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## AN ASSESSMENT OF THE INFLUENCE OF GENDER ON PROPERTY ACCESS AND CONTROL AMONG THE PEOPLE OF KISII COUNTY IN KENYA

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### ABSTRACT

This study assessed the influence of gender in property access and control among the Kisii people of Kenya. The study was guided by two objectives; identify key properties in Kisii County and establish the relationship between access and control over property and gender. Properties identified were residential houses, land, cattle, poultry, goats, commercial plots, houses, sheep and motor vehicles. However, this study focused on houses, land and livestock. Findings revealed men had unlimited access to family properties while women had limited access. Though both genders had access, there was an indication of gender disparity. Regarding control, there was evidence of a relationship between houses, land and livestock control and gender. Chi-square test outputs with p-values ranging between 0.001- 0.002 revealed that property control was skewed towards one gender. Discriminative property practices were culturally upheld by both men and women despite human rights campaigns and legal frameworks that promote gender equality in property access and control. To attain sustainable development, gender inclusiveness in decision-making, unlimited user rights and management of property is critical.

## INTRODUCTION

The constitution of Kenya (2010) accords men and women equal rights in all spheres of life. Chapter four, article 19(2), the bill of rights recognizes the importance of protecting human rights and the fundamental freedoms of the citizens as a way of preserving their dignity and promote social justice. Further, article 20(4) clause (a) underscores the importance of upholding a democratic society that gives emphasis to human dignity, equality and equity before the law. In addition to this, the same constitution in Chapter five, article 60(1) clauses (a and b) provides for gender equality and equity in land rights while in clause (f), the constitution recognizes the possibility of existence of discriminative laws (customary, personal and religious), customs and practices that could be discriminative and provides for their elimination, especially those related to land rights. The fact that land law is enshrined in the sovereign law of Kenya shows how crucial this resource is to her citizens, hence, the protection.

However, the existence of dual legal systems in most post-colonial states causes conflicts between statutory laws and customary laws. Though, it is clear that constitutional provisions override customary laws, the opposite is true. Worse still, the same constitution in article 60(1), clause (g) encourages land disputes to be settled at the community level through recognized local community initiatives. Ironically, most community structures are driven by cultural and customary beliefs and practices that promote gender discrimination. Besides, such forums are led by men who are culturally tuned to discriminate against women as a way of guarding their own interests. This makes community structures prone to gender-discrimination. In this state of affairs and as argued by Kato and Kratzer (2013), promoting gender equality becomes a challenge as women are marginalized and subjected to patriarchal stereotypes prevalent in their communities. This state of affairs is not different among the Kisii people of Kenya as observed by (Silberschmidt, 1999) who affirms that inspite of the law that promote gender equality in land rights,

gender discrimination is still a common occurrence. This argument is validated by (Bikaako and Ssenkumba, 2006 and Kameri-Mbote, 2007) who observe that despite international, local and regional efforts geared towards enhancing women's rights to property, gender discrimination is still pervasive. These practices, as Kameri-Mbote (2007) documents are strengthened by the dual legal system that allows customary and personal laws to prevail over statutory laws. Bikaako and Ssenkumba (2006) observe that in most communities, women are accorded limited user rights and access to family resources by male relatives. Men make decisions on what should be done with family properties and oversee women's access to property. Njuki and Sanginga (2013) also reveal that women have access to livestock and their products because they feed and take care of animals, use animal products such as milk and eggs for family consumption and local sales but they have no control over such livestock. Women cannot make decisions to dispose livestock; this is the responsibility of men.

