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**TITLE: WOMEN AND PROPERTY RIGHTS**

**SUBTITLE: A HUMAN RIGHTS AND GENDER CHALLENGE TO CHURCHES  
AND SOCIETY IN KENYA (REFERENCE TO THE MERU COMMUNITY OF  
KENYA).**

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## **DEDICATION**

This study is a special dedication to two women who have played significant role in my life.

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## **ABBREVIATIONS**

AIDS- Acquired Immune Deficiency Syndrome

CEDAW- Covenant on Elimination of All forms of Discrimination against Women.

WCSW-Women Commercial Sex Workers

FIDA- Federation of Women Lawyers

HIV- Human Immune Virus

ICCPR - International Covenant on Civil and Political Rights.

ICESCR-International Covenant on Economic, Social, and Cultural Rights

IDW- Internally Displaced Women.

OAU- Organization of African Unity

UDHR- Universal Declaration of Human Rights

MWPA- Married Women Property Act

## **ABSTRACT**

In many developing countries like Kenya, issues of gender discrimination are evident in form of unequal inheritance and property rights. While there seems to be numerous campaigns for the advocacy of gender equality and human rights in all aspects, the practicability is something yet to be visualized. In Kenya for instance, customary law is quite dominant hence sabotaging any attempt to promote gender equality. In this paper, it has been noted that due to the impact customary law has especially on property rights, many have the feeling that security is more important than claiming for gender equality. Needless to say, this of course goes hand in hand with the primitive or traditional beliefs and practices that are still adored with high esteem.

The question of women rights to property inheritance in Kenya is therefore not without suspicions and mixed feelings. Besides other aspects like poverty and illiteracy among many women, there is the challenge of some traditional beliefs and practices that can be harmful to their lives. Instead of empowering women with the rights to inherit family properties, especially after the death of their spouses, many have the traditional primitive view that a woman needs to be inherited together with other properties of the deceased; after all she too is part of the properties the deceased owned. A lot therefore needs to be done in order to improve the current situation of women's rights to inherit properties in Kenya.

**Key words: Gender discrimination, customary law, Traditional beliefs and practices, poverty, and illiteracy.**

Susan G. Mati

May, 2016

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**RESEARCH TITLE/ TOPIC: WOMEN AND PROPERTY RIGHTS.**

**SUB-TITLE/TOPIC: A HUMAN RIGHTS AND GENDER CHALLENGE TO THE CHURCH AND SOCIETY IN KENYA (WITH REFERENCE TO THE MERU COMMUNITY OF KENYA).**

## **CHAPTER 1:0 General Overview of the study**

### **1:1 Personal Motivation**

The main motivating factor to this study is my long experience as a church priest. My motivation for this study started about 13 years ago while serving in the full time ordained ministry of the Church. Besides serving long as a priest, I also witnessed and offered counseling to many oppressed and victimized women, among who were church members. I was drawn into disbelief to learn what many faithful Christians undergo behind the curtains, after church services, in spite of their faithful and devotion in the church.

Among these conflicts includes violence and abuse among women (as the majority), and at times also children. In several incidences, the perpetrators happen to be men, while the victims are mainly women. Nevertheless, among the most serious incidences that perplexed me most were the habitual acts of violence perpetrated to women by their maternal families especially after their husbands' death. The problems in families started a few months after the death and burial in some families, while others started immediately after the death, even before the burial. A number of innocent and faithful women were either maliciously associated with the deaths of their spouses, hence forcefully evicted out of their matrimonial homes with barely anything to call their own, or were coerced to be inherited in order to have access to their deceased husbands' properties.

For instance, in many parts of Kenya, many women are currently forced out of their matrimonial homes after they either divorce, or their husbands' die. It becomes even worse when they (women) are evicted from their families without any right / access to properties they were once custodians of. Such are among the main issues I have severally been confronted with during my pastoral ministry. Needless to say, I have occasionally felt very

inadequate to convince the victims of such abuses ‘that God is in control and that He will revenge on their behalf’, as it is a commonly used slogan of encouragement from many pastors. In the world today where everyone is questioning the will of God, I am challenged to seek for a practical and rational solution to the problem. This of course does not imply that as a pastor I have no faith, but rather my feeling is that not everything should be spiritualized. In this case, this study is expected to help come up with projections on what the church/ (Churches) can do to improve the situation, since many victims are the devoted members of many churches and the society.

### **1:2 Presentations of the topic/ the statement of the problem**

The right for women to inherit properties in Kenya and many other African countries; is actually a very recent one. This may perhaps be explained by cultural existence of patriarchy dominance among many countries in Africa. Among many African countries, men are considered to be more superior to women; hence are believed to be the right owners of properties. In the last few decades, many African women were cultured to believe and think of themselves as ‘belonging’ to their fathers and husbands. This sense of belonging was viewed in terms of ‘properties’ whereby their value was gauged by the amount of properties or wealth their fathers received in exchange for marriage.

However with the new arrival of different theories among them human rights and feminist theories, a lot is now happening also due to the effects of globalization. Many women across the world are being sensitized of their rights as women. Whatever is happening in Europe and America is now experienced all over the globe which Africa is not an exceptional. In Kenya for instance some organizations are creating awareness about human rights and the rights of women. However despite that, there are those who can still be termed as ‘being in dark age’. These are the semi-illiterate and the unschooled who hardly find anything wrong with their being undermined by their male counterparts.

