

**RELATIONSHIP BETWEEN LAND REFORMS AND
GENDER BASED VIOLENCE IN KENYA: A CASE OF
TETU SUB-COUNTY, NYERI COUNTY**

STEPHEN MUTHOGA NYAMBURA

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DECLARATION

This research project is my original work and has not been submitted for examination to any other university.

Signed _____

Date _____

NYAMBURA M. STEPHEN

REG. NO. L51/74781/2012

This research project has been submitted for examination with my approval as the University Supervisor.

Signed _____

Date _____

PROF. JOYCE MBWESA

ASSOCITE PROFESSOR

DEPARTMENT OF EDUCATION STUDIES

UNIVERSITY OF NAIROBI

DEDICATION

I dedicate this work to all men and women who struggle to get what has been denied as pertains to land, through customary and legal malpractices. To my two daughters, Mary and Margret, My wife Catherine and my two sons Silvester and Lawrence. May my daughters grow to become free citizens free from any biased practices.

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ABSTRACT

Women account for 50.3 per cent of the national population but face challenges in accessing and controlling land resources. Whether in education, employment, and land rights or seeking health, women tend to be disadvantaged. The purpose of the study was to analyze the relationship between land reforms in Kenya and gender based violence. One of the most important and immediate motivations for this research are challenges facing women on matters on land and land acquisition and control. Specifically, the study aimed to find out the relationship between equitable access to land and gender based violence; establish the relationship between customary practices pertaining to land rights; establish the relationship between protection of right to property and GBV and explore challenges facing women in effective land disputes resolution in courts in Nyeri County on matters pertaining to land inheritance and how it relates to GBV. Descriptive survey design was used. The study targeted women who have been marginalized pertaining to land inheritance and land ownership through customary practices. The researcher used purposive Sampling that allowed the researcher to use 45 cases that had the required information with respect to observed that the objectives of the research. Researcher used questionnaires to collect data. The following is a summary of the findings. The study found that 50% of the participants indicated that the in-laws were in charge of decisions on use of land. The study found that a significant number (93%) of respondents did not possess a title deed to their piece of land. A significant number (95%) of participants had experienced threats on land related matters. The study found that there was a significant relationship ($p=0.046$) between equitable access to land and gender based violence at 95% confidence level; there was also a significant relationship ($p=0.037$) between protection of rights to property and gender based violence at 95% confidence level. In addition there was a significant relationship ($p=0.044$) between customary practices and gender based violence. The researcher concluded that women had no equitable access to land and this created conflicts when they tried to inherit land from heir matrimonial or husband's family land. The researcher also concluded that women had no protection of rights to property in that they did not have a title deed to their land. The researcher concluded that customary laws were a source of conflict; women were not included in the will to inherit land. The researcher recommended that the government should create awareness among the citizenry on the right of women to inherit land. The researcher also recommended that the law should make it illegal for persons to use land which they do not have a title deed to.

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ABBREVIATIONS AND ACRONYMS

CoK 2010	-	Constitution of Kenya 2010
FIDA	-	Federation of Women Lawyers in Kenya
GBV	-	Gender Based Violence
SIDA	-	Swedish International Development Co-operation
UN	-	United Nations
UNDP	-	United Nations Development Programme
RoK	-	Republic of Kenya
NLP	-	National Land Policy
KHCR	-	Kenya Human Rights Commission

CHAPTER ONE

INTRODUCTION

1.1. Background to the study

According to a Position Paper on Engendered and Rights Based Land Reforms in Kenya (2011), Land based resources have been poorly governed especially in Africa, occasionally leading to unprecedented conflicts, violations and afflictions in the society. Due to this, a quest for equitable and secure land rights reforms makes a major area of focus in struggles for justice and reforms since scramble for Africa to date.

Land is a significant form of property worldwide for it links economic, cultural, political and legal dimensions of social life. A critical land tenure system recognizes the interests of all people in advancing social and economic equity .Yet access and rights to land that are specific to women has continued to be ignored .Odgaard and Bentzon,(2008)

Most of the African societies live on agriculture in terms of shelter and as an economic resource. Thus land is a valuable entity. With women being continuously denied the right to own land, it becomes a challenge for the majority to economically lift themselves and their families out of poverty. Ngone and Mohamadou, (2003)

According to the United Nations Human Development report (UNDP 1995), it is stated that in no society today do women enjoy the same opportunities as men because of their sex. According to Terry, (2007), women face major obstacles leading to deaths and disability, hampering equal access to education thus reducing their freedom of opinion and expression UNDP, (2010) concurs to this. They thus have limited say in decisions that affect them both in terms of land access, credit and jobs, (UN women 2011b)

Sisters do not have same right to own land as their brothers, depriving them reasonable livelihood which by extension impoverishes their children. Women worldwide face more constraints than men. They tend to be poorer. When livelihoods are threatened they create conflicts. SIDA, (2009)

Land is becoming a key source of conflict in sub-Saharan Africa where land access is traditionally egalitarian. Local land conflicts can erupt into large-scale strife or political movement. Adre and plateau,(1988) and Fre –mensah.1999 and Daudelin, (2002)

In many African countries, formal institutions for land administration are simply superimposed on traditional structures without a clear delineation of responsibilities and competencies thus lacking outreach and social legitimacy. Deininger, (2003).

Kenya has one of the most advanced land titling system in Africa. In Kenya, formal individualization of land has been in place since independence. The 1954 Swynerton Plan granted individual land titles to African farmers. This was reinforced by native Land Registration Ordinance 1959 later replaced by Registered Land Act of 1963 and the Land Adjudication Act 1968. Migot, Dholla and Place(.1998). Though this might have increased security in land tenure, it has also created challenges and conflicts over women land ownership and control of sales. Shipton, (1998).

Karuti and Mitulla, (2010) pointed out that apart from unfavorable cultural context, the Kenyan past legal policy has been constraining women's land rights. The old constitution recognized customary law and in several instances women's land rights were infringed. For example 1972 law of succession act excluded women from inheriting agricultural land and livestock! Women constitute slightly more than half of the Kenyan population. According to the recent national population and housing census, women account for 50.3 per cent of the national population but face challenges in accessing and controlling land resources .Whether in education, employment, and land rights or seeking health, women tend to be disadvantaged. Customs and ethnic based traditions have discriminatory laws that tend to perpetuate gender based inequalities which are applied as need arises. Though the rules rights have been discarded, men do refer to them just in case it favors them. According to Ngone and Mohamandou, (2003); Depending on whether a woman is married, divorced or widow, she is assigned the duty or even the obligation to cultivate the land belonging to her husband or his family. Yet she is denied the right of possession.

One of the most important and immediate motivations for this research are challenges facing women on matters on land and land acquisition and control. Women have often

been evicted when their marriages end or breakdown. Widows are often evicted from their married homes by their husbands' families. Divorced or widowed women who return to their natal home when their marriages end are often made to feel unwelcome and are evicted by their brothers. Unmarried sisters are often evicted from their natal homes by their married brothers after their parents die. This is because sons assert that they alone inherit the land, even where the father may have chosen his daughter to be responsible for the family home. Married women are not treated as people who have rights in the land. Land is treated as the property of the husband and his natal family. Kiruti and Mitulla, (2010). Wives are not consulted in relation to decisions about the land transactions. They are treated as minors both within the family and the community.

Drimie, (2002) contends that women are often excluded from traditional institutions where key decisions about land rights are taken. They are not allowed to address meetings or are ignored when they try to speak on issues pertaining to land. Traditional courts which deal with family and land disputes are dominated by elderly men who favors men over women resulting to women being evicted from their homes. Households are more worried about future conflicts on unregistered parcels of land.

Wanyeki, (2003) points out that the Kikuyu customs and practices allow the wife of the deceased husband to hold land in trust for her male children for they cannot legally inherit., worse is if the widow has no children, they are threatened to leave especially if they refuse to marry one of their husband's brothers. Within the Agikuyu customs, land rights are vested in the hands of heads of families who are invariably male and they control land use. Land is highly valued as it is an important source of wealth and power.

Under customary rules, women whether married or unmarried have little or no control over land. They gain possession of land through their men or their status as wives. Women are often denied the rights to inherit land by their family .Even land bought jointly with the man's wife cannot be divided between the man and the wife should they divorce.

According to the Kikuyu customs, as pointed by Jomo Kenyatta in his book Facing Mt. Kenya,(1938), women's land relationship is limited to farming not ownership because

they are regarded as lacking the capacity to making major decisions about land use. In marriage, once a bride price has been paid by a man to a woman's family, the woman is given to the man for marriage and on this basis she is considered property .Property cannot own property thus customary a woman had/have no rights to the land of her husband even upon divorce. All this has led to conflicts as women try to address what they have perceived as oppression.

According to the Kenya Transitional Justice Tool-kit for training, the struggle of women on control and ownership of land and land resources is well addressed in CoK 2010. There is a range of legal, policy and institutional frameworks which have direct and indirect implications to reforms and governance pertaining to equitable and equal access to land as contained in CoK, (2010). These are; National Land Policy 2009, National Land Commission Bill, Land Bill, Land Registration Bill, Community Land Bill, Devolved Government Bill, Matrimonial Property Bill, Family Protection Bill, The Marriage Bill, Environment and Court Bill, Evictions Guidelines, National Policy on IDPs, National Policy on Human Rights and Legal Policy and Administration Actions by the Lands Ministry.

Chapter four of the constitution of Kenya, (2010) on Bill of Rights is specific in the economic and social rights which entail health, housing, food, water and education. Protection of right to property more depends on access to land and land based resources. Article 40 (2-3) of the CoK 2010 provides that parties in time of marriage, during marriage and at the dissolution of marriage are entitled to equal rights. This touches more on land management as joined matrimonial property which totally contradicts the Kikuyu customary land ownership and administration.

Chapter five of the constitution of Kenya on Land and Environment, Article 60 provides that land in Kenya shall be held, used and managed in a manner that is equitable, efficient, productive and sustainable. Article 60(1) regulates the recognition and protection of matrimonial property and particularly matrimonial home during and on marriage dissolution.

Chapters ten and twelve of the constitution of Kenya are important for effective land disputes resolution in courts through Land and Environmental Court Bill. The challenge is ignorance of its existence during land disputes in the local set ups. Chapter thirteen which accords access to information is still ignored by officers in various offices who still hold information in secrecy as was in the old constitution.

In order to analyze principles and values in formulating policy, legislative and administrative framework of land based resources, the following has been provided by the CoK 2010: Rule of law, access to justice, human dignity, social justice, equity and equality, non-discrimination, protection of disadvantaged and marginalized must be upheld. Equitable access to land, elimination of gender discrimination in land governance and land based resources, accountability, integrity, competence, impartiality, transparency, fair administrative action have to be put into practice and sustainable development.

Most of the provisions indicated above and expected practices critically contradict what has been practiced for generations under the old constitution and Kikuyu customary practices. Conflicts emanate as women in Tetu District, Nyeri County demand to be treated as per the legislations embedded in the constitution. This threatens the status –quo as practiced through cultural practice. It is this difference in practices of culture and Constitution of Kenya 2010 that has created conflicts leading to GBV as women continue to demand rights to inherit, own and control land. This is what the researcher intends to highlight.

1.2. Statement of the problem

In Kenya, struggle for reforms on land has been exacerbated by injustices and maladministration on land matters like conflicting land laws, outdated land laws being practiced, cumbersome process of: planning, surveying, adjudication, settlement and land registration. Also manual land records accumulated over years, many land disputes and poor service delivery in government institutions. Under the old laws, women have suffered several abuses pertaining to their land and property rights through lack of property and unequal of land and property rights. The old judicial system had been

conservative and had continued to give rulings that were unfriendly to women (Kanyinga & Mitulla, 2010).

Culture, being practiced up to now is playing as a big obstacle in undermining efforts embedded in the new constitution in support to equal sharing and access of property and land. The Kikuyu (who make the majority in Nyeri County) culture and traditions invoke to assign property and land rights to men more often holding that women are forbidden to own or inherit land. With inauguration of the new constitution and subsequent passing of various land rights, and following enlightenment of women pertaining to land rights, there has arisen a new kind of awareness pertaining to inheritance which has greatly conflicted with the selfish cultural practice of male favoritism leading to gender based violence.

