their rights

and in return inform the government about the policies that are due for review. Except for the District officer, all the other officers come for the locality concerned. This means that they as a rule are bound by the culture and the traditional beliefs of their community. It is then obvious that they will not tell women about their rights just in case they upset their status quo. After all, the status quo favors them. They will also not likely to inform the government about the predicament of the women when it comes to land inheritance rights. So the masculine conspiracy of silence has kept women from accessing information that would otherwise enable them to claim what is rightfully theirs.

The attitude of these officials could in actual fact decide who accesses the women and what kind of information they have to receive. Before any seminars or any kind of education or awareness creation intervention is allowed in the locality these officials have to give their consent. So when their attitude is not positive it is probable that they block all intervention geared towards telling women about their rights.

### **Focus group discussions.**

In the focus group discussions, it was clear that the only place women who are claiming land can turn to are the following, blood relatives, the husbands' clan, the chief, the law courts, the provincial administration, religious leaders and opinion leaders in the community. It is extremely difficult for women to have any claim on land without the necessary support from society. This appears to be almost absent in this community. This would need to be in terms of knowledge and awareness creation to women on what really their rights are in this matter. Other forms of support that would be helpful would be a form of arbitration organizations that would take up claims of women who have been deprived of their rightful share in way of land inheritance.

It also emerged from the focus group discussions that there is not a particular group or organization that is specifically creating awareness to women on matters of their land rights. All the respondents that attended the discussions confirmed this. The only groups that exist are what is commonly known as merry go rounds where women contribute money and loan to each other in turns. The money is usually little and is mostly uses to buy very basic things like household utensils and clothing. Women do not ever have resources enough to enable them to buy productive recourses like land or even start up income generating activities that would improve their economic standing. It is therefore quite far fetched to expect that women will be able to get on their own economically without outside intervention.

From one of the focus group discussions it emerged that the rules of constituting the district land adjudication board that listens to cases of persons who have been aggrieved in all matters concerning land, be it inheritance or boundary issues. The process is such that one must begin with the immediate members of the family. If this does not work, then someone can involve the clan or the Ameru *mwiriga*. The *mwiriga* is always consist of male members of the community and women are not in any circumstances allowed to sit in the *mwiriga* because they are obviously either married into the clan or waiting to get married to another clan. In this scenario who then is really going to take care of women's interests?

The predicament this can bring to women is illustrated in one of the stories that were told in one of the focus group discussions. In response to a question asking what experience the respondents have had with women and land inheritance, one old woman has this to say.

"I know things about land do not favor women. I can give you my story. When I got married to my late husband he had just lost his brother. Traditions dictated that the two children that he had had with his one wife remain in the homestead. The widow left the homestead and latter remarried. So I took care of the two boys even before I had my own. My

husband and I educated the brother's children and generally treated them as we did our own. When they got become independent, they took over the land that they were left by their father from us. This was okay because all along we knew we were holding the land in trust for the children. The land was handed over by the *mwiriga* who are always involved in these kinds of transactions. The children were satisfied and the cordial relationship with my brother in laws children continued. Five years later, my husband died. That is when hell broke loose. My brother in laws children that I had educated with my own sweat and blood turned against me. They claimed the land they were given was not what they were entitled to. They claimed my late husband had promised to give them more land during one of those *mwiriga* sittings. I remember always asking my husband what transpired in those meetings. The answer I always got was that those issues were not for women. Now here I had to deal with the same issues I was kept out off all my married life. I knew for sure that these people got all their land from my family. But how was I to know whether my late husband promised to give more land or not? I was never allowed to know anything about what transpired in those meetings. I informed the *mwiriga* about it and they also supported their claim. So I lost more of my family land to this male exclusive conspiracy. How I wish women had more say in what happened in these processes. I would not have lost my land just like that".

In another focus group discussions, in response to a question that required respondents state to what support a woman would expect from the community if she were to try and claim land. One respondent gave a story of an NGO that had come to the locality trying to educate women about their rights. They were banned and thrown out of the area by the chief. He claimed that their activities were a threat to the harmony and peaceful existence of both gender in the locality.

This could explain the lack of organization or any sort of intervention to explain to women in the locality what their rights are in relation to land inheritance. It is critical to the benefit of women that the leaders



themselves are responsive to the needs of women. It is indeed obvious that at the moment this is not the case.