Similarly, FAO (2013) report states that though women are allowed to till and cultivate family land and use the proceeds accrued from these farms, sell surplus produce from their vegetable gardens with minimum restrictions and consultations, they are not fully permitted to control family resources as long as their husbands are alive. Further, Njuki and Sanginga (2013) have documented that control of key resources such as; land, livestock, houses and vehicles is dominated by men. These are basic properties whose ownership is valued in most African communities but they are scarce and very competitive as observed by (FAO, 2004; UN-Habitat, 2006). This culminates to gender-based discrimination in property access and control despite women's enormous contribution in managing these resources. It is on the basis of the foregoing that Njuki and Sanginga (2013) concludes that in East Africa, just like most parts of African and other developing countries, women are accorded user rights but not control over property. For instance, women are allowed to access and utilize land for subsistence farming, plant vegetables and other subsistence crops consumed within their homes but they cannot claim control over the land they cultivate (Silberschmidt, 1999). Studies by Chavangi (1987); ILRI (1999); Mogaka (2000); Njuki and Sanginga (2013) document the critical role women play in caring and managing livestock. In most communities, women feed and milk cows and goats, clean their shades and sell surplus milk on behalf of their families. Therefore, women have access to resources and are accorded user rights. However, these resources are controlled by male relatives within the homestead.

The fact that most women lack control over property deprives them of freedom to fully access and utilize family resources. This deprivation denies them chances to effectively and independently maximize resources utilization (Mogaka, 2000). Consequently, women depend on male relatives to make major decisions on farm use, type of crops planted, where and when to plant, even when they are chief providers of agricultural labour force (KHRC, 2003; Njuki and Sanginga, 2013). Just like in most parts of Africa, changes in family structure through education and exposure has not managed to alter people's thinking and perceptions on women's access to and control over property among the Kisii people (Silberschmidt, 1999). The same view is echoed by Mogaka (2000) who confirms that communities still uphold cultural practices that deny women rights to unconditional access and control of family resources like land, houses and livestock. These

findings are emphasized by the work of Waithaka, Wakobi, Nyangaga, Ouma, Tineke de Wolf, Biwott, Staal and Ojowi (2000) who document that cultural and customary beliefs and practices among the inhabitants of Western Kenya stand on the way of the realization of gender equality in property rights in spite of the existing legal frameworks and campaigns spearheaded by different promoters of women's property rights. Therefore, the purpose of this study was to explore and create a better understanding of the influence of gender in access and control over property among the residents of Kisii County. The study was guided by two objectives that sought to; identify key properties people in Kisii County have and establish which gender had the rights to access and control identified properties.

## **MATERIALS AND METHODS**

### **Study Design**

This study used mixed methods research design by 'mixing' of quantitative and qualitative research techniques in data collection, analysis and reporting (Heavier, Ames and Onghena, 2011). The design allowed flexibility and probing to gain more understanding of the variables investigated on the determinants of women's property ownership and inheritance practices. Qualitative research techniques focused on the setting and context of research (Creswell and Plan, 2011) and provided in-depth understanding and analysis of concepts investigated.

### **Study site**

Study site was Township and Keumbu divisions located in Kisii County, Nyanza Region in Kenya which covers an area of 1,332.7km<sup>2</sup> of which 1,260.34 km<sup>2</sup> is arable land while 190.66 km<sup>2</sup> is non-arable the county (KNBS, 2012). This community is a predominantly agricultural zone practicing subsistence mixed farming and land is its main economic resource that sustains people's livelihoods. However, it is scarce and highly fragmented with insignificant economic value The Republic of Kenya (2009) and The Kisii County Government Website (2013). According to UNAIDS (2014), Nyanza region records high rates of women disfranchisement and disinheritance from family properties. Widows who refuse to be 'inherited' are taken advantage of and their marital properties are seized by their husbands' kin. Such widows find themselves with no source of livelihood (KHRC, 2003, 2006; UNAIDS, 2005). All these factors make Kisii County an ideal site for this study.

### **Study Population**

According to Republic of Kenya (2009) population and housing census report, the population of Kisii County was 1,152,282 people comprising 48% males and 52% females. There were 245,029 households with an average family size of six members. Female headed households were estimated to be 20,434. As of 2017, the population of this county is projected be 1,362,779; 550,644 males and 601,818 females (Kisii county website, 2013-2017). The average population growth rate stood at 2.19% with an average life expectancy of 53 years (Republic of Kenya, 2009). However, the target population was 292,837 people from two sampled divisions, that is; Keumbu and Township divisions with a population of 109,837 and 183,000 people respectively.

