



RESEARCH ARTICLE

AN INVESTIGATION OF THE DETERMINANTS OF WOMEN'S PROPERTY OWNERSHIP AND INHERITANCE PRACTICES AMONG THE KISII COMMUNITY IN KENYA

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ABSTRACT

This study investigated factors determining women's property ownership and inheritance practices among the Kisii community in Kenya. The Kisii community, just like many other traditional patriarchal societies in the world, gives men priority over women in property ownership and inheritance. Though discriminative, this practice is normative and culturally sanctioned by both men and women. Though, human rights and constitutional provisions endeavour to treat men and women as equals before the law, in patriarchal societies, men still have an upper hand over their female counterparts with regards to property ownership and inheritance rights. This amounts to gender discrimination which is contrary to human and women's rights. The objectives of this study were to; investigate the determinants of women's property ownership and inheritance practices, and proffer strategies that could be used to promote women's property ownership and inheritance rights of key resources in the community such as land, houses and livestock. The study was informed by the conflict and social role theories. It adopted mixed method design. The findings revealed that cultural beliefs and practices, socio-economic factors, patriarchy, lack of legal awareness on women's rights to property and land scarcity were critical factors that influenced women's property ownership and inheritance practices among the Kisii people.

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INTRODUCTION

Promotion of human rights is a global agenda upheld by International, regional and national human rights instruments (KHRC, 2006) such as; the Universal Declaration of Human Rights (1948) and the Convention on the Elimination of all Forms of Discrimination against Women (CEDAW) (1979), African (Banjul) Charter, African charter on the rights and welfare of the child (1999) and national laws that promote equal rights gender (FAO, 2004; FAO, 2011). In these instruments, women's rights are given emphasis for purposes of championing gender equality, women integration and participation in development and to encourage women's property ownership and inheritance rights as a strategy to improve women's socio-economic status (World Bank, 2013). FAO (2011) report observes that property ownership provides owners with direct and indirect benefits. In agricultural societies, land form a primary source of wealth, power and social status (ICRW, 2004). Hence, land rights are essential pre-requisites to individual's and societal socio-economic growth and development (Njuki & Sanginga, 2013).

Absence of land rights lead to household poverty and food insecurity (FAO, 2004). However, land ownership practices portray gender bias against women. Kameri-Mbote (2007) argues that land ownership and inheritance issues are dominated by men causing gender biasness. Therefore, women in most patriarchal societies are 'forced' to conform to prevailing circumstances and expectations without objective justification. Often, they defend and rationalize discriminative practices detrimental to their well-being (KHRC, 2003; 2006). Those who dare question the status quo are made to feel guilty, ridiculed and stigmatized as anything against the normative script for men and women is undesirable (COHRE, 2006). Hence, discriminative practices in property ownership and inheritance (COHRE, 2006; Kameri-Mbote, 2002). Pursuit of gender equality in property ownership and inheritance remains a challenge in most patriarchal societies due to restricted abilities of women to control, own and inherit property. This practice has continued to sustain women's low socio-economic status and dependence on men, a factor that not only affects the well-being of women, but their families and societies at large (FAO, 2004; Ngwira, 2006). Women continue to suffer disfranchisement and gross denial of property ownership and inheritance rights (Ngwira, 2006) as glaring gender disparities continue to exist in property control, ownership and inheritance (FAO, 2004; Nzioki, 2006). It is in light of this that

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this study endeavored to investigate the determinants of women's property ownership and inheritance practices in Kisii County and proffer suitable strategies that could be adopted to promote women's property rights.

MATERIALS AND METHODS

Study Design

This study adopted mixed methods research design which allowed 'mixing' of quantitative and qualitative research methods in data collection, analysis and reporting (Heavier, Ames and Onghena, 2011). Descriptive survey design was used to collect data from a large population in Kisii County as recommended by Creswell and Plano (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, *et al.*, 2011) and provided in-depth understanding and analysis of concepts investigated. The design enhanced the confidence of the study findings as qualitative and quantitative findings complemented each other to arrive at credible and reliable conclusions and recommendations (Creswell, *et al.*, 2011).