The above paints a very desperate picture to the case of women and land inheritance in the study area. It is clear from the above that women are almost on their own when it comes to claiming land. Traditions of the Ameru have it that only male members of the family can inherit land. But now times have changed but unfortunately, the traditional structures have stayed put.

## CHAPTER FIVE

### 5.0 DISCUSSIONS, CONCLUSIONS AND RECCOMENDATIONS

#### 5.1 DISCUSSONS

It is clear from the findings of this research that women are not at par with men in land inheritance in the study population. The importance of women access and land ownership cannot be overemphasized.

Land to women has got a lot more significance than is normally appreciated. Land when in the access of women can meet the several functions. First land when owned by women can significantly reduce the household risk of poverty. But for a combination of reasons land in the hands of men does not have this same potential.

Evidence from all over the world suggests that direct land transfers to women are likely to benefit not just the woman but also children. In studies done all over the world especially in poor household suggest that women spend most of the earnings they control on basic household needs, while men spend a significant part of theirs on personal goods such as tobacco, alcohol, etc. (Dwyer and Bruce 1988 ). This in turn affects children's welfare. For instance children in the rural parts of the developing countries were found to more likely to attend school and receive adequate medical care if the mother has more resources. (Duraismy 1992) Furthermore in rural Brazil, the effects child survival probabilities were found to be several times greater when assets income accrued to the mother, compared with when it accrued to the father, and the positive effect on daughters was especially high. (Thomas 1990). Besides differences in spending patterns, women with assets such as land have greater bargaining power, which can lead to more gender equal allocations even from male incomes. From the a foregoing figures and evidence it is safe to argue that, women and even their dependants incidence of poverty will be greatly reduced when women own land. This does not refer to access mediated through male relatives but direct access control and ownership by women themselves.

Women, even from wealthy backgrounds are vulnerable to destitution in case of desertion, divorce or widowhood in cases where they do not own any independent resources. It is not uncommon for women from the target community in particular and the Kenyan and indeed Africa society in general to be deprived of their inheritance both as daughters and even as wives. More often than not they are usually left destitute with children and other dependants. In this era of HIV and AIDS scourge, the age at which widowhood occurs is becoming younger and younger with each passing day. For example, According to the 1991 Uganda population census, 10.3 percent of females aged 15 and above were widows, two percent of men in the same age group were widowers and the sex ratio of widowers to 100 widows was 18.3 (Republic of Uganda 1995b) The younger a widow is the more vulnerable they are to being violated first in whatever a myriad of ways including ending up in unequal and uninformed sexual relations. These in turn again increase the incidence of HIV/AIDS infection to the widows. The same then again completes the cycle of poverty as sick widows are not usually able to take care of themselves or their dependants. Worse still widows who are disinherited are further exposed to violence as they having to depend on almost non existent and rejecting social networks for much needed support. Relatives do not always provide the expected economic security and support for widowed women or those whose marriages break. Many of them end up living on their own. In fact mortality risks among widows tend to be higher among those living as dependants of male relatives compared to those who are heads of households, and who presumably have some independent means of subsistence (Rahman and Menken 1990). Indeed, for widows and the elderly, being taken care of by either sex of their children sometimes depends on whether or not they have property to bequeath. Children will take care of their aging parents in the hope that they will end up with property when their aging parents finally die. Without this parents and indeed widows sometimes end up neglected and extremely poor. The elderly usually say, "Without property, children do not take care of their parents well" (Caldwell et al 1988).

Land can provide women with both direct and indirect benefits. Direct benefits can be in terms of growing crops both cash and food crops keeping of animals among other direct uses of land. Indirect benefits in accrue from various uses that land registered and controlled by women. It can serve as collateral for credit or as a mortgage able or saleable asset during a crisis. Looking critically at the importance of the role of women in agricultural production, this role of access to credit cannot be underestimated. Women in Kenya produce eighty percent of the total national food. But they own only five percent of the total land registered in Kenya. For women not to access credit is very critical to agriculture. They need the same to be able to improve their observably backward farming methods. If this were done the output from agriculture especially food crops would increase significantly. Women also do need to have access to morgeable property especially land to be able to diversify their courses of income as well. If they could access to land they could be able to access other forms of business opportunities. Trade and access to trade opportunities for example need one to have large amounts of money. To access this amount of money, loans are indispensable. Women all over the world in general and Kenya in particular lag behind in access to trade opportunities. This is evident in the type of businesses that are engaged in compared to men. Women are to be found in small businesses involving fruits and vegetables in the local markets while men do international boarder trades that are definitely more profitable. Given this unfortunate gender difference, women will continue to lag behind and sink further in the poverty statistics until and unless something is done to enable women access, own and control critical asserts like land.