For generations, up to the birth of the new constitution of Kenya 2010, it has been sad to observe a girl who cannot inherit her father, a single mother who cannot inherit from her parents, and a wife who cannot inherit from her husband! The land reforms has corrected these anomalies but has conflicted with many Kenyan land cultural practices including the Kikuyu. The purpose of this project is to analyze the relationship between the new land reforms in Kenya and gender based violence that affects families.

Factors leading to continuous women struggle for land acquisition are irregular allocation of public land, proliferation of slums, squatting, landlessness, environmental degradation due to unsustainable use of land, women, children and minority groups inequitable land access. Others are land underutilization in agricultural sector, historical land injustices, regional imbalances, population pressure and urbanization challenges (KHRC, 2011). The aim of the research in this project was to investigate the nature of women's land rights as related to GBV. The research aims to put into light that customary law is stagnant and cannot be easily changed due to its partisan favoritism.

That customary law always has negative outcomes for women especially as regards to land rights of ownership and control among the Kikuyu and especially in Nyeri County. One of the key motivations for this research is challenges facing women in Tetu District, Nyeri County and in the country as a whole. Women face the following

problems pertaining to land rights. They are often evicted when their marriages break down or end. Evictions are instigated by their husband's families. Divorced, widowed women and single families are often unwelcome and are evicted by their own brothers. Unmarried sisters are often evicted by their brothers after their parents die due to the brothers assertions that they alone have the right to inherit Okoth, (2000), ignoring what is embedded in CoK 2010. Married women are not treated as people who have rights on land.

Land is treated as property of the husband. Wives are rarely consulted in matters related to land. Women are treated as minors both within the family and the community. Conflicts arise when women refuse to conform to these cultural practices and embrace the new constitution in fight of their rights. Goheen,(1996). It is this constitutional reference by women and its consequences that the research was based on.

1.3. Purpose of the study

The purpose of the study was to analyze the relationship between land reforms in Kenya and gender based violence.

1.4. Objectives

The study was guided by the following objectives:

- i. To find out the relationship between equitable access to land and gender based violence
- ii. Establish the relationship between customary practices pertaining to land rights and GBV in Tetu Sub County, Nyeri County .
- iii. Establish the relationship between protection of right to property and GBV in Tetu Sub County, Nyeri county
- iv. Explore challenges facing women in effective land disputes resolution in courts in Nyeri County on matters pertaining to land inheritance and how it relates to GBV

1.5 Research questions

The following research questions guided the research:

1. Is there a relationship between equitable access to land and gender based violence in Tetu District, Nyeri County?
2. Is there a relationship between customary practices and GBV in Tetu Sub County , Nyeri County?
3. Is there a significant difference related to protection of right to property as embedded in CoK 2010 as compared to Kikuyu customary practices and GBV?
4. Is there a relationship between challenges facing women in effective land disputes resolution on inheritance in courts and GBV in Nyeri County?

1.5.1 Hypotheses

The following Hypotheses were tested in the study:

- i. There is no relationship between equitable access to land and Gender Based Violence.
- ii. There is no relationship between customary practices and GBV in Tetu Sub county, Nyeri County.
- iii. There is no significant difference related to protection of right to property as embedded in CoK 2010 as compared to Kikuyu customary practices and GBV.

1.6. Significance of the Study

This project examined implications for women's in land, customary systems of land tenure and its shortfalls in meeting the needs of all land users and claimants. The Kenyan women, more the Kikuyu women and other marginalized individuals dissenting voices which are more equivocal about trusting the customary system and preferring instead to look up at the full implementation of CoK 2010 which protects all gender interests.

There are significant problems in customary systems of land tenure and administration for achieving gender justice. Conflicts and violence are exacerbated by insufficient

attention being paid to power relations more in the country side and its implication towards women who are not well represented at the local level power structures. This study will benefit decision makers involved in land related cases and women. The results will also be useful to Non-Governmental Organizations dealing with women rights, community leaders and recognized County and Sub – County forums like JPRC that deals with conflicts

1.7 Limitations of the Study

The aspects that may affect results are sample size selection which was not randomly selected but from established individuals who have been affected by violence related to land. This purposive selection was made possible by the Sub-County office courtesy of JPRC who have/are handling land related conflicts in Tetu Sub –Counties. The data collecting procedures did not cover all aspects of gender based violence, except for land related GBV. Due to limited time and meager finances the research did not involve a case study which is more effective in gender related issues but studied cases of many individuals involved in gender based violence on issues related to land year 2011.

1.8. Delimitation of the Case

Tetu Sub County in Nyeri County covers an area of 217.6 square kilometers with an average density of 415 persons per square kilometer. It comprises of Tetu East and Tetu West. The Female population according to 2009 census for Tetu Sub County is 40547 and 37773 for male, making a total population of 77320. Total number of households is 21 623, with Tetu West comprising of 9 468 households and Tetu East comprising of 12 155 households. The average farm size is 0.6 hectares for small scale farmers and 4 hectares for large scale farmers.

According to 2009 Nation Population and Housing Census, Nyeri County had a population of 693558 people with a density of 202 persons per square kilometer. This makes Tetu Sub County most highly populated Sub County in Nyeri County. Majority of

the population in the County practice agriculture and livestock farming. Agriculture contributes 53 per cent of household income.

Nyeri County scores high in terms of socio-economic indicators such as primary school enrolment for both boys and girls with 89 per cent for boys and 86 per cent for girls. At secondary level enrolment for boys is 75 per cent and girls 68 per cent. Overall literacy level is higher than national average with 82 per cent for females and 96 per cent for males.

With education accounting for significant variation in gender inequalities, this implies that women in Nyeri County are likely to have a large mass of educated women, hence higher chances of a higher level of awareness on their land rights. Consequently, this high awareness is instrumental in rights claiming and especially property and land rights.

1.9. Assumptions of the Case

The study was based on the following assumptions;

That the respondents were honest while answering questions and that the sample collected represented the population. The study also assumed that the data collection instruments were valid and could measure the required constructs. The affected man and women would volunteer information. The administrative institutions from the local level would release data as requested.

1.10 Definition of Significant Terms

Land : Earth surface, subsurface rock, any water body, natural resources contained on or under the surface. Air space above the surface

Human Rights : Entitlements and obligations meant to preserve human dignity and development designed to protect valid and fundamental human rights.

Gender : Socially constructed roles played by men and women as ascribed to them on basis of their sex. Gender will be treated as a component of

human rights aiming at ensuring fairness and equality of treatment and opportunities among men and women in the society

Gender Based Violence (GBV): For the purpose of this research, GBV will embrace a range of concepts that incorporates an analysis of gender inequality perpetuated towards women by power and gender inequality as its root cause. GBV is an act that results or is likely to result to suffering, coercion or arbitrary deprivation of liberty whether occurring in public or private life.

Gender Justice : Promotion and protection of civil, political, economic and social rights. Also assessment of access and obstacles to rightness enjoyment of women, men, girls and boys and adopting gender sensitive strategies for promoting and protecting them.

Women : Female, youth, children, marginalized

Domestic Violence: Violence against a family related person, or a threat of violence to the same person with a domestic relationship. Also deprivation of economic resources as entitled under the law.

1.11 Organization of the Study

The study was organized into five chapters. The first chapter consists of background to the study, statement of the problem, purpose of the study, objectives, research questions of the study, significance of the study, delimitation and limitation of the study, definition of significant terms and summary of the chapter. Chapter two is review of literature in line with the six objectives of the study. Also theoretical and conceptual framework. Chapter Three consists of methodology. That is research design, location of the study, target population, sample size and sampling techniques, data collecting instruments, validity of the instruments, reliability of the instruments, data collection procedures, data analysis and ethical issues and consider. Chapter four presents the findings while chapter five comprises of conclusions and recommendations.

CHAPTER TWO

LITERATURE REVIEW

2.1 Introduction

This chapter analysis some causes related to land which also cause Gender Based Violence (GBV) world wide. Farther the chapter focuses on land reforms in Kenya as stipulated in the new constitution CoK (2010) in various sections, articles and bills. The chapter also touches on some cultural practices among the Kamba and the Kikuyu.

Other issues include the National Land Policy (NLP) provisions and how they relate to GBV. Other specific areas in the Constitution of Kenya 2010 (CoK 2010) that relate to GBV such as right to property, joined matrimonial property, marriage bill, effective land disputes, land disposal procedures, public service standards and bill of rights. The cultural practices as relates to CoK 2010 provisions on matters related to land and how this has caused GBV is what the researcher intended to study.

2.2 Land Injustices: Disparities in Land Ownership

Globally women have low land rights, in land access and ownership, both legally and more often as implemented by customary practice (Gray & Kavane, 1999) and UN (HABITAT, 2006). Titling and certificate schemes have been found to have adverse effects on women as compared to men based on existing power structures (Lastarria-Cornhiel, 1997; Whitehead & Tsikata, 2003). However this study has not analyzed gender based violence related to these law land rights. The present study attempted to analyze relationship of land rights as it relates to gender based violence.

Worldwide, human security, rights and development are all based on land resources which is the major key to realization of human security in every society. Land based resources have been poorly governed especially in Africa, occasionally leading to unprecedented conflicts, violations and afflictions in the society. Due to this, a quest for equitable and secure land rights reforms makes a major area of focus in struggles for

justice and reforms since scramble for Africa to date. Within the Sub-Saharan Africa, any level of land conflict may undermine land governance and management, constrain agricultural productivity and be a source of violence. Although there has been sharp increase in the gender and land literature in the nexus with conflict situations especially involving families not much has been done on area involving relationship of land reforms and how in each country these reforms relate to GBV (Pauline Peters, 2004). This is the area the researcher attempted to analyze in Tetu District, Nyeri County in Kenya.

There has been a growing literature pointing to the importance of family law and classifications of marital regimes in securing land rights and access for women (Deere & Doss (2006); Kumar & Quisumburg (2010)) For example Bruck and Schindler (2009) examined small holder access in Northern Mozambique and found that female headed households are disadvantaged in terms of assets and social networks as compared to their male counterparts. Deininger and Castagnini, (2006) examined the effect of land Acts on land conflict in Uganda and found that the probability of experiencing land conflict increases by 14 per cent for households headed by widows and 48 per cent for households by a woman separated from their husband. Despite land reforms and adoption of liberal land policies with respect to women's rights in Uganda (Government of Uganda 1999; 2003) women are still minority owners of land with female controlling less than 10 per cent. Deininger and Castagnini (2006).

Customary tenure system in Uganda is in patrilineal inheritance giving male kin preference in transfer of land rights which is associated with discrimination of women and marginalized groups. Adoko and Levine, (2008). However the study did not analyze the relationship of the land reforms and gender based violence. This is the area the researcher intended to investigate in Kenya, Nyeri County, Tetu District as related to the new land reforms as constituted in CoK 2010.

2.3 Land Reform Processes in Kenya

According to KHCR paper (2010) on land Rights and Reforms Agenda in Kenya, land relations in Kenya is one characterized by foreign subjugation and occupations, wanton

abuse of legal trust vested in government and a failure to redress colonial legacy of injustice by post colonial governments.

The National Land Policy (NLP) of Session Paper No. 3 in December , (2009) was guided by gendered and rights based principles like equitable access to land, secure land rights. This was complimented by values by consultative, participatory, interactive, consensus based and gender sensitive involvement. The vision of NLP is to guide the country towards efficient, sustainable and equitable use of land. Under the previous constitution, NLP identified major problems which included non –establishment for frameworks for efficient, accountable and equitable administration and management of land and land resources. Also there was lack of accountability in land governance leading to irregular allocation of land, mass disinheritance of communities and individuals of their land. There was also inequitable access to land particularly for women, children and the minority.

Human Rights and Gender Based Framework Analysis of Land Reforms Process in Kenya, (2010) pointed out that to deal with the old inefficiencies, the new constitution instituted participation of citizens in decision making processes on land matters. Security of legitimate land rights and equitable access to land. Protection of human rights especially for women, minorities and children. Under private land tenure the constitution has ensured that private rights like rights to spouses and children pertaining to land is held and transmitted without discrimination. These new provisions have not been honoured, leading to conflicts as women assert their sovereign. This is the conflict I am investigating in order to establish whether it leads to increased GBV.