Study site

Study site was Township and Keumbu divisions located in Kisii County, Nyanza Region in Kenya which covers an area of 1,332.7km² of which 1,260.34 km² is arable land while 190.66 km² is non-arable the county (KNBS, 2012). This community is a predominantly agricultural zone practicing subsistence mixed farming. Land is the main economic resource that sustains people's livelihoods in this county. However, it is scarce and highly fragmented with insignificant economic value. The Republic of Kenya (2009) and The Kisii County Government Website (2013) reports reveal that Kisii County has the highest land fragmentation in Nyanza Region with an average farm size of 0.75 hectares per household. This has led to escalating poverty as 51% of the population in this county live below the poverty line, earning less than \$ 1 a day. According to UNAIDS (2014), Nyanza region records high rates of women disfranchisement and disinheritance from family properties. Widows who decline to conform to cultural practices of widow inheritance are taken advantage of and their marital properties are seized by their husbands' kin. Such widows find themselves have no source of livelihood for themselves and their children (KHRC, 2003, 2006; UNAIDS, 2005). Besides, Kisii County records a high (33%) rate of female-headed households (Republic of Kenya, 2014). 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, Mosocho 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 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 members of the same gender without fear of condemnation or victimization.

Data collection Instruments

Triangulation of data collection tools was adopted to accommodate use of three tools of data collection in the study as recommended by (Creswell, *et al.*, 2011) to facilitate holistic investigation of the problem under study. Three tools of data collection were. They were; 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.

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

All the 408 respondents sampled for this study were interviewed; hence a response rate of 100% was achieved. Respondents' demographic variables; gender, age, marital status, religion, occupation and monthly household income were analyzed and the results revealed that 173(42.4%) of the respondents were females while 235(57.6%) were males, the modal cluster of respondents' age was between 40-50 years, majority (91%) of the respondents were married and (99.5%) were Christians. Further, the findings revealed that 73.4% of the respondents had basic education (primary and secondary school graduates). Only (3.2%) had obtained university education while (76%) of the respondents were subsistence farmers and (76.8%) of them earned a monthly income of less than \$ 50 dollars. The respondents' average number of children was 5.

Determinants of Women's Property Ownership and Inheritance

Factor analysis was used to generate key factors that influence women's property ownership and inheritance practices among the Kisii people.

Table 1. Factors influencing women's property ownership and inheritance rights and their corresponding eigenvalues and variance

| Component | Initial Eigen values | | | Extraction Sums of Squared Loadings | | |
|-----------|----------------------|---------------|--------------|-------------------------------------|---------------|--------------|
| | Total | % of Variance | Cumulative % | Total | % of Variance | Cumulative % |
| 1 | 1.459 | 14.593 | 14.593 | *1.459 | 14.593 | 14.593 |
| 2 | 1.340 | 13.398 | 27.991 | *1.340 | 13.398 | 27.991 |
| 3 | 1.187 | 11.865 | 39.857 | *1.187 | 11.865 | 39.857 |
| 4 | 1.050 | 10.502 | 50.358 | *1.050 | 10.502 | 50.358 |
| 5 | .983 | 9.827 | 60.186 | | | |
| 6 | .943 | 9.428 | 69.614 | | | |
| 7 | .933 | 9.327 | 78.940 | | | |
| 8 | .766 | 7.664 | 86.604 | | | |
| 9 | .732 | 7.317 | 93.921 | | | |
| 10 | .608 | 6.079 | 100.000 | | | |

*Factors with eigenvalues ≥ 1.0 .

Table 2. Factors Influencing Women's Property Ownership and Inheritance Rights Factor Loadings

| Factors | Component | | | |
|-------------------|--|--------------------------------------|--------------------------|---|
| | Factor 1 (Cultural beliefs and practices) | Factor 2 (Socio-economic factors) | Factor 3 (Patriarchy) | Factor 4 (Legal Awareness and land scarcity) |
| Bride wealth | .504* | .429* | .442* | -.182 |
| Constitution | .098 | -.231 | .104 | .422* |
| Customary beliefs | -.655* | -.361 | .284 | -.082 |
| Education | -.377 | .610* | .070 | .233 |
| Economy | -.128 | .405* | -.342 | -.309 |
| Religion | -.427* | .484* | .061 | .293 |
| Gender | .358 | -.013 | .682* | .019 |
| Marital status | .360 | -.249 | -.457* | .330 |
| Scarcity of land | -.058 | -.094 | -.089 | -.698* |
| Family size | .407* | .362 | -.304 | .012 |