More gender-equal land rights would also enhance productive efficiency. It has been proved by research that security of tenure can be critical in motivating farmers to make productive-enhancing investments in their farms. The need for the same incentives within families has not been appreciated. Studies done in Africa attest to this fact .Here in Kenya, for example, where men and women often cultivate separate plots, the introduction of weeding technology in maize production raised yields on women's plots by 56 percent where women controlled the output and only by 15 percent on their husbands

plots, where women also weeded but men got the proceeds (Elson 1995). These results clearly indicate the enhancing potential of secure land rights for women and their control of produce.

3 Research from some other parts of the world suggests that women might use land more efficiently than men in certain contexts. In Burkina Faso, for instance, due to their choice of cropping patterns women achieved much higher values of output per hectare on their own plots than their husbands did on theirs (Udry et al. 1995). Although women's yields for given crops were lower than men's, this was due to their lesser access to inputs such as fertilizers which were concentrated on the men's plots. The study estimated that output could be increased by as much as 10–20 percent if such inputs were reallocated from plots controlled by men to those controlled by women in the same household. A literature review of the effect of gender on agricultural productivity in several countries of Africa and Asia also concludes that output could be increased notably if women farmers had the same access to inputs and education as male farmers (Quisumbing 1996).

Women in Africa are better informed than men about traditional methods of farming as a result of their sustained relationship with the soil. If women would own land and control more land then this knowledge would then be put into better use. These traditional methods would for instance provide the much needed link between today's agricultural related problems with what knowledge traditionally tackled those problems.

Land access and control by women would further increase their level of empowerment. It would empower them economically and as a result increase their ability to challenge political and social and political gender inequalities. As seen in the findings of this research, percent women claim lack of resources as one of the reasons why most of them do not claim their land inheritance. If women had land they would in turn improve their lot and hence enable them to challenge other forms of discriminations in society. Land being a capital with more permanence and potential than any other would be a much better placed asset to afford them this potential.

## **5.2 CONCLUSIONS.**

It is clear from the findings of this research that the family is an institution with gendered interests. There is enough justification from the foregoing to challenge the conventional model of harmonious male-headed households where the male head of the household is perceived as one that caters for the interests of the family. It should be accepted from the family is both a institution of both conflict and cooperation where men and women have different interests, preferences and motivations. It characterized by selfishness and unequal distribution coupled with grossly unfair practices against the female gender. It is important to take all these issues into consideration when approaching the issue of access, adjudication, management and control of land by any segment of society.

### **5.3.1 ATTITUDE TOWARDS WOMEN AND LAND INHERITANCE**

From the finding of the research, it can be safely concluded that the general attitude to women and land inheritance is a negative one. The culture of the study community does no accord women the possibility of accessing land through inheritance. Land passes from father to son with very little if any considerations for women to inherit land. As a result of this only two per cent of all women respondents reported that they had land registered in their names. Although the law of Kenya allows women whether married or not to inherit from their parents, the culture of this community that does not accord women that right has clearly carried the day. Women in this community themselves are not aware of this right in law and even if they are, other obstacles stand in their way to laying claim to the same.

The women themselves have been conditioned to accept the situation as inevitable and some of them even justify it. The leaders in this community who would be expected to mitigate the effects of this discrimination claim they

have held awareness creation seminars to educate women on this matter. However, from the finding of this research, there is no evidence of such a thing having happened.

### **5.3.2 SOCIAL NETWORKS FOR SUPPORTING WOMEN IN THEIR PURSUIT OF LAND INHERITANCE**

The findings of this research did not reveal much in the way of social networks that support women to claim land when denied the same. It was evident that women do not even get support from their blood relatives when they attempt to claim land. As a matter of fact, eighty one percent of the respondents reported that they experience hostility from blood relatives when they attempt to claim land.

In the community, there was no other evidence of any organized way of assisting aggrieved women to claim their inheritance. Women seek assistance from the provincial administration officers and village elders most of who are biases against such claims. Legal education is not afforded to women by any organization. This is evident from the level of knowledge of legal rights due to the women.

### **5.3.3 OBSTACLES TO WOMEN LAND INHERITANCE AND CLAIM OF THE SAME WHEN THEY DO NOT INHERIT.**

Women encounter a myriad of obstacles when they attempt to claim land from their relatives. These are cultural, economic, technical, legal and political. Culturally, women have been conditioned to believe that women do not deserve land inheritance and therefore they do not even attempt to claim.