According to KHCR (2011). Land reforms in Kenya are laid down under the following framework; Human rights entitlements and obligations meant to preserve human dignity and development. Also rights based approach which encompasses norms, principles, standards and goals of international human system. This approach recognizes poverty, marginalization, discrimination and exploitation as injustices. Also includes gender justice as the protection and promotion of civil, economic and social rights on the basis of gender equality. Also involves assessment of access and obstacles to the enjoyment of rights, promoting and protecting these rights. Gender then is a human rights component

ensuring fairness and equality of treatment and opportunities among men and women in society.

The above has not been well established and fully implemented. Customary practices still shadow the constitutional provisions which leads to conflicts emanating from issues of fairness, equality, and equal opportunity to land ownership, control and inheritance as pertains to women. It is this conflict that the researcher will try to investigate. The constitution of Kenya, (2010) in different articles of Chapter One and Chapter Two provides the following considerations to be taken into place on the governance of land based resources. People's sovereignty and constitution supremacy, rule of law and access to justice, Human dignity, equity, social justice, equality, non-discrimination and protection of the disadvantaged.

Chapter Four of the CoK 2010 on the Bill of Rights provides for equitable access to land, security of land rights and elimination of gender discrimination in land governance and land based resources. Integrity, impartiality, transparency and fair administrative actions .Freedom of expression, right to access of justice, rights for the children (section 53, 1(e),) also article 2 provides for the marginalized and the youth. Section 56 provides for affirmative action of the marginalized like women. But with increased single motherhood within Tetu District, Nyeri County, women are demanding an equal share of their inheritance. This has led to animosity projected towards them by their male siblings and kins .Farther, these practices have been hindered by customary practices which are still supreme. Society does not fully recognize women on land related matters.

Due to this social discrimination, women are fighting back to gain what is rightfully theirs as stipulated in the constitution. Most of the office bearers are men who are still in the custom cocoons and thus becomes a challenge for them to be impartial and transparent in land matters relating to women. This has led to women using all means possible to acquire what's rightfully theirs. The researcher intends to highlight this conflict that has led to GBV.

Article 40 (2-3) of the Constitution of Kenya, (2010), provides that parties to a marriage are entitled to equal rights at the time of the marriage, during the marriage and at the dissolution of the marriage all which is critical in the management of land as a matrimonial property. Also Article 45(4) of the CoK 2010 recognizes marriages concluded under any tradition, or system of religion person or family law.

The Marriage Bill contravened the constitution which stipulates for equal rights. The bill left the woman with the burden of proof that she was part and parcel in the contribution of wealth acquired during marriage, thus leaving a window of the woman losing property, yet the male spouse has not been given this burden but inherits when female spouse dies. The same bill allowed polygamy through traditional unions creating a stage for controversies in case of the husband's death without a valid will. It is these gaps that the researcher will investigate and how they are related to increase of GBV in Tetu District, Nyeri County. This is the conflict the researcher intends to highlight.

2.4 Land injustices –Transfer and Access of Land

Article 67 of the CoK, 2010 which establishes National Land Commission (NLC) gives a guide and principles regarding to land governance which includes equitable access to land and security of land rights, sustainable and productive management of land resources, elimination of gender discrimination in law, customs and practices related to land and property in land. It also encourages communities to settle disputes through recognized local community initiatives

Wamai, (2009) in her paper on Women and Poverty pointed out that the main challenge is when affected women's cases are dealt locally by village elders .The elders often are not aware of the land laws , succession laws , inheritance law, matrimonial laws and equality laws as embedded in universal human rights . The elders argue from the customary point of view. Worse is when the affected women have a notion that having access to land is a favour and not a right. (A number of women above 60 years of age carry this notion). They are too tired to fight unless assisted by charitable regal bodies

like Federation of Women Lawyers in Kenya (FIDA). If done, this further exacerbates GBV.

With inauguration of the new constitution and consequent passing of various land rights, and following enlightenment of women pertaining to land rights, there has arisen a new kind of awareness pertaining to inheritance which has greatly conflicted with the selfish cultural practice of male favoritism. For generations, up to the birth of the new constitution, it has been sad to observe a girl who cannot inherit her father, a single mother who cannot inherit from her parents, a wife who cannot inherit from her husband! Njoki Wamai, (2009). The land reforms has corrected these anomalies but has conflicted with many Kenyan land cultural practices including the Kikuyu. This is the conflict the researcher intends to investigate.

2.5 Protection of right to property, customary practices pertaining to land rights

Article 69 of the CoK 2010 provides for citizens and states obligation towards fostering equitable sharing of accruing natural resources among other obligations. In Kenya, this struggle for reforms on land has been exacerbated by injustices and maladministration on land matters like conflicting land laws, outdated land laws, cumbersome process in: planning, surveying, adjudication, settlement and land registration. Also manual land records accumulated over years, many land disputes and poor service delivery. Pauline Peters, (2004).

Under the old laws, women have suffered several abuses pertaining to their land and property rights through lack of property and unequal of land and property. The old judicial system had been conservative and had continued to give rulings that were unfriendly to women. Culture, being practiced up to now is playing as big obstacle in undermining efforts embedded in the new constitution in support to equal sharing and access of property and land.

The Kikuyu (who make the majority in Nyeri County), culture and traditions invoke to assign property and land rights and inheritance to men more often holding that women are forbidden to own or inherit land. It is this conflict that the researcher intends to investigate. Women are often denied the rights to inherit land by their family .Even land bought jointly with the man's wife cannot be divided between them should they divorce. According to the customs, women's land relationship is limited to farming not ownership because they are regarded as lacking the capacity to making major decisions about land use. In marriage , once a bride price has been paid by a man to a woman's family, the women is given to the man for marriage and on this basis she is considered property .Property cannot own property thus a woman had/have no rights to the land of her husband even upon divorce. Women being chased away from their homes after demise of their husbands includes those who have lived with their husbands in the urban areas like Nyeri or Nairobi and end up losing all rural property and ancestral land belonging to their late husbands, which compels them to claim what belongs to them as widows. Ann and Dzodzi, (2003).

Young widows whose husbands have died of the AIDs pandemic face a challenge in that they cannot rely on support from adult sons. The in-laws also argue that the widow is likely to remarry thus she cannot be granted ownership of land or property .In some regions within the county those who support the widows are accused of in appropriate relationships leading to very few local law custodians supporting the widow .

In many of the Kikuyu customary systems, men are privileged with respect to access and control of land. Old statutory law recognized customary land resolution mechanisms until 2010 when CoK 2010 was inaugurated. This makes it hard for women to claim rights over land especially land under customary tenure (community land) which provides only for male inheritance. Strangely in Kenya statutory laws supporting inheritance rights to widows exist, but it also allows customary and religious laws to operate. This makes it easy for people to take advantage by employing customary laws which then deprive women their rights to land inheritance. This contradiction brews conflicts leading to GBV. It is this that the researcher intends to investigate

Wamai, (2009) pointed out that local land held in trusteeship is controlled by men. It is ancestral land. This makes wives access land through their husband's kin. Women's access to land weakens where in a family there is male conspiracy. This is where there is an attitude that land belongs to men. She further argued that the married woman is considered as a visitor and the sister is also viewed as a visitor too because she will move away. So the cultural argument is: How can a visitor own land? Land belongs to men alone because women can move away any time. Women came to visit it is argued and have access rights only. The woman is viewed as an opportunist. Argued that, if she inherits half of her husband's land and she remarries five times, then she will end up owning a lot of land. This viewed as remarrying for property would weaken the marriage institute. Thus, this customary restriction to land access by women. Women's access to land is pegged on many factors. Age and marital status. Whether couple has children, the number of children and children's sex also becomes a determinant and women's sexual conduct also is analyzed

The single woman has had a challenge in land access from the parents or from the clan. Currently the single woman has become a challenge due to their growing proportion in Tutu District, Nyeri County. A number of families are accepting the single woman's access to land. Pertaining to inheritance, the challenge is still there because the single woman still inherits less. Worse they are at times chased from their ancestral homes by their male siblings. This comes around due to assumptions under customary understanding that places the male at a higher status giving him higher status in land ownership. Ogendero, (1978).

Traditional, non-formal systems of inheritance contradict the conventional constitutional system. This causes confusion among beneficiaries making the resolution of cases difficult because the conflicting parties, women and men each want the system they apply to favour either, whether traditional or CoK 2010, to favour them. All this causes GBV which the researcher intends to investigate.

2.6 Challenges facing women in effective land disputes

Article 40(2-3) of the CoK 2010 provides that parties to a marriage are entitled to equal rights at the time of marriage, during marriage and at the dissolution of the marriage. In all instances women move to their husband's area on marriage. This has implication in terms of women's control over land because the local community, especially men, loath giving land to daughters, implying that they will marry and move away (which doesn't always happen). The expectation is that the daughter's needs with respect to land will be looked after by the husband's family. This contradicts CoK 2010 on equality. Mitigation of equality following the new constitution causes GBV.

Ann and Dzodzi, (2003) explains that conflict arises when the daughter does not get married or marries from a family which owns no land. This makes the daughter claim her rights from her parents on land acquisition. The constitution giving women rights has threatened the brothers' sovereign hold over parental land. Explanations like women cannot inherit because they can remarry, or native laws which forbid women from inheriting land, are being challenged by women who are not ready to be remarried and whose rights on inheritance have been entrenched in the Constitution of Kenya 2010 which supersedes native /traditional laws on inheritance. For example, Article 27 (3) provides that women and men have the right to equal treatment, equal opportunities in politics, economic and social spheres. The Article farther provides that the state shall redress it will take affirmative action and policies to redress disadvantages suffered by individuals or groups because of past discrimination. This conflict of CoK 2010 and customary practices on land and women has increased GBV due to the application of CoK 2010 which contradicts the customary practices as pertains to landownership.

2.7 Land Management as Joined Matrimonial Property

Chapter eleven of the CoK 2010 on devolved government provides provision for people to manage resources at local level. Under Article 62(2) the county government will form land management perspective for agriculture, land survey and mapping.

More conflicts have arisen where the man wants to sell part of the family land. The rules have been made more stringent. Any man wishing to sell family land must currently get consent and approval of the spouse and the children unlike in the past where the man could sell land without consulting anyone. The board uses a variety of techniques to ascertain authenticity of the spouse. The District Land Boards are regionally represented such that each parcel being sold in each region will be known by the representative of the region. The man is also required to be accompanied by his wife and all his children who are above eighteen years of age in order for them to consent to the sale of the land. This has been a rule in Nyeri County which is being followed to the letter. This family consent is greatly watered down due to marriage act allowing polygamy, making a man have to select the wife to present to the board. Legality in marriage has been diversified. This further is where the man considers the wife as part of his property and thus he can deal with his property in any way he can. All this causes conflict leading to GBV which the researcher wishes to highlight.

Land is needed for farming, home building, collateral, leasing and other purposes. Recurrent conflict involving gender and landownership in most African countries have their roots in customary practices and discrimination application of statutory laws. Due to socio-economic significances of land, it is not surprising that social or ethnic conflicts over power are occasioned by inequitable control over land, often along ethnic and social lines and between men and women. Pauline, P.(2004). In Kenya, the new constitution has greatly reviewed the land laws, it is the application of the new laws that the researcher will research on as related to increased GBV on issues related to land inheritance, access, and ownership.

According to Africa Peace and Conflict Journal (2011) denying a woman land hinders her productivity and development. It hampers her ability to get food, it also prevents her from using land as collateral to access credit from financial institutions which would enable her to improve her overall welfare and that of her family. The purpose of this project was to create awareness of increased GBV on land related conflicts and land reforms and other reforms related to property, on marriage, equality, family and property

as embedded in CoK 2010 that have all contributed to the increased GBV on being applied.