*Factors with factor loadings $\geq .4$

Table 3. Strategies to Promote Women's ownership and Inheritance rights

| Strategies to promote women's property rights | Gender | | | | Total | |
|---|--------|------|-------|------|-------|------|
| | Female | | Male | | Freq. | % |
| | Freq. | % | Freq. | % | | |
| Creating awareness | 96 | 64.4 | 130 | 72.2 | 226 | 68.7 |
| Strict implementation of laws | 25 | 16.8 | 26 | 14.4 | 51 | 15.5 |
| Girl child education and Women empowerment | 14 | 9.4 | 11 | 6.1 | 25 | 7.6 |
| Discard discriminatory cultural practices and beliefs | 12 | 8.0 | 12 | 6.7 | 24 | 7.3 |
| Joint registration of properties | 1 | 0.7 | 1 | 0.6 | 2 | 0.6 |
| Conducting more research | 1 | 0.7 | 0.0 | 0.0 | 1 | 0.3 |
| Total | 149 | 100 | 180 | 100 | 329 | 100 |

A sample adequacy of 0.505 was established using Kaiser-Meyer-Olkin (KMO) which recommends a KMO value of $\geq .5$ as acceptable (Blaikie, 2010). In factor analysis, Blaikie (2010); Field (2009) and Neil (2008) recommend factors with eigenvalues ≥ 1.0 and factor loadings of $\geq .4$. Therefore, as shown in Table 1, factor analysis yielded ten items in total. However, only four items met the acceptable threshold of an eigenvalue ≥ 1.0 . The four items together explained a total variance of 50.358% of for the entire set of variables. Six items were discarded because they failed to meet the minimum criteria of an eigenvalue of ≥ 1.0 and factor loading of $\geq .4$. Similarly, Table 2 shows the factors generated and their corresponding factor loading. Only those with factor loadings of $\geq .4$ were considered. Ensuing from Table 1 and Table 2, four key factors influenced women's property ownership and inheritance practices in Kisii County. The first factor was customary beliefs and practices which accounted for 14.593% of the total variance. Four items successfully loaded with range of 0.407 to 0.655; bride wealth with a loading of .504, customary beliefs with a loading of .655, religion with a loading of .427 and family size with a loading of .407.

The second factor was socio-economic factors which accounted for 13.398% of the total variance and four items successfully loaded onto it with a range of 0.406 to 0.610; bride wealth .429, education .610, economic status .495 and religion .484. The third factor was patriarchy which accounted for 11.865% of the total variance and three items successfully loaded onto it with a range of 0.422 to 0.682; bride wealth .422, marital status .682 and scarcity of land .457. The fourth factor was legal awareness and land scarcity which accounted for 10.502% of the total variance and two items successfully loaded onto it with a range of 0.422 to 0.698; constitution .422 and land scarcity .698.

Strategies to Enhance Women's Property Ownership and Inheritance Rights

Ensuing from the study, a number of strategies and their corresponding percentages were generated as illustrated in Table 3. They were; creating awareness of women's property rights 226(68.7%), strict implementation of statutory laws 51(15.5%), promote girl child education and women's empowerment 25(7.6%), discarding gender discriminative culture 24(7.3%), joint property ownership 2(0.6 %) and conducting more research in this field of women's property ownership and inheritance 1(0.3%).

DISCUSSIONS

Demographic Information

The 408(100%) response rate was credited to the extensive support received from the public administrators in the county. They mobilized and prepared 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 ownership rights and they 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), hence the increased percentage of female respondents (42.4%). 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, a finding echoed by the international religious freedom (2014) report which shows that 82% of Kenyans are Christians. The study findings revealed that majority (73.4%) had basic education. This finding corroborate with Sifuna and Sawamura (2010) and UNICEF (2010) who observe that in some parts of Kenya educational achievements of the people is still low. Further the findings of this study showed that 76% of the respondents were subsistence farmers and majority (76.8%) earned a monthly income of less than Kenya shillings five thousand. These findings are confirmed by Silberschmidt, (1999); KNBS (2009) and Njuki & Singinga (2013) for Kisii and East African region. Finally, surveyed households had an average of 5 children which corroborates with KNBS (2009) census report and Mzalendo (2013) report who affirm that the number of children per household is four to five and an average of 4.7 respectively.

