Women's Rights to Land Ownership and Use in Vihiga County, Kenya: Need for Communication

Abstract: For the Luhya speaking people of Western Kenya as well as for everywhere in the world, women are important for economic development and access to land is central for food production and income generation. Though they constitute the majority of the agricultural workforce (70-80% per cent), their access to and control over land is globally estimated at 5 per cent. This study sought to investigate women’s rights to land ownership and use in Vihiga County, Kenya. The specific objectives were to establish the extent to which women have knowledge of their right to land ownership and the cultural factors that influence land ownership. The study was carried out in 2018 and it employed a survey design. The target population was 10,000 respondents from Vihiga County which comprised the four sub-counties: Sabatia, Hamisi, Emuhaya and Vihiga households and the Ministry of Lands. Simple Random Sampling was used to select a sample size of 384 respondents comprising women, chiefs and county land administrators. A questionnaire was used to collect data from the respondents. Data were analyzed by use of descriptive statistics. The findings indicate that very few women (30.76%) were aware of basic constitutional provisions that provide for equality in land and property ownership whereas 69.24% had no knowledge to their right to land ownership. Further, community perception (55.30%), polygamy (21.10%), fear (16.6%) and threats (8.0%) are some of the major cultural factors that influenced the women’s right to land ownership and use in Vihiga County. The study therefore concludes that the lack of knowledge on the right to land ownership and cultural issues play a major role in land issues and this may greatly impact on land use hence threatening food security in the country. There is need for communication to these women to be aware of their rights.

Keywords: Communication, Human rights, Culture, women, land ownership, Vihiga County, Kenya.

1. INTRODUCTION

Globally, there has been an increased focus on land rights, as they are pertinent to various aspects of development. According to Reta, (2016) land ownership can be a critical source of capital, financial security, food, water, shelter, and resources. According to FAO, Women constitute the majority of the agricultural workforce (70-80 per cent), however, their access to and control over land is globally estimated at 5 per cent. Although land rights are fundamental in achieving higher standards of living, certain groups of individuals are consistently left out of land ownership provisions. According to Wickeri and Kalhan, (2010) laws could provide access to land for all; however, cultural barriers and poverty traps limit minority and marginalized groups’ ability to own land. In order to reach equality, these groups must obtain adequate land rights that are both socially and legally recognized. Women are such a group whose rights to use, access, control and own land need to be secured. This study therefore sought to examine cultural practices that influence land ownership for social-economic empowerment of women in Vihiga County, Kenya.

It has been anticipated that cultures should not deny women land ownership. The right to own land is quite challenging due to the use of land tenure system; empowerment is quite challenged due to the use of land tenure systems in most countries. Nevertheless, many people believe that customs and traditions must be followed in land allocations against land ownership. Land ownership has been an issue since the colonial times’ failures to deal with land in families. In India, According to Asiimwe (2011), women were not allowed to own land when husbands were still alive. However, one is allowed to own land, if her husband dies, then she may own it. However, her name is not included in land ownership but only the family name of the husband. This indicates that women have a challenge in the history of land ownership as observed by Indian farmers. Similarly, Naresh and Myllyntus (2015) indicate that, most women were subsistence farmers engaged in growing foodstuffs for feeding households. This implies that women are used as workers with no control of land. Though, the issues of land ownership are still influenced by different cultures in rural areas, in urban centers women can own land through purchase. The power of a woman to control land and property is not recognized but by crop production for family consumption since favorable conditions are never provided for enjoyment of women rights.
Over the years, changes in land ownerships have followed commercialization of cultivation. The land issues are not changing to favour women’s access since women have always struggled to access land especially during the 1860s to 1900s. The value of land in African countries is estimated to rise as food crisis continues from land demand. The right to use land is identified as a big challenge when it comes to the women access. Thankfully, land reform is getting properly legalized to address the point of land practice.

Rural Kenya women are generally considered farmers; thus, it is important to distribute land equally in Kenya. The land right system needs to be reformed to ensure women have access to the available land. The Kenyan community’s women ownership rights are not fully supported due to cultural barriers. This study thus set out to establish the extent to which women have knowledge of their right to land ownership and the cultural factors that influence land ownership in Vihiga County of Western Kenya.