Furthermore even when they know and believe they are entitled to land inheritance, they do not claim for fear of offending culture and tradition.

Women also do lack the legal knowledge necessary to pursue land related cases when they go beyond the village. The judicial system is so complicated and intimidating for the women that they get turned off even before they start.

Financial and economic related issues are also another notable impediment to claiming land by women. Pursuing land related cases require a lot of time, finances and other resources. Most women do not control so much resources compared to men. This acts as a hindrance to woman's claim to what is rightfully theirs.

Attitude of the judicial officers is also a hindrance to women's claims. As we have seen there is some level of male conspiracy to maintain the status quo because it is in their favor. The gender discriminative judgments made in the few cases of the women who dare to pursue cases serve to deter other women from attempting the same.

#### **5.4.0 RECOMMENDATIONS**

No doubt from a foregoing, it is clear that women's rights are violated in indeed women are violated due to this lack of inheritance and hence access to land. No effort should therefore be spared to alleviate the situation and give women their well deserved inheritance and indeed access to land. This section will concentrate on giving various segments of society some recommendations on how to contribute to this task.

##### **5.4.1 POLICY MAKERS**

It is clear from the response of the women that most of them are not aware of the laws that exist to protect them from the being deprived o their inheritance. Policy makers the government included should therefore look for mechanisms of creating awareness among the community on the existence of these laws. It is the primary responsibility of the government to have an informed citizenry. In this important matter as land, the government should therefore first recognize this as a problem and then make women aware of what is rightfully theirs.

Furthermore, the parliament should pass into law all the pending bills on gender issues that are currently pending before parliament. In particular they



should consider introducing a law that presumes co- ownership of property during marriage. This will save women from being disinherited as is currently the case. Women and men who are married should have equal claim to marital property after dissolution of marriage or death of one spouse.

As it is now women lose their share of the same when the marriage is dissolved for whatever reason.

The judiciary should also retrain or at least make all judicial officers gender sensitive. Women in the study population complained about the attitude of most judicial officers. They claimed the judicial officers were biased against them and that they at times felt there was a male conspiracy to protect their kind from any kind of threat from women.

The same goes for the provincial administration. These are the people who link the government to the local population in the rural areas. They are the ones that interpret government policy and indeed are opinion shapers in the local communities. They should be targeted for sensitization on gender issues in general and on women and land inheritance rights in particular. If and when this category of leaders start to spread gender sensitive messages the people will read the signs of the time and accord women their rightful share of land inheritance.

The government should further make women's ownership of land as one of its priorities. Other than just land inheritance the government has got other opportunities that can accord women opportunities to own land. For example land resettlement schemes. The government normally occasionally gives landless people land. Unfortunately, this land is always given to the male head of household hence denying women yet another chance of owning land. Affirmative action should be practiced. More women than men should be given land in resettlement schemes to close the current grim statistics where Kenyan women have only five percent of land registered in their names.

Government is currently reviewing its land policy. This is a golden opportunity to mainstream gender issues in the national land policy. It should be an chance to create opportunities for women to own land and to protect the ones that already exist in policy, statutory and customary laws. The policy should

strive to introduce affirmative action where appropriate to address gender imbalances in land tenure, administration and management.

Cultural dictates of most Kenyan societies continue to support male inheritance rights to land. Women are always regarded as strangers both in their natal and marital clans. Fathers continue to transfer land to their sons, wives inheritance rights to husbands land is not guaranteed. Land adjudication and titling process is being done in favor of men. To correct this anomaly, parliament should enact appropriate laws on the basis of which woman can seek redress where they have been denied rights to land inheritance.

Furthermore in this era of HIV/AIDS where women are being widows at a very early age, policy framework should be put in place to protect women and girls against exploitation. Counseling and education on property rights should be made part of the wider knowledge on HIV/AIDS and be availed at all levels including inclusion of the same in the school curriculum and HIV/AIDS campaigns.

Parliament should domesticate all the international conventions especially those that are concerned with the social and economic rights of women. This is especially the convention on the Elimination of all forms of discrimination Against Women (CEDAW). This convention has clauses that outlaw all forms of discrimination be they economic or cultural. This should serve as a guide to judicial system as they deal with women economic and even civil cases.