Determinants of Women's Property Ownership and Inheritance

Customary beliefs and practices was the first factor identified which accounted for a total variance of 14.593%. Four items successfully loaded onto it; bride wealth, customary beliefs, religion and family size. This finding is congruent with (World Bank, 2003 & 2016) reports which documents that despite the efforts by various human rights instruments, legal provisions and other strategies put in place to promote gender equity, gender disparity in property ownership and inheritance still exists due to cultural influence and stereotypes anchored on customary beliefs and practices of people. This argument is validated by Ode (2010) who argues that cultural norms and values are the greatest undoing for women in Africa while Kameri-Mbote (2007) observes that customary laws and practices prohibit women from owning or inheriting property. This finding further corroborates with the work by Silberschmidt (1999) which documents that among the Kisii people, female children and women are treated as second class citizens in many spheres of social life. While males are accorded property rights, females are only allowed secondary rights or user rights (Kameri-Mbote, 2007) due to cultural beliefs and practices attached to the practice of bride wealth, traditional religious beliefs and family size.

According to the findings of this study, the second factor that determines women's property ownership and inheritance practices was socio-economic factors which accounted for a variance of 13.398. Four items successfully loaded onto it; bride wealth, education, economic status and religion. Education and economic status were additional items loaded onto this factor. UNICEF (2010) report confirms that females are given secondary treatment in pursuance of formal education particularly at the post-secondary level. Low level of education leads to limited exposure and ability to bargain for property rights. Additionally, Silberschmidt (1999) confirms that women in Kisii have no rights to property, especially land. Women's economic dependence on men hinders personal growth and development of women as observed by Bhutta and Haider (2013). This finding is further reinforced by (KHRC, 2006) report which observes that jointly acquired property by the couple is assumed to belong to the man, rendering the woman economically disfranchised and chronically dependent on the man in spite her contribution in family property

acquisition. The third factor was patriarchy which accounted for 11.865% of the total variance was the third factor. It successfully loaded three items; bride wealth (earlier discussed in factor 1 and 2), sex of children and women's marital status. Therefore, women with more sons are accorded more property rights compared to those with few or no sons at all as determined by the patriarchal system which consider only males as legitimate heirs (Silberschmidt, 1999 & Kalabumu, 2006). Besides, marital statuses of women guarantee them secondary ownership and user rights of their husbands' properties (Kameri-Mbote, 2007 & Silberschmidt, 1999). The fourth factor generated was legal awareness and land scarcity. The findings of this study revealed that women's awareness level on property rights was low. This finding corroborate with KHRC (2003) and Kameri-Mbote (2007) reports which confirm that in Kenya, awareness of legal provisions that support promotion of women's property rights is generally low. Besides, land scarcity heavily contributes to disfranchisement of women from property ownership and inheritance since men are culturally preferred heirs. KNBS (2009) and Kisii County website (2003) reports confirm that land scarcity and high fragmentation is real in Kisii County, as a result of this, land precious as it is, is only given to deserving heirs, who in this case, are men.

To promote women's property ownership and inheritance, a number of strategies were proffered. Awareness creation is an important strategy. Kameri-Mbote (2007) confirms that most Kenyans are unaware of existing legal frameworks that promote women's property rights. Kameri-Mbote (2007) further confirms existence of poor implementation of statutory laws due to conflicting customary and statutory laws. Similarly, UNICEF (2010) and Sifuna and Sawamura (2010) recommend promotion of the girl child education as critical while women's empowerment is given emphasis as reinforced in a study by Bhutta and Haider (2013). Further, discarding of discriminatory culture will contribute to enhancing women's social status, understanding and championing of their rights to property (World Bank, 2013). On the other hand, joint property ownership will afford women equal rights with men, increase women's bargaining powers and safeguard their interests in property management as argued by Kameri-Mbote (2007) and Twyman, Useche & Deere (2015). Finally conducting of research in this field will facilitate contextualized understanding and coming up with suitable strategies that could sustainably resolve issues related to women's property rights as proposed by Shiundu and Orodho (2001) report.

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