## Inclusion Criteria

To arrive at the study sample, multistage sampling was adopted. In the first phase, purposive sampling was used to isolate the rural and urban divisions in Kisii County which has a total of six divisions namely; Keumbu, Marani, Township, Masaba, Mosochi and Suneka. Out of the six, Township division was purposively selected for its urban characteristics. From the remaining five divisions, random sampling technique was used to sample Keumbu division to represent the rural population. Hence, the study was conducted in two divisions in Kisii County - Township and Keumbu divisions. The second phase was to sample locations from within the sampled divisions. Census technique was used to sample the only location in Township division (Township location) while there were a total of five locations in Keumbu division namely; Ibeno, Kerera, Keumbu, Birongo and Taracha. Out of these five locations, Keumbu and Birongo were sampled using random technique. In total three locations were sampled for the study (Township, Keumbu and Birongo). In the third stage, census was used to sample Township and Mwamosioma sub-locations, the only two sub-locations in Township location. On the other hand, Keumbu location had a total of three sub-locations; Nyamware, Keumbu and Taracha. Out of the three, two (Nyamware and Taracha) were selected using random sampling techniques. Similarly, Birongo location had three sub-locations; Biombe, Bomwagi and Birongo out of which two (Bomwagi and Birongo) were sampled using random sampling techniques. Finally, two divisions (Township and Keumbu), three locations (Township, Keumbu and Birongo) and six sub-locations (Township, Mwamosioma, Nyamware, Taracha, Bomwagi and Birongo) were included in the study sample. In phase four, lists of all names of household heads totaling to 2,460 from the six sampled sub-locations were locally generated with the help of local community leaders. This sampling frame was used to select 408 respondents using systematic random sampling technique. Besides the 408 sampled respondents, 30 key informants were purposively sampled and lastly, four Focus Group Discussions (FGDs) of 10 participants each were purposively sampled on the basis of members' ability to engage in productive discussions. Two FGDs were constituted in each sampled division (Township and Keumbu), for male and female genders respectively to facilitate free and open discussions by members of the same gender without fear of condemnation or victimization.

## Data collection Instruments

Three tools of data collection, that is; semi-structured interview schedules for the 408 household heads, in-depth interview guides for 30 key informants and focus group discussions guide for the 4 focus group discussion participants were used for this study as recommended by (Creswell, et al., 2011) to facilitate holistic investigation of the problem under study.

## Ethical considerations

Before embarking on field work, clearance was obtained from relevant authorities and administrators in Kisii County to whom the purpose of this study was explained. The researcher was given authorization to proceed with field work. Relevant leaders in sampled divisions, locations and sub-locations were also explained the purpose of the intended study and they provided the researcher needed support during the entire

period of field work. Further, to adhere to ethical considerations, identification and training of research assistants with a minimum of undergraduate degrees from sampled communities was done. This training focused on; use of research tools, confidentiality, informed consent, anonymity and respect of respondents. During the interviews, informed consent was sought from the respondents who were assured that the information they share will be treated confidentially and only for the purpose of this research. Interview schedules were assigned numbers to ensure anonymity. All respondents were treated with respect while protecting their dignity and privacy.

## Data management and analysis

Collected data was edited, cleaned, classified and coded before being entered into the computer by two independent data entry clerks using the SPSS Version 21 software. This facilitated the generation of descriptive statistics such as frequencies, percentages and factor analysis. The findings were presented in form of tables, narratives and quotations.

## RESULTS

### Demographic Characteristics

In this study 408 respondents were sampled and all of them were reached for interview, hence, 100% response rate. In order to ascertain the demographic characteristics, respondents' data related to; gender, age, marital status, religion, occupation and monthly household income were investigated and analyzed. The findings revealed that 173(42.4%) of the respondents were females while 235(57.6%) were males, majority of the respondents were between 40-50 years, majority (91%) were married and (99.5%) were Christians. Further, the findings revealed that 73.4% of the respondents had reached secondary school. Few (3.2%) had university education while (76%) of the respondents were engaged in subsistence farming and (76.8%) earned a monthly income of less than \$ 50 dollars.