2.1.7 Customs and Practices among the Kikuyu that have Greatly Contributed to Increase of GBV on Land Related Conflicts.

Section 51 of Land Act No. 6 of the laws of Kenya provides on the Effect of transmission on death Subject to any restriction on a person's power of disposing of any land, lease or charge contained in an appointment, the personal representative or the person beneficially entitled on the death of the deceased proprietor, as the case may be, shall hold the land, lease or charge subject to any liabilities, rights or interests that are unregistered but are nevertheless enforceable and subject to which the deceased proprietor held the same, but for the purpose of any dealing the person shall be deemed to have been registered as proprietor thereof with all the rights conferred by this Act on a proprietor who has acquired land, a lease or charge, as the case may be, for valuable consideration.

Stewart (1996), argued that women's claims under modern legal system in Africa states are undermined when men argue that their positions are contrary to *customs*. The language custom is politically being used to undermine women's legitimate claims as enshrined in the modern legal frameworks. Some of the tenets as embedded in law such as equality and individual rights contradict customary practices which are deeply rooted in social relations and when applied such tenets ignore social relations, thus creating conflict. The current land tenure systems and management is an administrative act, thus removing indigenous social political contexts, where customary authorities have limited or no role to play. This has implications because of alienation and decontextualization of the socio-legal principles of the indigenous.

This constitutional protection of women/gender social rights is an issue which has created a whirlwind in Nyeri County. The researcher wishes to highlight these issues which have tended to increase GBV.

According to Amsterdam law forum paper of (2010) on Cost of Ignoring Gender in Conflict Situations contended that there is a tendency to believe that where conflicts arise due to women oppression, application of customary law will resolve more cheaply and with less conflict, but this never works because most of the forums are male dominated, denying women justice. Though the idea of customary ideology have strong overtones, they rarely play great part in the negotiations and struggles about changes in resource use between men and women. Yet, where conflicts on land and resources use arises, the term custom dominates in order to deny women rights embedded in the constitution or to contradict what is rightfully put and supposed to be practiced and effected as stipulated in the constitution. Stewart,(1996)

The language of custom has been used oppressively in the politics of gender- from dress, to education, to use of public space and in relation to the operation of the law and legal culture itself. Manuh, (1994). Local customs and traditions have negatively impacted on women's inclusion and participation in Kenya's development process. Currently participation of women in public decision making is low whether in parliament, top civil service or judiciary.

The ownership and access to productive assets such as land is nested in the male child. This leaves the women to derive their user rights through their association with men. Land rights and regulation of use was affected by mbari (clans) where women had minimal decision making. Children and youth had no place on matters relating to land. Current family practices towards women have farther elicited conflict. Women are often evicted from their homes when marriages end or break down. Widows are often evicted by their husbands' families. The divorced or evicted women are unwelcome on return to their natal homes by their brothers and at times evicted. Unmarried sisters are evicted from their natal homes by their married brothers after their parents die. Their brothers assert that they alone have the sole right to inherit their parents land. Kameri, (2006).

Married women are not treated as people who have rights in land which is treated as property of the husband and his natal family. Wives are not consulted in decisions about land use or other transactions. They are treated as minors, both within the family and the community. According to the customs women's land relationship is limited to farming not ownership because they are regarded as lacking the capacity to making major decisions about land use. In marriage , once a bride price has, been paid by a man to a woman's family, the women is given to the man for marriage and on this basis she is considered property .Property cannot own property thus a woman had/have no rights to the land of her husband even upon divorce. Diarra and Monimart,(2006).

2.8 Land Management as joined Matrimonial Property and GBV

Rights of spouse to land under Land Registration Act stipulates that a spouse will acquire an interest in his or her spouses land if spouse contributes by labour or other means to the productivity, upkeep and improvement of the land. The spouses interest shall be recognized as if it is registered against the title to the land.

Women being chased away from their homes after demise of their husbands includes those who had lived with their husbands in the urban areas like Nyeri County towns or Nairobi and other Kenyan urban areas have lost all rural property and ancestral land belonging to their late husbands, which compels them to claim what belongs to them as widows. This is because land will empower the widow economically and thus they cannot relent in struggle of land ownership. Young widows whose husbands have died of the AIDS pandemic face a challenge in that she cannot rely on support from adult sons. The in-laws also argue that she is likely to remarry thus she cannot be granted ownership of land or property .In some regions those who support the widows are accused of inappropriate relationships leading to very few local law custodians supporting the widows .Moussa,(2002).

Local land held in trusteeship is controlled by men. It is ancestral land. This makes wives access land through their husband's kin. Women's access to land weakens where in a family there is male conspiracy .This is where there is an attitude that land belongs to men. The married woman is considered as a visitor and the sister is also viewed as a

visitor too because she will move away. So the cultural argument is: How can a visitor own land? Land belongs to men alone because women can move away any time. Women come to visit it is argued and have access rights only. In all instances women move to their husband's area on marriage. This has implication in terms of women's control over land because the local community, especially men, loath giving land to daughters, implying that they will marry and move away (which doesn't always happen). The expectation is that the daughter's needs with respect to land will be looked after by the husband's family. Ogolla and Mugambe,(1996).

Conflict arises when the daughter does not get married or marries from a family which owns no land. This makes the daughter claim her rights from her parents on land acquisition. This is the conflict the researcher is investigating on. The constitution giving women rights has threatened the brothers' sovereign hold over parental land. Explanations like women cannot inherit because they can remarry, or native laws which forbid women from inheriting land, are being challenged by women who are not ready to be remarried and whose rights on inheritance have been entrenched in the constitution which supersedes native /traditional laws on inheritance. The result is give which the researcher intends to highlight.

2.9 Obstacles and opportunities to women's access to land and gender equality in land tenure as related to GBV

Land Registration Act of the CoK2010, stipulates that on sale of land or dwelling house the purchaser has to inquire whether the spouse has consented to the sale. If not consented then the transfer to the purchaser is void. This consent requirement for spouse extends to all land and is not limited to matrimonial property.

Section 50 of the constitution of Kenya on Land Act No. 6, provides that if a sole proprietor in common dies, the proprietors personal representative shall on application to the Registrar in the prescribed form and on production to the Registrar of the grant be entitled to be registered by transmission as proprietor in the place of the deceased.

According to Synthesis Report, (2010) on Securing Women's Access to Land, majority of Kenyan communities practices of land inheritance practice is patrilineal where power relations give men more power over women where men have the upper hand in matters as appertains to access of resources, control over resources and control of reproduction. Among the Kikuyu, a man's property is distributed among his sons. Daughters are usually excluded, but may retain some little share if unmarried. This share was allocated by the clan for cultivation purposes only. These are usufruct rights Among the Kikuyu, Mijikenda and Kamba women land rights were limited to usufruct rights and not ownership. In absence of sons, the heirs are the nearest patrilineal relatives of the deceased; namely father, full brothers, half-brothers and paternal uncles. This contradicts the new constitutional rights.

Land tenure refers to terms and conditions under which rights to land and land based resources are acquired, retained, used, disposed off, or transmitted (ROK, 2009). Land tenure defines the methods by which individuals or groups acquire, hold, transfer or transmit property rights in land. Ogolla and Mugambe, (1996). Bruce, (1998) defined land tenure in terms in which something is held: The rights and obligations of the holder. By the above definitions, women are disadvantaged by social assumptions and informal land practices that are not controlled by law.

Notwithstanding the rights embedded in CoK 2010, a societal change of attitude on various assumptions that deny women rights needs to be championed and advocated at all levels. Women who are enlightened over the new land laws and other laws protecting their rights, protest over cultural practices. This protest against the customary practices is what the researcher will research on in order to establish whether there is GBV related to CoK 2010.

The International Women Human Rights Clinic, (2008) pointed out that though laws were put in place to address problems concerned with land and other gender sensitive laws, they continue to be violated, disregarded, misinterpreted and not fully affected by state organs and community. Passed laws have not been well understood by people meant

to be protected due to lack of sensitization, resources and poor strategies by local and national authorities. The majority rural women have mostly been ignorant of the new laws, not even aware of changes for they were not fully consulted during the formulation of these laws which were /are meant to enable their access to land and property.

Laws put in place in the CoK 2010 clash with the customary practices, thus creating a problem of their enforcement. In most tribes in Kenya, whenever conflict arose/arise, the customary laws take precedence over existing laws and yet the same customary laws are in violation of women's access to land inheritance, ownership and control. This is the area the researcher intends to highlight.

Statutory laws stipulated in the CoK 2010, in a number of communities in Kenya, notably the Luhya, Kikuyu, and Kamba, play a subordinate role to customary laws. These customary and social practices are deeply rooted in the majority of politicians and legislators who due to this bias half heartedly engage in protecting the woman even where a cultural practice contradicts the laid down laws. Ngone and Mohamadou,(2003)

Women constitute slightly more than half of the Kenyan population. In the latest National and Population and Housing Census 2009, women accounted 50.3 per cent of National population (19 417 639) out of 38 610 097 people but face considerable challenges in accessing and controlling productive resources. This stems from discriminatory laws that tend to perpetuate gender based inequalities all at the heart of customs and ethnic based traditions which are applied as need arises or selectively. Though most of the cultural land practices have been discarded, men refer to them just in case it favors them. Waiganjo, Chege and Ngugi,(2001)

Under Kikuyu customary law, it has clearly defined what a woman should own and what she should not own. Assumption was women would access land through their husbands. Whether woman is married, divorced or widow she is/was given cultivation obligation but is denied the right of possession. Today not all women have husbands. Some have husbands with no land. Women were/are not priority concern over family land especially element of ownership. Sorrenson,(1967)

Though this customary practice has refused to fade away, the increased phenomena of single mothers, has increased pressure in demand of inheritance as constituted in CoK 2010. The old constitution recognized customary law. Wanyeki ,(2003). For example, in the old constitution, application of 1972 law of Succession Act of excluded women from inheriting agricultural land and livestock. Even with the passage of the new constitution, women representation in land committees at the various devolved levels has not been fully provided for.

The conflict on land is farther exacerbated by the assumption that women are subordinate to men where there are reservations for women leadership. Even where the law demands a third of the members in every land committee/ board, be women, this is never taken seriously. Even where women are literate, they are assumed to be less knowledgeable on land matters and their presence in land committees is not well received. Women are also viewed as strangers and cannot be entrusted on making decisions over community land. A survey by Society for International Development,(2004) illustrating women involvement in devolved land administration in Kwale, Kitui and Nyeri pertaining to sale and land disposal indicated an average of 59% as men taking responsibility with only 2% women involvement .On usage of household land, the three counties registered a 47% men involvement. Nyeri County registered a 33% men involvement and 6% women. Pertaining to subdivision of household land, Nyeri county women had no control over land subdivision with men registering 71% of land control. Pertaining to the responsibility of reporting land related cases and disputes to government authorities the three counties registered an average of 63 % as men reporters with only 1 % reporters being women. Nyeri County registered 0 % women reports pertaining to disputes. Those required to participate in land related disputes in government institutions, the three counties registered an average of 67 % as men and 1 % as women. Nyeri County registered 62% of men participation and 0 % women.

The new land laws and regulations have included women in all land transactions. All land boards must be comprised with a minimum of 30% women. During land subdivisions spouses and children are required to be present in the land boards as a compulsory requirement. With women being empowered by the CoK 2010 to own and inherit land as

men, there has been an increase of family disputes leading to increased GBV. Oloo,(2008). This is the area the researcher wants to investigate in order to establish whether there is a relationship between the new land reforms and GBV.

With formal education and foreign influences permeating into the community, cultures and cultural landscape has changed. Women participation in decision making in land committees has been imperative. Women participation which is enshrined in the constitution seems imposed to unwilling community. In Nyeri County women have managed to create reasonable space that guarantees participation in decision making forums. Though there are dissent voices from men, women are represented both in Land Control Boards and Land Disputes Tribunals. This participation is provided by the new constitution. Traditions that have for long limited women's participation have largely been eroded and is paving way for more gender responsive society.