#### **5.4.2 NON GOVERNMENTAL ORGANISATIONS AND CIVIL SOCIETY**

It was apparent from the level of awareness of women's rights by the study population that more needs to be done in this area. The women are clearly not aware of the inheritance rights that they possess as daughters and as wives. Most of them seem to think it is not their right to inherit land as daughters in the eyes of the law. They are clearly mistaking Meru customary law with the statutory law. This discrepancy need to be corrected in form of awareness creation and civic education. Sixty seven percent of leaders claimed to have held education seminars in the area; however, their impact

was not reflected in the knowledge levels of the study population. There is therefore an urgent need for civil society to design and implement programs that will address these needs. Women need to be provided with knowledge to enable them to make informed choices about their claims to land inheritance. They need to provide the women with knowledge of their rights plus know how to know how for example the courts system works. Women also need to be equipped with power to make the court official acknowledge her presence when they go there to follow up on their cases. They also need to be empowered enough to access other forms of capital to enable them to pay for the cases and to maintain themselves until the cases are addressed. All these factors need to be addressed before women can claim their rightful share of land inheritance. This is a challenge that should be taken up by women rights organizations and the civil society in general.

#### **5.4.3 WOMEN OF KENYA AND THE WORLD**

It is the rights of women that are violated by denying them land inheritance among other discriminatory practices. It is you women, affected and impoverished by this gross discrimination, who must use all national and international platforms to highlight your predicament and seek change. There is more strength in numbers so all women should unite and present their case to society from a united front.

#### **5.4.4 RESEACHERS**

There were several things that need to be researched further in this topic of women and land inheritance. As a way of making things better for women, researchers need to research on the most effective strategies for changing the lives of women. It is clear from the findings of this research that the attitudes of the general community towards women and land inheritance are negative. This needs to change for women to get into their rightful place in land inheritance. However, the issue of land in Kenya is generally a very emotive one. As such, researchers should explore the best way of challenging these attitudes without being confrontational.

It is clear from the finding that there has been very little research on this subject especially in the rural areas where women are really marginalized. It is therefore urgent that researchers conduct more research on other issues that affect women negatively as well. Some of the issues that were glaring were violations of women rights especially general property not just land. For instance, marriages end, women more often than not loose any property that they may have owned in joint ownership with the husband. Researchers need to find ways in which women can be assisted to retain marital property after widowhood, divorce or separation.

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## **APPEDIX 1 QUESTIONAIRES**

### **Questionnaire (wives)**

1. Name of village .....

2. Respondents

age.....

3. Religious affiliation.....

4. What is the level of your  
education.....

5. Is your husband alive?

1. Yes
2. No

6. What is his level of education?

1. Primary level
2. Secondary level
3. College diploma
4. College certificate
5. University degree
6. Others specify.....

7. Does your family own land?

1. Yes.....
2. No.....

8. Did you inherit any land or any property from your parents?

1. Yes.....

2. No.....

9. If no to above, do you know why?.....

10. If yes to 7 above in whose name is the land registered

1. Husband
2. Wife
3. Both our names Husband/wife
4. Father/mother/brother in law
5. Others

11.. If husband what does that make you feel?

1. Secure
2. Insecure.

12. If yes to above how was the land acquired .....

1. Bought.....
2. Inherited .....

13. If the land was bought did you contribute to the buying

1. Yes....

2. No....

14. If yes what percentage did you contribute?

1. 0 to 20 percent

2. 20 to 50 percent

3. 50 to 70 percent

4. 70 to 100 percent

15. Why is the land not registered in both you and your husbands' names?

1. I didn't think it was necessary

2. I was afraid to ask/demand

3. Husband would not agree.

4. I did not think about it

5. Others please specify.....

16. If you have daughters would you allow them to inherit some of your/  
husband's land?

i. Yes.....

ii. No.....

17. If yes

why?.....

.....

.....

18. If not why not

.....

19. If you bought land with your own money whose name would you have it registered in?

- a. Husband
- b. Mine
- c. Both names
- d. Male Children's
- e. Female children's
- f. Others specify.....

20. Why would you prefer to register the land in the above name(s?).....

.....

21. Do women inherit land in this area?

1. Yes.....

2. No.....

22. If yes in what circumstances, please explain

.....

.....

.....  
.....

**23. If they do not why do you think this is so? Please explain**

.....  
.....  
.....

**24. When women are not allowed to inherit land do they claim?**

- 1. Yes.....
- 2. No.....