### Identification of key properties in Kisii County

Objective one of this study sought to identify different types of properties people in Kisii County had based on gender. The respondents were asked to list the properties they had either through ownership or lease. The findings revealed that the respondents had; residential houses, land, cattle, poultry, goats, commercial plots, houses, sheep and motor vehicles. Most of them had more than one type of property at the time of interview as shown in Table 1. Majority 99.8% of the respondents indicated they had residential houses, 85.8% had land, 70.8% had cattle, 65% had poultry, 22% had goats, 10.8% had commercial plots, 7.8% had commercial houses while 5.9% had sheep and the remaining 3.2% had motor vehicles. Chi-square tests revealed existence of relationships between ownership of residential houses, agricultural land, cattle, poultry, and commercial houses and gender. However, there was no relationship between goats, sheep and commercial plots ownership and gender. From these findings, the major properties identified were land, houses and livestock. Therefore, objective two limited itself to these three key types of properties.

Table 1. Types of Properties Owned by Gender

Types of Properties	Ownership by Gender								Chi Square	df	Asymp. Sig. (2-sided)
	Males		Females		Joint		Total				
	Freq	%	Freq	%	Freq	%	Freq	%			
Res. Houses	176	43.2	70	17.2	161	39.6	407	99.8	7.61	6	0.001
Agri. Land	182	52	55	15.7	113	32.3	350	85.9	13.3	10	0.001
Livestock	120	41.5	52	18	117	40.5	289	70.8	8.185	8	0.002
Poultry	73	27.5	88	33.2	104	39.2	265	65	17.266	8	0.027
Goats	36	40.9	20	22.7	32	36.4	88	22	13.571	10	0.193
Com. Plots	26	59.1	10	22.7	8	18.2	44	10.8	14.285	8	0.003
Com. Houses	19	59.4	3	9.4	10	31.3	32	7.8	22.398	22	0.002
Sheep	11	45.8	5	20.8	8	33.3	24	5.9	11.259	12	0.507
M. Vehicle	13	100	0	0	0	0	13	3.2	-	-	-
Total	656	43.3	303	20.1	553	36.6	1510	100	-	-	-

\*Multiple responses allowed.

Table 2. Respondents' Access to Properties by Gender

Type of Property	Level of Access	Gender		Total	Chi-Square	Degree of freedom	P-value
		Female	Male				
	Had Access	171(99.4)	226(99.1)	397(99.3)	2.75	2	0.25
	No Access	1(0.6)	2(0.9)	3(0.7)			
	Total	172(100)	228(100)	400(100)			
Livestock	Had Access	142(97.9)	149(97.4)	291(97.6)	10.55	2	0.005
	No Access	3(2.1)	4(2.6)	7(2.4)			
	Total	145(100)	153(100)	298(100)			
Houses	Full Access	195(100)	207(100)	402(100)	19.59	1	0.007
	Total	195(100)	207(100)	402(100)			

Table 3. Respondents' Control over Properties by Gender

Type of Property	Level of Control	Gender		Total	Chi-Square	Degree of freedom	P-value
		Female	Male				
Land	Full Control	75(78.1)	293(96.4)	368(92.0)	17.59	2	0.001
	No Control	21(21.9)	11(3.6)	32(8.0)			
	Total	96(100)	304(100)	400(100)			
Livestock	Full Control	64(76.2)	208(96.8)	272(91.0)	12.83	2	0.002
	No Control	20(23.8)	7(3.2)	27(9.0)			
	Total	84(100)	215(100)	299(100)			
Houses	Full Control	164(95.4)	225(97.8)	389(96.7)	19.36	2	0.001
	No Control	8(4.6)	5(2.2)	13(3.3)			
	Total	172(100)	230(100)	402(100)			

### Household Heads' Access to and Control over Property

Analysis in objective two was twofold; the relationship between respondents' access to property and gender, and the relationship between respondents' control over property and gender. Chi-square tests were utilized to establish these relationships. The types of properties discussed under this section were limited to; land, livestock and houses. Justification for investigating these types of properties was related to the high percentage of respondents who indicated that they had them (Table 1). Besides, they are critical in meeting basic human needs of the residents of Kisii County such as food, housing and security as well as sustaining their livelihoods. As a result of this, high value is attached to these properties among Kisii people.