With collapse of coffee, milk and tea prices in Nyeri County, which hurt the male dominated economy, women formed income generating groupings, thus gaining a hand in household economy and this gave women a footage in asserting their influence in community life giving birth to a class of aggressively enterprising women who have influenced others in fight for their rights especially in issues of land, property rights and inheritance. Sorrenson, (1967). This has left the men to feebly fighting to control land as a resource in an attempt to control the women, all this leading to conflicts. Though stigmatized, learned women, women in business, are getting opportunities to openly acquire land through purchase as a form of security. The chains of women not allowed to own land are being broken

2.10 Limitations to the use of Law to Produce Gender Equity

Chapters Ten and Twelve of the constitution of Kenya on Judiciary and Public Finance provide for effective resolution of land disputes in courts through the Land and Environment Court Bill. Chapter thirteen on Public Service sets out high standards of professional ethics inclusive of impartiality, access to information and equal opportunities for men and women.

Land Injustices

Women's distance from legal processes and their inability to access the courts. This is underlined by how we celebrate few women who go to courts like the case of Wambui Otieno and Unity Dow. It becomes sad to observe women subjugated in such ways that they would prefer/need ways of resolving land disputes which are accepted by male relatives and members of the community .Odgaard, (2000), Leonard and Toulma (2000).

Formal legal structures and institutions are not women friendly despite their supposed impartiality and neutrality. Some of the gender bias formal law arises from "lawyers customary law construction." Customary law remains highly important in many African contemporary state lawyers and advocates and this makes an important domain. Odgaard and Agnette,(2008). It is thus highly practiced, at times given priority above the laid down rules and regulations as embedded in CoK 2010. These include issues related to marriage, divorce, children's affiliation and property devolution.

2.11 Theoretical Framework

This research was based on liberal theory. The classical theory dictates for independence and abhors coerced dependence as manifested in cultural practices that has for centuries made the woman dependent on man as pertains to land and property acquisition making the woman a lesser human. All rights liberty are forms of property according to Gaus and Stainer, (1994) maintained that property is itself a form of freedom. Thus when women are denied right to a key resource, land, then they are denied freedom and basic human rights.

According to Maurice Cranston (1967), a liberal is that person who believes in liberty. Locke (1960) pointed out that humans are naturally in a state of perfect freedom. This is what is making women fight for their freedom of ownership. Mill (1963) argued that the burden of proof lies with those against liberty, who contend for restrictions or prohibitions. This is reflected in the customary practices which has for generations favoured men. Gains (1966) farther points out that freedom is normatively basic and so

the onus of justification is on those who limit freedom, especially through coercive means.

Hobbes and Rousseau stated that humans are free and equal and limitation of this freedom and equality stands in need of justification by any social contract. Social contracts within the Kikuyu customs marginalize women on land related issues such that they have no right of ownership. The Fundamental Liberal Principle points out that the basic task of any government is to protect the equal liberty of citizens. Thus according to John Rawling (1999b:220), each person is to have equal right to the most extensive system of equal basic liberty compatible with a similar system for all. This contradicts the much practiced customary practice. Through referendum the Kenyan citizens passed the Co K 2010 in order to guide in all liberties. These are the liberties that the marginalized, especially women are fighting for and thus it is this conflict the researcher has investigated in order to determine whether there is a relationship of the gained liberties and GBV.

According to Green (1986), he argued that a person can be unfree if or be in a condition of bondsman if he or she is carrying out the will of another, not his or her own. A person is free if he or she is self-directed or autonomous. This has not been for women. According to Taylor (1979), one is free when one has effectively determined oneself and the shape of one's life. The person should not be subject to compulsions and does not unreflectively follow customs. According to Green man conception of positive freedom. It is the power to pursue ones ends.

The British Socialist Taylor, (1931) farther asserts that it is the ability to act. This acting of women towards the gains stipulated in CoK 2010 is what the researcher is investigating whether it has a relationship with GBV in Nyeri County. The Classical Liberals insist that private property is the only effective means for protective liberty. F. A. Hayek farther argues by giving an example that there cannot be freedom of press if the instruments of printing are under government control.. Therefore, land being a key resource and women for long being denied ownership through customary practices has denied women liberty until the promulgation of CoK 2010. It is from this point that

women are asserting for liberty. It is this assertion that the researcher has investigated in order to establish whether this liberty has a relationship with GBV.

Mill, following Wilhelm von Humboldt, (1993) on liberty, argues that one basis of endorsing freedom is the goodness of developing individuality and cultivating capacities for this brings human beings themselves nearer to the best thing they can be. This is what women, youth and the marginalized should achieve. This oppressive patriarchy system has been alleviated by the various reforms embedded in the CoK 2010. This has caused uneasiness among men. The study is investigating whether there is an increase or a cause of GBV related to the new reforms, specifically focusing on land reforms.

2.11 Conceptual framework

Gender based violence emanates from women as they demand equitable access to land as provided in Article 69 of the CoK 2010 and equal land management as provided in Chapter one and two of CoK 2010 which is all related to land inheritance and ownership. Land inheritance and ownership involves embracing land rights, rights to property and human rights as stipulated in Chapter four on the Bill of Rights in the constitution. This contradicts long practiced culture, thus leading to gender based violence (GBV) which is due to women as they fight for land rights, men as they fight for control over land via customary practices, court disputes and land injustices facing women. Article 40 (2-3) provides for equal entitlement and equal rights during marriage and on marriage dissolution. Conflicts arise when women demand the same contradicting cultural practices where women are disinherited.

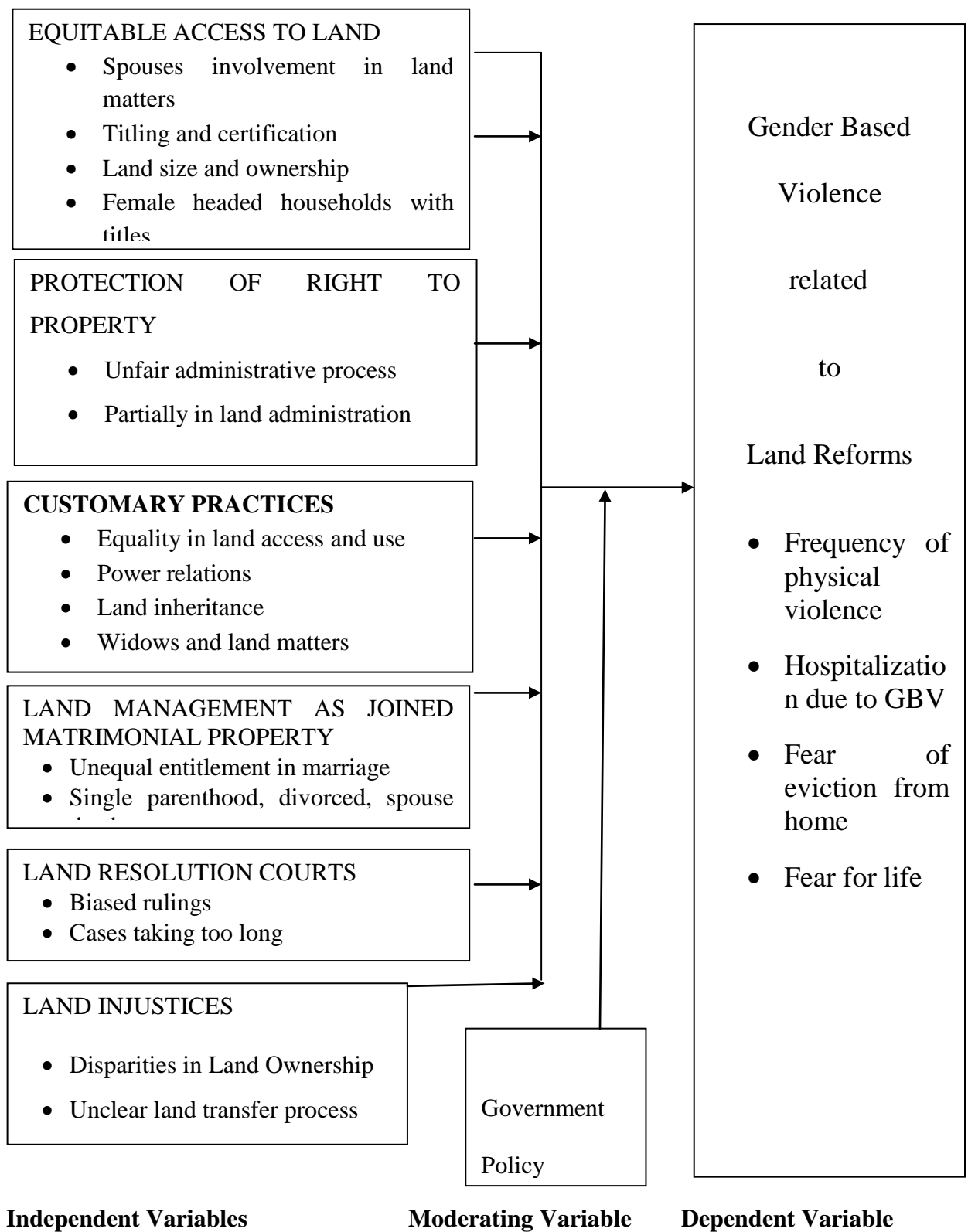


Figure 0.1 Conceptual framework

CHAPTER THREE

RESEARCH METHODOLOGY

3.1 Introduction

This chapter the research design and methodology that was used in this research are explained and justified. It includes sampling procedure, sampling size, data collection methods, data analysis and presentation.

3.2 Research design

Descriptive survey design was used. Descriptive research involves choosing a few from the population and observing them with insight. Descriptive quantitative research involves identifying the characteristics of an observed phenomena or exploring possible correlations among two or more phenomena. Kothari,(2004). This method examines a situation as it is without changing or modifying the situation under investigation and without determining cause- and- effect relationship. Strategies used include sampling, making observations and interviewing.

Kerlinger,(2003) and Mouldy, (2003) concurs that survey research involves acquiring information about one or more groups of people about their characteristics, opinions, attitudes or previous experiences by asking respondents questions and tabulating their answers. The goal being to learn about a large population by surveying a sample of that population.

The Researcher summarizes participant's responses with percentages, frequency counts and other statistical indexes and then draws inferences about a particular population from responses of the sample. This type of research relies on self-report- data. Respondents tell researchers what they believe to be true through face-to-face interview, telephone interview or written questionnaire. Mugenda and Mugenda, (1999).

Case study is a form of qualitative descriptive research that is used to look at individuals, a small group of participants using participant and direct observations, interviews, protocol tests and examination of records. It involves descriptive, exploratory or explanatory analysis. Case study explores causation in order to find underlying principles. It also involves analyzing persons, events, decisions, periods, projects, policies, institutions, or other systems that are studied holistically by one or more methods. The case that is the subject of inquiry becomes an instance of a class of phenomena that provides an analytical frame-an object within which the study is conducted and which the case illuminates and explicates. Kothari,(2004).A questionnaire is an instrument for observing data beyond physical reach since questions can be sent to a large number of respondents.

3.3 Target population

The researchers' target population was affected by land related violence. These are women who have been marginalized pertaining to land inheritance and land ownership through customary practices. Women have been denied equitable access and rights to land and land transfer. They have also been denied rights to property and have suffered great challenges in land disputes. They have also suffered great injustices pertaining to matrimonial rights during divorce. Women have also been limited in access to justice on land matters. Inclusive will be village elders and Assistant chief who have knowledge of some households with disputes pertaining to land ownership and inheritance and disputes arising within his or her area of jurisdiction.

3.4 Sampling size and Sampling Techniques

The study population consisted of twenty percent (20%) of identified population. Wiersma, (2005) observed that due to limitation of time, funds and energy, a study could be carried out from a carefully selected sample to represent the entire population. Gay,(2002) postulated that at least twenty percent (20%) of the population is a good representation which works well even today.

The researcher used non-probability sampling where not everybody had an equal chance of being a respondent. The researcher used Purposive Sampling that allowed the researcher to use cases that had the required information with respect to observed that the objectives of the research. Identification of the affected was as advised by the chiefs in the Tetu East and Tetu West in the Sub County. This is because time and sensitivity of the issue.