2. Literature Review

Empowerment of Women in Vihiga County

The Constitution of Kenya (CoK), 2010 expressly gives women the right to own land and property, (Article 60 f) however, many still languish in poverty without realizing such rights. The promises and good intentions of the CoK are yet to be realized in practice because what counts as equality is not substantive equality. Where the law has been inclusive of women rights to own title to land, social attitudes have prohibited such ownership thus limiting the enjoyment by women of the benefits that flow from such Constitutional provisions.

Retrogressive attitudes have undermined efforts to address inequity in land ownership between the sexes. Similarly, the Law of Succession Act 67 gives daughters the same rights as sons to inherit their parents’ property. However, the Act does not require the equitable distribution of a parent’s assets amongst his or her children and particularly, it does not obligate a father to provide for a daughter. This gives room for fathers to continue the customary practice of transferring land to their sons on the assumption that a daughter will marry and gain access to land from her husband’s side. The decision on whether to transfer land to a daughter is solely at the discretion of the father even where access to land through marriage is not certain for the daughter. This particular legal provision for a daughter’s right to inherit from her parents becomes ineffective for lack of a willingness to break away from deep rooted traditions and the fact that there is nothing in the law that compels a parent to make a disposition in favour of their daughters.

In some situations, husbands outrightly forbid their wives from buying land in their own names; forcing women to register their land in the names of their husbands. The prevailing practice of registering land bought with joint incomes in the names of the husbands only is another hindrance to joint ownership of land. In the event of marital breakdown, a woman’s rights to a portion of the land as a joint contributor during purchasing are threatened by the law’s insistence on the indefeasibility of a registered proprietor’s title (Coldham, 1978). To avoid marital problems, women who would otherwise be willing to and are capable of buying land have abandoned their rights to try and preserve stable relationships with their spouses. As at now, Kenya applies the Married Women’s Property Act of England, 1882, in solving disputes on property in dissolution of marriage.

However, this Act has been only partially effective in creating an equitable pattern of land ownership between the sexes and is invoked only in cases of marital breakdown or widowhood. In addition, the Married Women’s property Act demands for evidence of contribution by monetary value using receipts. Many divorced women walk out empty handed. Even those working women who contributed often have no rights as their income is usually used to feed the family while the husband’s goes to buying land and other property. On dissolution of marriage the woman has nothing to show for her many year’s labour since the property is registered in her husband’s name.

These are some of the details that most rural women do not know. Butegwa conducted a study in 1986 in Nairobi and Busia. The study revealed that out of the 400 women interviewed, almost 60% thought they had no right to own property in their own names (Butegwa, 1986). Due to ignorance, many widows rarely transfer ownership of land to themselves when their husbands die, and even when they do so, they are usually regarded as trustees for their male children until those same male children grow up and kick them out (Mackenzie, 1986). Evidence from community interactions suggest that customary rules are a considerable force in defining rules of descent, residence, inheritance and access to and control over land irrespective of the nature of tenure.

The ability for women to own land and property has also been greatly affected by poverty. The rapid growth of a land market as a result of population pressure and land accumulation by the rich has put the price of land so high that it is outside the reach of many women. Such obstacles lead to only a small percentage of women in comparison to men managing to buy land in their own names. Women’s lack of collateral for credit purposes due to lack of title deeds, additionally leaves women in a cycle of landlessness, thus becoming
increasingly dependent on unwilling husbands or fathers for access to land. This in-depth analysis of cultural practices that infringe on women’s rights among the Luhya community in Kakamega, is paramount to question further some of the factors that perpetuate such practices, despite the negative implications and in spite of Constitutional Provisions.

Bookachov (2011) discussed land ownership and clash of cultures as the captivity narrative of propaganda in Canada Cultures. The study compared English American and Indians’ concept of land ownership. The study found that Indian land ownership was historically communal from ancestral use rather than possessed by individuals. In the study of English American understanding it was based on cultural practices. The main observation of the concepts is that the English American finds land ownership without cultural practices through building homes and gardening of land. It concluded that English American and Indians do maintain different cultures as historical records which create cultural difference about use of land ownership demonstrate.

Cultural practices on land ownership in rural women were also studied by Ambere (2003). The study was carried out in the Rwandan conflict reconstruction in Kinigi district in Ruhengeri province of Rwanda. The aim of the study was to identify the effect of cultural practices on women household management and a sample of 107 women participated in the study. The findings indicated that personal characteristics of women households do not affect land ownership and use. The study concluded that the well-being of women is not economically active due to lack of land ownership which makes them powerless to protect themselves and their households from unstable and unfavorable domestic situations. There is need to change this situation and empower women.