### Access to Property by Gender

As reported in Table. 2, 379(99.3%) respondents; 171(99.4%) females and 226(99.1%) males accessed land while 291 respondents; 142(97.9%) females and 149(97.4%) males had access to livestock and the remaining 402(100%) of the respondents; 195(100%) females and 207 (1000%) males had access to family houses.

### Control over Property by Gender

As shown in Table 3, investigation of property control by gender revealed that majority (368(92.0%) of the respondents;

75(78.1%) females and 293(96.4%) males had control over land while 272(91.0%) of the respondents; 64(76.2%) females and 208(96.8%) males had control over livestock and the remaining 389(96.7%) of the respondents; 164(95.4%) females and 225(97.8%) males had control over houses.

## DISCUSSION

The 408(100%) response rate was credited to the extensive support received from the county and local public administrators who mobilized and sensitized household heads for the study. As far as gender was concerned, more men (57.6%) compared to women (42.4%) participated in the study. This reflects an ideal situation because in this community, men are legitimate household heads with legitimate powers to control resources; hence, they easily qualified for interview (Silberschmidt, 1999). However, out migration and high rates of HIV and AIDS related deaths has contributed to the raise of female headed households (KHRC, 2006) in this area leading to an increased (42.4%) of female respondents. Majority (91%) of the respondents were married and this affirms the finding by silberschmidt (1999) who argues that among the Kisii people, marriage defines one's legibility to property ownership and inheritance. The study revealed that 99.5% of the respondents were Christians, reinforcing the international religious freedom (2014) report which shows that 82% of Kenyans are Christians. The findings further revealed that

majority (73.4%) of the respondents had high school education as their highest educational qualification. This finding corroborates with Sifuna and Sawamura (2010) and UNICEF (2010) reports that confirm that in some parts of Kenya, post-secondary academic qualifications are low. Further, the finding of this study showed that 76% of the respondents were subsistence farmers and majority (76.8%) of them earned a monthly income of less than Kenya shillings five thousands. Silberschmidt, (1999); KNBS (2009) and Njuki and Singinga (2013) attest to this finding for Kisii and East African region. These findings corroborate with earlier studies by (Silberschmidt, 1999 and Njuki and Singinga, 2013) who argue that there is a relationship between property ownership and gender for most of the properties investigated in this study.

### Types of Properties

As illustrated in Table 1, the findings of this study revealed that 43.2% males and 17.2% females reported that they owned residential houses while the remaining 39.6% stated that they jointly owned residential houses. A chi-square test output of  $\chi^2=7.61$  with a p-value of 0.001 confirmed existence of a relationship between residential houses' ownership and gender. Investigation on commercial houses revealed that (7.8%) of the household heads reported commercial houses' ownership, out of these, 59.4% of them were males. Further analysis revealed that 31.3% of the household heads owned commercial houses jointly with their spouses. A chi-square analysis output of  $\chi^2=22,398$  with a p-value of 0.002 confirmed existence of a relationship between commercial houses' ownership and gender. Majority (85.8%) of the respondents; 52% males, and 15.7% females reported land ownership while 32.3% stated that they owned agricultural land jointly. A chi-square analysis output of  $\chi^2=13.3$  with a p-value of 0.001 revealed existence of a relationship between agricultural land ownership and gender. Similar results were obtained for ownership of commercial plots which was dominated (59.1%) by the male gender. Only 22.7% female respondents reported commercial plots' ownership (Table 1).

The remaining 18.2% of the respondents reported joint ownership of commercial plots. A chi-square analysis output of  $\chi^2=14.285$  with a p-value of 0.003 revealed confirmed existence of a relationship between commercial plots' ownership and gender. As far as livestock was concerned, analyzed data revealed that majority (70.8%) of the respondents; 41.5% males and 18% females reported that they owned livestock. Further analysis indicated that 40.5% of the respondents owned cattle jointly (Table 1). A chi-square test output of  $\chi^2=8.185$  with a p-value of 0.002 confirmed existence of a relationship between cattle ownership and gender. For the three types of properties investigated, the study established a relationship between their ownership and gender. There was also an emerging trend of joint property ownership by husband and wife that was reported in all the types of properties investigated. This depicts change of perception of community members to embrace female gender property ownership. This counters prevailing cultural practices that only recognize men as legitimate family property owners as documented by FAO (2004), KHRC (2006) and United Nations (2010). If this trend is embraced, it is likely to promote women's ownership rights and make them active participants in decision-making processes related to access and control (FAO, 2004, 2013).