3.4.1 Sampling Frame Tetu Sub-County

The table represents the identified individual cases and sample size

Table3.1: Sampling Frame Tetu Sub-County

Ward	Identified Individual Cases With Land Issues Since 2011	Sample size of 20%
Tetu Sub-County		
Total	230	45

3.5 Data collection tool

Researcher used questionnaires to collect data: the questionnaires assisted in the following data collection. Status pertaining to age in order to establish the most vulnerable age in matters pertaining to land. The main user of the land in order to establish parties denied use of land. Also persons responsible for decisions on the use of land. This will put into light persons with authority on land use. This tool also assisted in establishing persons responsible on decisions related to sale, rent and transfer of land. This indicated whether all persons are involved in decision making on land related matters.

Questions on threats experienced on matters related to land indicated persons more vulnerable to threats. These questions also assisted in establishing persons who have lost access to land and how their cases were/ are being handled at different administrative levels and in the courts. Questions also lead to dialogue thus highlighting whether parents

leave inheritance to their sons and daughters equally and what redress measures persons treated unfairly take. Contingency questions were used in order to filter questions and to probe more information. Questions also gave information on the plight of the married women and their land rights. In summary this tool established issues related to equitable access to land and GBV, land rights and GBV, land management, women in effective land disputes and dispute resolution in courts.

3.6 Validity and Reliability

Validity refers to the degree to which a study accurately reflects or assesses a specific concept the researcher attempts to measure. Reliability on the other hand addresses whether repeated measurements or assessments provide consistent results given the same initial circumstances. To ensure validity and reliability the researcher used the “Test-Retest” technique. Questionnaires were given to some of the people to be interviewed before rolling the whole process out.

3.6.1 Validity of the Instruments

The instruments were subjected to an analysis by the researcher. The researcher assessed the relevance of the content to be used in the instruments, develop and make structured changes for the purpose of improving before embarking on actual data collecting exercise. This enabled the researcher to have a fore experience in administration of the instruments. Orodho (2004), contends that validity concerns the accuracy with which the instruments generated measures what it is supposed to measure.

The test re-test of the instruments applied in order to refine vague questions such that same meaning is conveyed to the respondents. This enhanced validity of the instruments. The deficiencies in pre-testing, for example unclear instructions, insufficient space to write responses, clustered questions and wrong phrasing of questions were detected. Kothari, (2004).

Pre-determined criteria of evaluation was used to ensure validity of the study by piloting the instruments on a small representative sample, identical to but not included in the study. The instruments covered the required content and simple language was used in constructing valid instruments to be used in data collection.

3.6.2 Reliability of Instruments

The pre-test was done to ensure that the items consistently measured the variables in the study and produce reliable results. This ensures that the instruments yielded the same results on repeated trials. Mugenda and Mugenda (1999), contends that the test re-test procedure helps to ascertain that the instruments collecting data will be free from mistakes that may surface during data collecting process. To determine reliability, the instruments were piloted on a small representative sample, identical to but not included in the group that was involved in actual study

3.7 Operation Definition of Variables

The variables were measured using various indicators. The table below shows different variables and the indicators scale to be used.

Table 3.2: Operation Definition of Variables.

Objectives	Variable	Indicators	Measurement	Scale	Data Collection Methods	Tools of Analysis
To establish equitable access to land and GBV	Spouse involvement in land matters. Women in Land Boards	Women land ownership Conflicts related to land	Percentage Frequency Mean Standard deviation	Ordinal Nominal	Questionnaires	SPSS on collected data Regression Chi-square Pearson's r
Establish relationship between protection	Unfair land administrative practices	Court cases Reports of land cases in chiefs	Percentage Frequency Mean Standard	Normal and ordinal	Questionnaires	SPSS on collected data Regression

of right to property, customary practices and GBV	Partiality in land administration on Inequity in land matters. Social injustices	offices Customary settlement of land cases Conflicts	deviation			on Chi-square Pearson's r
Assess relationship between land management as joined matrimonial property and GBV	Marriage entitlement Divorce, single motherhood, spouse death	Divorce settlements Family court cases	Percentage Frequency Mean Standard deviation	Normal	Questionnaires Interviews Dialogue Case study	SPSS on collected data Regression Chi-square Pearson's r
Explore challenges facing women in land dispute resolution and land injustices	Biased court rulings Court case duration Land matters Land ownership	Court rulings Court cases Land owners Court cases Reported cases	Percentage Frequency Mean Standard deviation	Normal Ordinal	Questionnaires	SPSS on collected data Regression Chi-square Pearson's r
Gender Based Violence	Women land acquisition	Access to land Displacement	Percentage Frequency Mean	Normal Ordinal	Questionnaires	SPSS on collected data

	Decisions Related to land	nt from matrimonia l land Denial of inheritance	Standard deviation			Regressi on Chi-square Pearson' s r
	Traditional Practices	Running away from home				
	Property rights of widows	Being denied land administrati on				
	Resolution of land cases	Being denied land use. Being beaten.				

3.8 Data Analysis Techniques

Statistical Package for Social Science (SPSS) software programme was used to analyze data. After data was collected from the respondents it was systematically organized to facilitate analysis. All responses given were categorized, numbers assigned. Pattern or trend or relationship from the information given were reported. Data was then analyzed qualitatively to make deductions, interpretations, conclusions and possible recommendations. Qualitative data generated from questions were organized into themes, categories and patterns pertinent to the study.

The collected data was thoroughly examined and checked for completeness and comprehensibility. The data was then be summarized, coded and tabulated. Descriptive statistics such as means, standard deviation and frequency distribution was used to

analyze data. The inferential statistic regression was done to establish relationship between variables . These include chi-square and Pearson's product moment correlation coefficient also known as Pearson's r which is a measure of linear correlation (dependence) between two variables. Kothari, (2004)

Measures of dispersion include range, variance and standard deviation. They helped in knowing the spread of scores within a bunch of scores. Researcher was able to know whether scores are close or spread apart and how they vary .Measures of dispersion helped in summarizing numbers with one or just a few numbers. Information was presented in pie charts and bar graphs.

3.9 Ethical Consideration

The study was conducted in an ethical manner. The purpose of the study was explained to the respondents and assured that the information given was treated confidentially and their names were not divulged. Informed consent form was sought from all the participants that agree to participate. A research approval was sought and given a letter of approval from the University of Nairobi. Questions were administered to the respondents.

3.10 Summary

This chapter identified research type to be used, that is descriptive survey and case study and describes population to be researched on which includes identified men and women. The chapter outlines instruments of data collection and procedures to be used. Data analysis methods and how data was analyzed and presented was well outlined. Questionnaires, interviews questions and other data collecting tables are well set out in the appendices. To ensure validity and reliability of questionnaires test –retest technique will be used before rolling out the research process.

CHAPTER FOUR

DATA ANALYSIS, FINDINGS AND DISCUSSIONS

4.1 Introduction

This chapter presents the findings from data collected. The purpose of the analysis was to establish the relationship between land reforms in Kenya and gender based violence. The response rate is presented followed by the demographic characteristics of respondents. The other findings are presented in terms of the research objectives.

4.2 Response rate

The researcher distributed questionnaires to 45 women who have been marginalized pertaining to land inheritance and land ownership through customary practices. 44 questionnaires were returned. This accounts for a 98% response rate.

4.3 Socio-demographic characteristics of participants

The researcher collected data on socio-demographic characteristics of respondents. This included data on age, marital status and education level. The findings are presented in this section.

4.3.1 Age of respondents

The study found that majority (68%) of the women in the study were aged over 46 years; 32% of the participants were aged over 56 years. The findings show that majority of the women in the study were elderly. This can be attributed to the fact that the study interviewed who had been married and had issues with land inheritance and therefore were more likely to be middle aged or elderly as indicated in the table 4.1

Table 4.1: Age of respondents

Age (Years)	Frequency	Percentage
18-25	2	5%
26-35	6	14%
36-45	6	14%
46-55	16	36%
56-65	7	16%
Over 65	7	16%
Total	44	100%

4.3.2 Marital status

Majority (68%) of the women in the study were widows. Land issues arise when the man of the family dies and the wife is posed to inherit the land so it was likely that many women in the study would be widowed as indicated in table 4.2

Table 4.2: Marital status

Marital status	Frequency	Percentage
Married	6	13%
Single	8	19%
Widowed	30	68%
Total	44	100%

4.3.3 Level of education of respondents

The findings show that majority (56%) of the women in the study had secondary school as their highest level education; these are the women who had completed secondary school. The findings also show that none of the women in the study had pursued higher education. The fact that majority of women were lowly educated means that significant number of them are unaware of their rights and may also be unaware of where to take complaints of land conflicts and domestic violence as indicated in table 4.3

Table 4.3: Level of education of respondents

Level of education	Frequency	Percentage
Primary partial	3	7%
Primary completed	12	27%
Secondary partial	4	10%
Secondary completed	25	56%
Total	44	100%

4.4 Equitable access to land

The researcher sought to find out the level of equitable access to land in the study area. The purpose of this was to enable the study find out the relationship between equitable access to land and gender based violence

4.4.1 Main user of land

Findings in Table 4.4 show that according to 35% of the participants, their land was used by the family as a whole however 45% of the women indicate that another person was in charge of the land; this mainly comprised of the in-laws for example mother in law or brother in law. The findings therefore show that the women had no equitable access to land. This is in agreement with RoK (2010) which found that women account for 50.3 per cent of the national population but face challenges in accessing and controlling land resources. Whether in education, employment, and land rights or seeking health, women tend to be disadvantaged

Table 4.4: Main user of land

Person	Frequency	Percentage
Self	6	14%
Husband	2	5%
Family as a whole	15	35%
Other persons	21	47%
Total	44	100%

4.4.2 Person responsible for decisions on use of land

Findings in Table 4.5 show that 50% of the participants indicated that the in-laws were in charge of decisions on use of land. This was a major source of conflict considering that majority of the women were widowed (Table 4.2). The findings are therefore in agreement with Drimie (2002) who contends that women are often excluded from traditional institutions where key decisions about land rights are taken.

Table 4.5: Person responsible for decisions on land

Person	Frequency	Percentage
Self	5	11%
Husband	2	5%
Family as a whole	15	34%
In-laws	22	50%
Total	44	100%

4.5 Protection of rights to property

The researcher sought information from the respondents regarding protection to property. The findings are presented in this section.

The study found that a significant number (93%) of respondents did not possess a title deed to their piece of land. The study also found that 78% of the women in the women in the study had no right to sell their inherited piece of land. In addition, 74% of the participants had no equal rights to use of family land. The findings show that a significant number of women had no right to their inherited pieces of land. This information is summarized in Table 4.6

Table 4.6: Protection of rights to property

	Yes		No		Total	
	Frequency	Percentage	Frequency	Percentage	Frequency	Percentage
Possesses title deed	3	7%	39	93%	42	100%
Has right to sell inherited piece of land	8	22%	29	78%	37	100%
Has equal rights to use of family land	11	26%	31	74%	42	100%

4.6 Customary practices

The researcher sought to establish customary practices in relation to land inheritance. The findings would enable the researcher find the relationship between customary practices pertaining to land rights and GBV in Tetu Sub County, Nyeri County .

4.6.1 Gender of siblings

The researcher sought to find out how many siblings the respondent had. The findings would enable the researcher find the relationship between customary practices pertaining to land rights and GBV in Tetu Sub County, Nyeri County .

The study found that 40% of the participants had 3 siblings while 26% two siblings. The researcher probed further to find out the gender of the siblings. This is because in the African culture the male siblings inherited most of their parents' land if not all. This data is tabulated in Table 4.6

Table 4.7: Number of siblings

Number of siblings	Frequency	Percentage
0	4	8%
1	4	8%
2	11	26%
3	18	40%
4	2	5%
5	2	5%
6	4	8%
Total	44	100%

Findings in Table 4.8 below shows that in total majority (55%) of the respondents had more female siblings than male. This is significant because in African culture the male siblings are entitled to inherit the land by tradition. The findings are in agreement with SIDA (2009) observe that sisters do not have same right to own land as their brothers, depriving them reasonable livelihood which by extension impoverishes their children. Women worldwide face more constraints than men. They tend to be poorer. When livelihoods are threatened they create conflicts.