Odeny (2013) examined the connection between land ownership and socio-economic empowerment to India. The study sought to establish ways in which women can improve access to Land. It aimed to improve and enhance women access to land ownership in most African countries. The study of the United Nations Human Settlement Programme (UNHSP) points out that most countries offer an unequal land ownership to access land for women which disadvantages them. There is need to make more effort to get rid of these systems that are responsible for poverty-entrenched gender disparity in Africa. The study also used correlations to establish the relationship between land policies on gender equality. The findings show that women access to land has become a serious issue in land ownership and needs to be addressed to achieve food sanctuary and overcome poverty. The study indicated that access to land facilitates women to improve poverty-reduction and produce 80% of scarce food commonly found in Africa. The study also implied that improved access to women land control plays a crucial role in the socio-economic growth of African states.

Wojkowska, (2016), conducted the study of doing justice to have access to the informal land ownership in New York. The study used 1221 respondents as the target populations. It used descriptive statistics to analyse the findings of the UN Empowerment Programs survey. The study findings revealed that land is the most important cornerstone to improve economic empowerment in woman farmers and pastoralists and to other social community’s support livelihoods. It observed that there is need for women land ownership which is significant in empowerment strategies. Therefore, most women try to secure land ownership to have a thoughtful influence on financial empowerment in history.

In addition, the study of Mwita (2015) shows that a woman suffers most in terms of lack of land ownership in rural areas for both agricultural and livestock purposes. The study concluded that land ownership plays a significant role in empowerment economies and also indicated that land ownership to women is a source of identity and important for women’s cultural heritage.

3.0 Method and Materials

The study was conducted in Vihiga County which is situated in the Western region of Kenya with a total of 531.0 Km². It lies along 34 30’ and 35 0’ east along latitude 0 and 0 15’ North. The equator cuts across the southern tip of the County. The county borders Kakamega County to the North, Nandi County to the east and Kisumu County to south and Siaya County to the west (Ministry of Devolution and Planning, 2013).

The study targeted the residents of Vihiga County. Vihiga County has a total of 554,622 residents according to the KEBS (2009) population census. Vihiga has five Sub Counties namely: Sabatia, Hamisi, Emuhaya, Luanda, and Vihiga. The male population was 262,716 people while women were 291,906 (KEBS, 2009). This makes the County to be appropriate for the study because high population density has led to the uneconomic divisions which creates food insecurity and ownership of land disputes.

This study adopted stratified random sampling. The researchers formed five strata in the five sub-counties from which simple random sampling was used to select 40 respondents where 20 were men and 20 women and hence 200 respondents. Purposive sampling was then used to select civic leaders (County Commissioner 1 and one land officer from Vihiga
County lands office. This therefore gave a total sample size of 202 respondents.

The main research tool used in the study to collect data was the questionnaire. This was designed to contain both structured and unstructured questions. Primary data were collected using the administration of questionnaires by the researchers. The questionnaires were divided into sections and developed in tandem with the objectives of the research study, in order to obtain the most sought-after relevant information. The researchers used interview schedule to gather data from County Commissioner Vihiga County. This involved the researcher asking questions and recording responses in a notebook for analysis later on.

The data collected were edited, grouped, and coded for analysis. The Statistical Package for Social Sciences (SPSS) was used for analysis. Quantitative information was presented using frequency tables, pie charts and bar charts whereas qualitative information was presented using inferential statistics. This paper uses part of the data collected for the larger study.

3. RESULTS AND DISCUSSIONS

This section discusses the results from the data collection. The discussion follows the objectives and tries to answer the research questions.

3.1 Cultural Practices That Influence Land Ownership for Social-Economic Empowerment of Women

3.1.1 Knowledge of women’s rights to own land

In this section, the researchers intended to gather information on how informed women were in regard to their rights to own land. Respondents were required to give their opinion on whether women really have knowledge of their right to land ownership. The finding indicates that despite the fact that women’s right to land ownership is enshrined in the Kenya constitution (2010), women do not have enough knowledge of their constitutional right to land ownership as illustrated in Figure 3.1 below.