### Access to property

As shown in Table 2, this study did not establish any relationship between access of land and houses with gender. This is congruent with the finding documented by Silberschmidt (1999) that among the Kisii people women have access to houses since they are the home makers and their reproductive roles focus on household chores. This allows women access to houses culturally identified by their names. Similarly, World Bank (2013) report observes that women have user rights to land as they provide over 70% of the agricultural labour force. They access the land they cultivate but are locked out of its control. On the other hand, the study established a relationship between livestock ownership and gender. This finding corroborates with the findings of ILRI (1999) and Njuki and Singinga (2013) which confirm that, compared to men, a great proportion of women are involved in livestock management. It is worth noting that though women were found to have adequate access to family livestock, they did not have control over them (Table 1) as reported by Njuki and Mburu (2013).

### Property Control

Property control is different from access because in controlling one has powers to make decisions while in access one has no such powers. This study sought to find out if there was a relationship between control of the three (land, houses and livestock) investigated properties with gender and the findings are summarized in Table 3. A chi-square test outputs generated revealed existence of relationships between control of land, livestock and houses with gender. For land, a chi-square test output of  $\chi^2=17.59$  with a p-value of 0.001 confirmed existence of a relationship between respondents' control over land and gender. This finding corroborates with reports by FAO (2011) and World Bank (2013) which observe that though over 70% of rural women are involved in land-based agricultural labour but its ultimate control and ownership rests with men. Similarly, studies conducted by Agarwal (2003) and FAO (2001, 2004) observe that though women can access land, men have the right to its disposal with or without consultations with female spouses. Table 3 shows that majority (96.7%) of the respondents reported that they had control over family houses while the remaining 3.3% stated that they did not have such control.

A chi-square analysis output of  $\chi^2=19.36$  with a p-value of 0.001 revealed existence of a statistically significant relationship between respondents' control over houses and gender. This finding corroborates with that findings by Oduyoye (1999), Agarwal (2003), KHRC (2003), Silberschmidt (1999) and UN-Habitat (2006) which reveal that despite the fact that women spend much time doing domestic chores to manage and maintain family houses; it is men who ultimately have control over these houses and everything that is in them. This is made evident in case of family disputes that lead to separation or divorce. It is women, not men who are thrown out of their family houses. With regard to respondents' control over livestock, a chi-square analysis output of  $\chi^2=12.83$  with a p-value of 0.002 established a statistically significant relationship between respondents' control over livestock and gender. This finding is congruent with the findings reported by Njuki and Mburu (2013) who confirms that compared to men, few women own or control livestock.

Njuki and Sanginga (2013) also reiterate this finding by stating that there is scanty evidence of women's control and ownership of livestock in East Africa. Even where women seem to be in control, the decision-making processes of the management of livestock still remain in the hands of men, undermining the benefits of women's participation in livestock rearing.

## Conclusion

It is imperative for women to have meaningful access to and control over family land, houses and livestock as argued by FAO (2016), Inter-Agency Network on Women and Gender Equality (2009) and Njuki and Singanga (2013) respectfully. This argument is validated because in agricultural economies, women provide farm related labour (FAO, 2016) and are key in household management as well (Mulgeta and Amusala, 2014). However, women's access to land, houses and livestock is constrained because they are not allowed to make decisions pertaining to the properties they access and claim to be controlling (Shicai and Jie, 2009). Women depend on decisions made by men, the ultimate controllers and owners of family properties. Often, these decisions are not free from gender bias in favour of the men themselves. Hence the need to promote meaningful access coupled with control that could allow women to make decisions about the properties/assets they work with on a daily basis. This study revealed that women's property access and control could be achieved through gender empowerment about the critical place of gender inclusiveness in development initiatives right from the grassroots' (family level) to policy formulation at the national level. This in turn will promote women's ability to access and control resources within their reach, enable them to make necessary investments with these resources and increase productivity that could ensure food security, economic growth and improved livelihoods.

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