Table 4.8: Gender of siblings

Number of siblings	Male		Female		Total	
	Frequency	Percentage	Frequency	Percentage	Frequency	Percentage
1	12	32%	4	14%	16	23%
2	18	47%	16	55%	34	51%
3	6	16%	8	27%	14	21%
4	2	5%	1	5%	3	5%

4.6.2 Inclusion in will to inherit land

A significant (73%) number of women in the study were not included in their parents will to land inheritance. The findings are consistent with the customary practices of African culture where women are not included in the will to inherit land. Land by default is inherited by male children. This is as tabulated in Table 4.9

Table 4.9: Inclusion in will to inherit land

Included in will	Frequency	Percentage
Yes	12	27%
No	32	73%
Total	44	100%

For those who replied on the affirmative, the researcher sought to find out what happened in terms of the inheritance.

The study found that 43% of the women who were in their parents' will ultimately inherited their portion of land however 36% of the women were denied inheritance by their siblings. For the women who were not in their parent's will on inheritance, the researcher sought to find out what course of action they took. This is tabulated in table 4.10

Table 4.10: Whether respondent in will got share

Occurrence	Frequency	Percentage
Got share	6	43%
Siblings refused	5	36%
Threatened	1	7%
Evicted	2	14%
Total	14	100%

The findings farther indicate that 48% of the women who were not in their parents will never addressed the issue but 19% challenged the will legally while a similar number (19%) were threatened by their siblings from taking any action as indicated in Table 4.11

Table 4.11: Whether respondent in will got share

Occurrence	Frequency	Percentage
I felt ok	13	48%
I challenged the will legally	5	19%
I was threatened by my siblings	5	19%
I was evicted	2	7%
I was given titling rights only	2	7%
Total	27	100%

4.6.3 Place of residence

The researcher sought to find out the respondents current place of residence in terms of maternal or husband's family.

The study tabulated in Table 4.12 found that majority (61%) were living at their maternal home. The women may have been living in their maternal home for two reasons; first, due to domestic violence the women ran back home or the women may have been chased away by her in-laws due to land conflicts. Secondly the women may have been living at their maternal home because they were never married but their father never included them in the will to inherit land.

Table4.12: Place of residence

Residence	Frequency	Percentage
Maternal home	27	61%
Husband's family home	17	39%
Total	44	100%

4.6.4 Access to land

The researcher sought to find out whether the participants had access to land. Tabulated in Table 4.13, a significant number (88%) of women in the study had no access to land in their current place of residence. The findings are in agreement with Bruck and Schindler (2009) who found that female headed households in Northern Mozambique are disadvantaged in terms of assets and social networks as compared to their male counterparts.

Table 4.13: Access to land

Response	Frequency	Percentage
Yes	5	12%
No	39	88%
Total	44	100%

4.7 Challenges facing women in Land disputes resolution

The researcher sought to find out issues regarding land disputes resolution. The findings would enable the researcher establish challenges facing women in effective land disputes resolution in courts in Nyeri County on matters pertaining to land inheritance and how it relates to GBV.

Findings in Table 4.14 indicate that a significant number (95%) of participants had experienced threats on land related matters. Findings show that a significant number (81 %) took the threats to the chief's office while 77% took the complaints to the magistrates court. The findings also show that majority (68%) of the participants had the case resolved in their favor. A similar number (68%) indicated that that they had ever lost land due to conflict with family members. The findings therefore indicate that majority of women had been threatened in land related tussle. The findings are in agreement with Wanyeki (2003) who pointed out that the Kikuyu customs and practices allow the wife of the deceased husband to hold land in trust for her male children for they cannot legally inherit., worse is if the widow has no children, they are threatened to leave especially if they refuse to marry one of their husband's brothers. The findings are also in agreement with Deininger and Castagnini, (2006) who found that the probability of experiencing land conflict increases by 14 per cent for households headed by widows and 48 per cent for households by a woman separated from their husband.

Table 4.14: Challenges facing women in land disputes resolution

Occurrence	Response					
	Yes		No		Total	
	N	%	N	%	N	%
Experience						
threats on land related matters	40	95%	2	5%	42	24%
Eviction taken to chiefs office	33	81%	8	19%	41	24%
Eviction taken to magistrates court	9	23%	30	77%	39	23%
Case resolved in participant's favor	17	68%	8	32%	25	15%
Participant lost access land	17	68%	8	32%	25	15%

4.8 Gender based violence

The researcher sought information on gender based violence from the respondents. This information would enable the researcher analyze the relationship between land reforms in Kenya and gender based violence. The researcher sought to find out how many times the participants got beating related to land issues.

The findings in Table 4.15 that majority (55%) of the women were abused 11 to 50 times in a year. The researcher probed further to find out how long the women had suffered the violence.

Table 4.15: Number of beatings per year

Number	Frequency	Percentage
2-10	7	21%
11-50	18	55%
Over 50	8	24%
Total	33	100%

Findings in Table 4.16 indicate that 50% of the women in the study had suffered gender based violence for over 5 years.

Findings in Table 4.16 indicate that 50% of the women in the study had suffered gender based violence for over 5 years.

Table 4.16: Number of years suffered violence

Number of years	Frequency	Percentage
One	3	12%
Four	13	38%
Over 5	17	50%
Total	33	100%

Findings in Table 4.17 shows that majority (67%) of the women in the study indicated that they suffered injuries from the beatings. The researcher sought to find out the seriousness of the injuries.

Table 4.17: Injuries resulting from beatings

Response	Frequency	Percentage
Yes	22	67%
No	11	33%
Total	33	100%

Findings in Table 4.18 show that majority (57%) of the women who had been abused indicated that they suffered mild injuries as a result of the beatings. The researcher then sought to establish whether the women were hospitalized for the injuries.

Table 4.18: Seriousness of injuries

Response	Frequency	Percentage
Mild	19	57%
Serious	11	32%
Severe	3	11%
Total	33	100%

Findings in Table 4.19 indicate that a significant number (79%) were not hospitalized due to the beatings. The researcher sought to find out if the women feared for their life.

Table 4.19: Hospitalized due to beatings

Response	Frequency	Percentage
Yes	25	76%
No	8	24%
Total	33	100%

Findings in table 4.20 shows that a significant number (74%) of participants indicated that they were living in fear due to the gender based violence they were subjected to. The researcher therefore sought to find out if they reported their fears to the police.

Table 4.20: Living in fear of violence

Response	Frequency	Percentage
Yes	23	74%
No	10	26%
Total	33	100%

Findings in Table 4.21 indicate that majority (66%) of the participants had not reported their fears of violence to the police. For those who did, the researcher sought to find out the action taken.

Table 4.21: Reported fears of violence to police

Response	Frequency	Percentage
Yes	13	34%
No	20	66%
Total	33	100%

Findings in Table 4.22 show that 38% of the women relocated while a similar number (38%) ran away from their home. The findings are therefore in agreement with KHCR (2011) which stated that , women are fighting back to gain what is rightfully theirs as stipulated in the constitution. Most of the office bearers are men who are still in the custom cocoons and thus becomes a challenge for them to be impartial and transparent in land matters relating to women. This has led to women using all means possible to acquire what's rightfully theirs. The researcher intends to highlight this conflict that has led to GBV.

Table 4.22: Action taken

Action	Frequency	Percentage
Ignored	2	15%
Relocated	5	38%
Given up	1	8%
Ran away	5	38%
Total	13	100%

4.9 Relationship between equitable access to land, protection of rights to property and customary practices and gender violence

The researcher sought to establish the relationship between the independent variables in the study and the dependent variable. This was achieved by conducting a correlation analysis between equitable access to land, protection of rights to property and customary practices with gender violence. The analysis was carried out in SPSS version 20 for windows. The Pearson correlation coefficient was noted and indicated in Table 4.23

The findings show that there was a weak ($r=0.430$) positive correlation between equitable access to land and gender based violence. The study also found that there was a strong positive correlation ($r=0.6850$) between protection of rights to property and gender bases violence. In addition, there was moderate positive correlation ($r=0.532$) between customary practices and gender based violence.

Table 4.23: Correlation analysis output

Variable	N	Pearson correlation (Sig. 2 Tailed)
Equitable access to land	44	0.430
Protection of rights to property	42	0.685
Customary practices	44	0.532

The findings show that protection of rights to property and customary practices were strong predictors of gender based violence. The findings show that the person responsible for decisions on use of land, possession of title deed, and inclusion in will to inherit land influenced gender based violence. The findings can be attributed to African culture where women are left out of the will to inherited land by their fathers. Widowed women are not viewed as rightful heirs to their husband's land. When women try to get such land

conflicts emerge where women find themselves at loggerheads with their siblings or in laws.

4.10 Hypothesis testing

The researcher carried out chi-square tests to test for the hypothesis that stated that there is no significant relationship between access to land and GBV in TetuSub County, Nyeri County.

Findings in Table 4.24 indicate that there was a significant relationship ($p=0.046$) between equitable access to land and gender based violence at 95% confidence level. The researcher therefore rejects the first null hypothesis and concludes that there is a relationship between equitable access to land and Gender Based Violence. The findings therefore indicate that women's inequitable access to land was a major predictor for gender based violence. The finding agrees with Drimie (2002) who contends that women are often excluded from traditional institutions where key decisions about land rights are taken.

The findings also show that there was a significant relationship ($p=0.037$) between protection of rights to property and gender based violence at 95% confidence level. The researcher therefore rejects the second null hypothesis and concludes that there is a relationship between customary practices and GBV in Tutu Sub County, Nyeri County. The finding therefore shows that women's lack of rights to property was a source of gender based violence. The finding is therefore in agreement with Ann and Dzodzi (2003) who explained that conflict arises when the daughter does not get married or marries from a family which owns no land. This makes the daughter claim her rights from her parents on land acquisition

The study also found that there was a significant relationship ($p=0.044$) between customary practices and gender based violence. The researcher therefore rejects the third null hypothesis and concludes that there is a significant relationship between access to land and GBV in Tutu Sub County, Nyeri County. The finding therefore shows that customary practices denied women rights to property specifically land and this is a major source of conflict and gender based violence. The findings are therefore in agreement

with SIDA (2009) who observed that sisters do not have same right to own land as their brothers, depriving them reasonable livelihood which by extension impoverishes their children.

Table 4.24: Chi-square tests output

Variable	Value	Df	P-value
Equitable access to land	6.921	4	0.046
Protection of rights to property	7.232	4	0.037
Customary ctices	9.280	4	0.044

CHAPTER FIVE

SUMMARY OF FINDINGS, DISCUSSIONS CONCLUSION AND RECOMMENDATIONS

5.1 Introduction

This chapter presents a summary of the findings in the previous chapter. Conclusions made by the researcher as well as recommendations are also presented.

5.2 Summary of findings

The purpose of the study was to analyze the relationship between land reforms in Kenya and gender based violence. Specifically, the study aimed to find out the relationship between equitable access to land and gender based violence; establish the relationship between customary practices pertaining to land rights; establish the relationship between protection of right to property and GBV and explore challenges facing women in effective land disputes resolution in courts in Nyeri County on matters pertaining to land inheritance and how it relates to GBV. Descriptive survey design was used. The study targeted women who have been marginalized pertaining to land inheritance and land ownership through customary practices. The researcher used purposive Sampling that allowed the researcher to use 45 cases that had the required information with respect to observed that the objectives of the research. Researcher used questionnaires to collect data. The following is a summary of the findings.

According to the research, 35% of the participants indicated that, their land was used by the family as a whole however 45% of the women indicate that another person was in charge of the land; this mainly comprised of the in-laws for example mother in law or brother in law.50% of the participants indicated that the in-laws were in charge of decisions on use of land. The study found that a significant number (93%) of respondents did not possess a title deed to their piece of land. The study also found that 78% of the women in the women in the study had no right to sell their inherited piece of land. In addition, 74% of the participants had no equal rights to use of family land.

A significant (73%) number of women in the study were not included in their parents will to land inheritance. A significant number (88%) of women in the study had no access to land in their current place of residence. A significant number (95%) of participants had experienced threats on land related matters. Findings show that a significant number (81%) took the threats to the chief's office while 23% took the complaints to the magistrates court. The findings also show that majority (68%) of the participants had the case resolved in their favor.