**25. If not, why do you think this is so?**

.....  
.....

**26 For those who claim encounter any obstacles?**

- 1. Yes
- 2. No

27 For those who claim their inheritance what obstacles do they face if any? Please tick as many as appropriate.

1. Resistance from relatives
2. Threats from relatives
3. Uncooperative administrators
4. Lack of resources to follow up cases
5. Lack of knowledge on their rights
6. Others please explain.....  
.....  
.....

28 Where do those who claim go for arbitration or help?

1. Blood relatives
2. The husbands clan (mwiriga )
3. The chief
4. The law courts
5. The provincial administration
6. Religious leaders
7. Opinion leaders
8. Others please explain  
.....

29 How helpful are these places where they go? Please explain

1. Very helpful
2. Fairly helpful
3. Unhelpful
4. Hostile



5 .Others please

explain.....  
.....

30 Who are the people who occupy these offices / institutions where those claiming women claiming property seek help?

- i. Mostly Men
- ii. Mostly Women
- iii. Both men and women.
- iv. Mostly women

31 What is the attitude of these

Officials? .....

- i. Sympathetic  
.....
- ii. Good  
.....
- iii. Bad  
.....

32 Do they receive assistance from any of the following (tick as many as applicable)

- a. Paternal kin.....
- b. Maternal kin.....
- c. Church body.....
- d. Women groups.....
- e. Friends.....
- f. Government officials .....
- g. NGOs.....
- h. Others specify.....

33 What support if any do they get from the general community?

- 1. Financial
- 2. Moral support
- 3. Information
- 4. None.
- 5. Others please

explain.....  
.....  
.....

34 If you were to be asked to advice women on land inherence, what would be your advice?

.....  
.....

35 .If you were to be asked to make some recommendations to the government or any other authority on the issue of land inheritance by women what would you say?.....

.....

**Focus group discussions interview guide.**

1. Introduction by the researcher and moderator.
2. Positioning of the participants.
3. Participants introduce themselves by giving their names.
4. Introduction of the topic Women and inheritance rights.
5. What are your first thoughts about women and land inheritance in this area?
6. Tell us an experience you have had on women and land inheritance in your life.
7. Do women in this area inherit land the same way men do?

**Attitudes towards women and land inheritance.**

8. What in your experience do people in this area feel about women and land inheritance?
9. Do women in this area attempt to claim land inheritance from their male relatives?
10. If not why not? If yes what are the results of these attempts?

## **Social networks in support of women's land inheritance claims**

11. What support would a woman expect in this community if she were to attempt to claim land inheritance?

## **Obstacles to women claim to land**

12. If a woman attempted to claim land from male relatives what do you think would be her obstacles?

13. Some of you mentioned culture, lets us talk about that.

14. If one was to want to help women claim land inheritance what would be your advice to them?

15. What would you recommend be done by any authorities who may wish to improve that part of women's lives.

16. Any other comment?

17. Researcher thanks the participants for their valued contribution and time.

**Questionnaire for leaders**

1. Name of village .....

2. Respondents

age.....

3. Religious affiliation.....

4. What is the level of your

education.....

5. Leadership position.....

- a. Elective
- b. Civil service
- c. Voluntary
- d. NGO
- e. Religious
- f. Others specify

6. What do you think about women and land inheritance in this location

?.....  
.....  
.....

7. Do women inherit land from their parents in this area

?.....  
.....  
.....

8. What do you think about the number of women who inherit land in this location?

.....  
.....

9. On average how many women in this location do you think own land/have land registered in their names?

- 1. 0 to 10
- 2. 0 to 20 percent
- 3. 20 to 50percent
- 4. 50 to 70percent
- 5. 70 to 100percent

10. As a leader in this area have you recognized that as a problem?

- 1. Yes
- 2. No

11. Are there any problems that are experienced as a result of women lacking inheritance to land?

- 1. Yes
- 2. No

12. If yes what are they?

.....  
.....  
.....

13. As a leader in this area have you done anything to promote land inheritance rights by women?

- 1. Yes
- 2. No

14. If yes What

? .....

15. If no why not

.....

16. What in your opinion what is the major hindrance to land inheritance by women? .....

17. In your opinion should women inherit land the same way as men ?

- a. Yes
- b. No
- c. Others specify.....

18. What should be done to improve the situation?.....

19. Would you allocate land to your daughters?

- a. Yes
- b. No



**20. Give reasons for your answer**

.....

**21. Do you have additional comments?**