![Figure 3.1: Whether women know their constitutional rights about land ownership](image)

Figure 3.1 above shows that over 69.24% of the respondents were of the opinion that women do not know their right to land ownership. However, those who thought women knew their land ownership rights were represented by a small percentage of 30.76%. This resonates with a study by Bosuben (2018), whose research findings indicated that the majority of women are not aware of their constitutional right to land ownership. A related study by Mwagae (2013) revealed that 60% of women interviewed did not know that they had right to own property in their names. According to Mwagae, (2013) and Yngstrom (2012) very few women were aware of basic Constitutional provisions that provide for equality in land and property ownership. Additionally, some of the women respondents interviewed were of the opinion that land rights among women are a taboo and therefore unacceptable. According to the UNDPA, (2003) report on land reforms and improved women land rights, there are very few women owning land whereas most of them have auxiliary rights. One respondent typically acknowledged that cultural practices play a major role in issues related to land. When asked, the land officer for Vihiga County had this to say:

I have not received complaints from women on issues of land; we have received many cases about
land but not from women. This means that they either don’t own land or they don’t have knowledge of their rights to property. Therefore, there is need for sensitization through area chiefs and their assistants, NGO’s and other stakeholders on matters of land, and rights to property ownership as enshrined in the Kenyan constitution (2010).

This conversation gives a true picture of what the situation is about land ownership and women in the County of Vihiga. The women do not have the knowledge of their rights and these rights must be communicated to them for enhanced development.

3.1.2 What influences land ownership in Vihiga County

In this section, the researchers requested to know the factors that influenced land ownership in Vihiga County. Of concern was how Community perception, Polygamy, Fear and Threats influenced women’s land ownership rights in Vihiga County. Figure 3.2 below illustrates the influence of land ownership in Vihiga County.

Figure 3.2 illustrates the influences on land ownership in Kenya to be due to Community perception, polygamy, fear and threats. In this regard, the community perception had the highest influence on land ownership in the community with 101 respondents, (55.3%). From this outcome it is easy to conclude that the perception of the community about land ownership is not an individual’s undertaking but communal responsibility. In fact, this study concurs with that of Bosube, (2018) whose findings also indicate that cultural practices hinder women’s ownership of land and thus, this becomes a major barrier. Polygamy was second in that line with 42 respondents (21.1%). Polygamy in Vihiga residents is as common to the larger Luhya Community which allows men to marry more than one wife. Traditionally, marrying many wives according to the community’s cultural practices meant wealth. Therefore, a man was expected to take care of a large family and even the extended family. A family of such extended nature could encounter problems when sharing land and property due to the limited resources. Bringing in women in a polygamous setting to the discussion of land and property ownership could even escalate the problem further. Generally, it was considered a taboo to give women land because in some cases, it could encourage cases of incest which in turn may lead to curses to their generation. Hence, polygamous families could greatly influence women’s right to land ownership negatively, because women had no say in making decisions.

Fear and threat came second last and last respectively with 33 respondents (16.6%) and 15 respondents (8%) respectively. The influences of these variables were not so much compared to the first two. However, they also influenced women’s land ownership to certain extent. Threats could come in the form of even one’s own brothers, who insisted that women get married and leave their fathers’ homes. Their continued stay in their fathers’ homes meant that when they get children, their children would lay claim on the land thus causing more shortage. Threats, ultimately escalated the fear and thus women had no claim to the land. The same applied to widows who feared the in-laws who
could threaten them especially should they refuse to be inherited within the husband’s.

4.0 CONCLUSION

This study established that most women in Vihiga County have little knowledge about their rights to own land. Secondly, it was also established that cultural factors among them community perception, polygamy, fear and threats contributed to the land ownership issues. Based on these findings, this study concluded that the lack of knowledge on the right to land ownership and cultural issues play a major role in land issues and this may greatly impact on land use hence threatening food security in the country. A recommendation is thus made that the Government of Kenya needs to sensitize women on the land ownership rights, cultural perceptions notwithstanding. This will in turn ensure that women have access to own and use land, hence improve food security in the country.

Communication should be in a clear language that the women can understand and participate in discussions in. Information is power and when the women get adequate communication about their rights then a lot of progress will be made in food security, poverty eradication, wealth creation and general progress and development.

REFERENCES