The study found that majority (55%) of the women were abused 11 to 50 times in a year. The researcher probed further to find out how long the women had suffered the violence that 50% of the women in the study had suffered gender based violence for over 5 years. Majority (67%) of the women in the study indicated that they suffered injuries from the beatings. The researcher sought to find out the seriousness of the injuries.

The findings show that there was a weak ($r=0.430$) positive correlation between equitable access to land and gender based violence. The study also found that there was a strong positive correlation ($r=0.6850$) between protection of rights to property and gender based violence. In addition, there was moderate positive correlation ($r=0.532$) between customary practices and gender based violence. There was a significant relationship ($p=0.046$) between equitable access to land and gender based violence at 95% confidence level. There was a significant relationship ($p=0.037$) between protection of rights to property and gender based violence at 95% confidence level. There was also significant relationship ($p=0.044$) between customary practices and gender based violence.

5.3 Conclusion

The researcher concludes that women in Tetu Sub County, Nyeri County had no equitable access to land and this created conflicts when they tried to inherit land from their matrimonial or husband's family land. The researcher also concludes that women in Tetu Sub County, Nyeri County had no protection of rights to property in that they did not have a title deed to their land. The researcher concludes that customary laws were a source of conflict; women were not included in the will to inherit land and even when

they were in the will, the male siblings or the male in-laws threatened them. The researcher also concludes that there was an improved level of land disputes resolution; many women had reported their matter to the magistrates' court and majority of them had their case resolved in their favor.

5.4 Recommendations

The researcher recommends that:

- i. The government should create awareness among the citizenry on the right of women to inherit land. This will help diminish negative customary practices and perceptions that deny women inheritance of land.
- ii. The law should make it illegal for persons to use land which they do not have a title deed to.
- iii. The law should be enforced to ensure that it becomes mandatory for women to be included in the will to inherit land.
- iv. The government should retain and grant more powers to the chiefs to ease resolving of land conflicts. Majority of the respondents in Tetu had confidence in Chiefs.

5.5 Suggestions of further study

The current study focused on the victims of land conflicts; future studies should include members of law enforcement and judiciary who are involved in land conflict resolution.

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APPENDICES

Appendix I: Transmittal letter.

Stephen Muthoga

P.O. Box 2675

NYERI

1st July 2014

To all Respondents

Dear Sirs/Madams,

RE: INVESTIGATION OF THE RELATIONS BETWEEN LANDFORMS AND GENDER BASED VIOLENCE IN KEYA. A CASE STUDY OF TETU SUB COUNTY

My name is Stephen MUTHOGA Nyambura. I am a student of the University of Nairobi doing a research on the increased gender based violence since the inception of constitution of Kenya 2010 among and between families. This is case study of Tetu sub county, Nyeri County, Kenya.

This information will be used by the researcher in an ethical manner and you are assured of confidentiality of all information obtained. All the information is for research purposes only and is awarded to relevant and offices involved in disseminating primary information to the researcher. This is therefore to humbly request for your co-operation.

Thank you.

Signed

Stephen Muthoga Nyambura

REG: No. L51/74/74781/2012

Appendix II: Questionnaire

Instructions

This study intends to investigate the relationship between land reforms as embedded in constitution of Kenya 2010 and gender based violence. A case study of Tetu sub county.

The research is purely for academic purposes and as such the data collected will be treated with utmost confidentiality, kindly, respond to the questions as truthfully as possible. Information got from this Questionnaire will be confidential. Kindly respond to the questions as truthfully as possible.

N.B Please do not write your name. Answer all questions by putting a tick()and fill in where appropriate.

1. Status

Gender.....

Married.....

Divorced.....

Widow.....

Widower.....

Others.....

Age bracket 18-25 ()

 26-35 ()

 36-45 ()

 46-55 ()

 56-65 ()

and above 65 ()

2 (a) What are your educational and professional qualifications

 Partial ()

- Completed ()
- Secondary education
- Partial ()
- Completed ()
- Diploma ()
- Certificate ()
- Bachelors Degree ()
- Post Graduate (specify)

2. EQUITABLE ACCESS TO LAND

a) Who is the main user of land?

- No main user ()
- Me ()
- My husband ()
- Family as whole ()
- Others (speciy) ().....

b)Who is the person responsible for decisions on the use of land

- No ()
- Me ()
- My husband ()
- Family as a whole ()
- Others (specify)

3. PROTECTION OF RIGHTS TO PROPERTY

Dou you have a Title Deed to your piece of land ?

- Yes ()

No ()

a) Who is consulted on the use of land?

I am the main person ().....

Other persons have equal say (specify) ().....

Other persons have more say (specify) ().....

None ()

b) Who is consulted on matters related to land disposal

I was the main person consulted ()

Other persons had equal say (specify) ().....

Other persons had more say (specify) ().....

I was not consulted ()

NA-Land cannot be sold ()

NA-There has been no discussion ()

b) Who is responsible for decisions related to sale, rent or transfer of land?

Me ()

My husband ()

Family as a whole ()

Parents ()

Others (specify) ()

c) Do you have a right to sell your inherited piece of land?

YES.....NO.....

Do you have equal rights to the use of family land?

YES.....NO.....

4. CUSTOMARY PRACTICES

Answer where Applicable

a)How many siblings do you have?.....

Male.....Female.....

b)Were you included in your parents will on land inheritance?

YES.....NO.....

If Yes, what happened

I got my share as per will ()

My siblings refused to honor the will ()

I was threatened ()

I was evicted ()

c)If No

I felt ok ()

I challenged the will legally ()

I was threatened by my siblings ()

I was evicted ()

I was given titling rights only ()

d) Are you living in your matrimonial home?

YES.....NO.....

If Yes, Do you have full right to?

Use of land ()

Management of land ()

Sale of land ()

Any other (specify)

e)Are you living in your maternal or your husband's family home?

Maternal.....husbands family.....

f)Do you have total access to use of land?

Yes () No ()

If No, What happened?

Explain:.....
.....
.....
.....
.....

5. LAND MANAGEMENT AS JOINED MATRIMONIAL PROPERTY

a)Who is the Owner of homestead by site

- Mine ()
- My husband or partners ()
- Joint homestead with my husband or partner ()
- My parents homestead ()
- My brothers homestead ()
- Homestead of husband or partners family ()
- Others (specify) ()

b)Did you acquire your inheritance

- Yes ()
- No ()

If no, what happened ?

Explain.....
.....
.....
.....

If yes, did you acquire equal share as the rest ?

- Yes ()
- No ()

If no , what was the reason ?

Explain:.....
.....
.....
.....
.....

c)If you did not get your inheritance , did you report at the local administration ?

Yes ()

No ()

d)Was any action taken ?

Yes ()

No ()

If yes,what action was taken ?

Explain:.....
.....
.....
.....

If no, did you take legal action ?

Yes ()

No ()

Has the case been resolved yet ?

Yes ()

No ()

If yes, what was the resolution ?

Explain:.....
.....
.....
.....

e)If you did not take legal action, what happened ?

Explain:.....
.....
.....
.....

f) What Amount of food is consumed in your homesteads is produced in your farm?

All ()

Most ()

About half ()

Less than half ()

None ()

Who is the Main user of land

No main user ()

Me ()

My husband ()

Family as a whole ()

Others (specify) ().....

6.EFFECTIVE LAND DISPUTES RESOLUTION

a)Was eviction/threat of eviction taken to chiefs office?

Yes ()

No ()

b) Was eviction/threat of eviction taken to magistrate's court?

Yes ()

No ()

c)What was the Main reasons for loss of land?

I was threatened with evictions ()

I was evicted ()

Others (specify) ()

d)Have you ever experienced threats on land related matters ?

Yes ()

No ()

If Yes, What was the issue?

(Explain)

.....

.....

e) Was threat taken to Chiefs Office?

YES.....NO.....

f) Was threat taken to Magistrates Court?

YES.....NO.....

If yes, was case resolved to your favour?

YES.....NO.....

If Yes, How long did the case take.....

g) Have you ever lost access to land?

YES.....NO.....

h) If Yes, What was the main cause of loss of land?

I felt to move because of bad relationship ()

I chose to move to a better alternative but I was not forced to move ()

I was threatened with evictions ()

I was evicted ()

Others (specify) ()

VIOLENCE

a) How often are you beaten in a year?

2-10 times ()

11-50 times ()

Over 50 times ()

b)Were you injured ?

Yes ()

No ()

If Yes , how was the injury

Mild ()

Serious ()

Severe ()

c)Were you hospitalised ?

Yes ()

No ()

d)Do you fear for your life ?

All the time ()

Sometimes ()

No ()

If yes, have you reported your fears to the police ?

Yes ()

No ()

e)If no, what action have you taken ?

Ignored ()

Relocated ()

Given up ()

Ran away ()

f)How long have you suffered violence this ?

One year ()

Four years ()

Over five years ()

g)Have you ever been physically beaten ?

Yes ()

No ()

If yes, by who?

My husband ()

My relatives ()

My siblings ()

My parents ()

h)Are you aware of any government action to safeguard women's rights to property ?

Yes ()

No ()

If yes , tick the one you are aware of:

Affirmative action ()

Women education and training ()

Media education on women rights ()

Others:

Specify.....
.....
.....

Appendix III: Authorization letter



NATIONAL COMMISSION FOR SCIENCE, TECHNOLOGY AND INNOVATION

Telephone: +254-20-2213471,
2241349, 310571, 2219420
Fax: +254-20-318245, 318249
Email: secretary@nacosti.go.ke
Website: www.nacosti.go.ke
When replying please quote

9th Floor, Utalii House
Uhuru Highway
P.O. Box 30623-00100
NAIROBI-KENYA

Ref: No.

Date:

24th November, 2014

NACOSTI/P/14/7200/4210

Stephen Muthoga Nyambura
University of Nairobi
P.O. Box 30197-00100
NAIROBI.

RE: RESEARCH AUTHORIZATION

Following your application for authority to carry out research on *“The relationship between land reforms and gender based violence in Kenya: A case of Tetu Sub-County, Nyeri County,”* I am pleased to inform you that you have been authorized to undertake research in **Nyeri County** for a period ending **28th November, 2014.**

You are advised to report to **the County Commissioner and the County Director of Education, Nyeri County** before embarking on the research project.

On completion of the research, you are expected to submit **two hard copies and one soft copy in pdf** of the research report/thesis to our office.


DR. S. K. LANGAT, OGW
FOR: SECRETARY/CEO

Copy to:

The County Commissioner
Nyeri County.

The County Director of Education
Nyeri County.



Appendix IV: Research Permit

THIS IS TO CERTIFY THAT:

**MR. STEPHEN MUTHOGA NYAMBURA
of UNIVERSITY OF NAIROBI, 0-10400
NYERI, has been permitted to conduct
research in Nyeri County**

**on the topic: THE RELATIONSHIP
BETWEEN LAND REFORMS AND GENDER
BASED VIOLENCE IN KENYA: A CASE OF
TETU SUB-COUNTY, NYERI COUNTY**

**for the period ending:
28th November, 2014**



**Applicant's
Signature**

Permit No : NACOSTI/P/14/7200/4210

Date Of Issue : 24th November, 2014

Fee Received :Ksh 1000



**Secretary
National Commission for Science,
Technology & Innovation**

CONDITIONS

- 1. You must report to the County Commissioner and the County Education Officer of the area before embarking on your research. Failure to do that may lead to the cancellation of your permit**
- 2. Government Officers will not be interviewed without prior appointment.**
- 3. No questionnaire will be used unless it has been approved.**
- 4. Excavation, filming and collection of biological specimens are subject to further permission from the relevant Government Ministries.**
- 5. You are required to submit at least two(2) hard copies and one(1) soft copy of your final report**
- 6. The Government of Kenya reserves the right to modify the conditions of this permit including its cancellation without notice.**

REPUBLIC OF KENYA



**National Commission for Science,
Technology and Innovation**

**RESEARCH CLEARANCE
PERMIT**

Serial No. A 3721

CONDITIONS: see back page