In the olden days about 20-30 years back, many Meru women were uneducated and their main responsibilities were mainly household chores. It was the main responsibilities of men to till the land and bring home food for their families. Currently, many men work away from home as skilled / professional workers. They are hardly home probably before the end of the month. This means that they are not at home most of the time hence their wives are left to take care of the children and the family properties like land, livestock, among others. However despite that, their wives do a lot by being present to answer many questions in the

absence of their husbands. The worse therefore comes when their husbands come home; only to complain about almost everything which ends up into serious conflicts, and at times may lead to their divorce and eviction out of their matrimonial homes.

It becomes very problematic when women have to move out of their long serving homes, with hardly anything they may call their own. This may include some treasured properties like livestock, farm tools, and even food stuff. Instead of being evicted from their matrimonial homes with nothing, there are some who consider being inherited rather than moving out to the streets as beggars; since they are not even allowed to take with them food stuff they had gathered in the food stores. The food stuff gathered in the farm or purchased for the family use is generally considered to be the husband's properties. Nevertheless, many others who are forced out of their marriages live as street beggars or prostitutes due to poverty and lack.

Therefore although wife inheritance is considered as unethical practice; it is very common among many communities in Kenya. This is probably because; it is considered mandatory and a better option for the women who wish to remain in their late husbands' homes. In order to retain their homes after their husbands' death, some women are forced to adhere to some customary practices like being inherited by one of their late husband's relatives. This practice is accompanied by other superstitious practices in the name of 'cleansing' the widow from any future family misfortunes. This practice among others leads to low self-esteem among many women, an element that is a stumbling block to many hard working women who support their families. Many believe that their hard work is futile since they end up losing almost everything in future.

In Kenya currently many women are the bread winners in their families. It is therefore detrimental to take away even the little they use to support their families. They in this case educate, clothe and feed their children who mainly rely on them. In many large farm plantations like coffee, tea, and pyrethrum, women provide cheap labor, yet they have very limited rights to own anything independently. Many for instance after working must surrender all the money to their drug addicted husbands; failure to which may result to serious violent and abusive acts.

It will therefore be argued in this paper that there is an urgent need to support and embark on women's rights to properties in Kenya, which will not only help them to self-reliant, but also

improve their standard of living as per the research question in 1.3 Research question(s) below.

### **1.3 Main Research question**

1. How can the situation of women's rights to own property be improved in Kenya?

Sub-questions

(a) What is the current situation of women's rights to own property in Kenya?

(b) How does the problem affect the ministry of the church in Kenya?

(c) How does the church in Kenya respond to the situation?

(d) What impact does the situation have on the society in Kenya?

### **1.4 Aims /Objectives of the study**

1. To examine the current situation of women's rights to property in Kenya.

2. To examine how the current situation of women's rights to property can be improved.

3. To investigate how the situation affects / has affected the ministry of the church in Kenya.

4. To examine the church's response to the situation of women's rights to property ownership in Kenya.

5. To investigate how the situation affect/ has affected the Kenyan society.

### **1.5 Methodology and Literature analysis**

The data for this study is collected among the Meru people of Kenya who are in this case, the informants. A qualitative research will be conducted among Christians from (2) churches from Meru County, making a total of 26 members. The research design for this study is therefore a comparative research design. In this method, a study is made by comparing 2 contrasting cases using more or less identical methods (Bryman2014:72). Furthermore, Bryman argues that in this method, social phenomena can be better understood when they are compared in relation to two or more meaningfully contrasting cases or situations (ibid). In this case, the Catholic Church in Meru County, and the Methodist church in Meru will be our 2 contrasting cases. The Catholic Church in Meru County has the highest population of

members compared to all others in the locality. This therefore explains the reason for its consideration as one of the informant. The second in population within Meru County is the Methodist Church. Nevertheless, the researcher has been a member since birth, and has worked for many years within the Methodist Church. For this reason, she has a wealth knowledge and experience.

It is also worth noting that, in order to get the relevant information, almost all the informants are members of these 2 mainline churches except the 4 men from Njuri Ncheke, who may not necessarily be Church members. Therefore in both churches, a total number of 26 informants are selected in which 10 are women (Catholic and Methodist together), and 10 men (Methodist and Catholic together). 2 priests who are in-charge of those 2 congregations will also be interviewed. Others to be interviewed are 4 men from Njuri Ncheke council of elders. The interviewees will be conducted through **focus group**, and individually (in case of 2 church pastors). The same questions will be discussed among the groups of 5 members (4 among the Njuri Ncheke), and perhaps make some follow up questions which may emerge from the groups. These 2 congregations will be interviewed separately from each other. This means that the Methodist group of men and women will be interviewed separately from the Catholic and never together. It is also important to note that the women will be interviewed separately from men. This method may appear to be tedious and time wasting. However it will help the researcher to gather different views from different informants.

Nevertheless, this will help the researcher to get a comparative result from these 2 different congregations, in which there are different doctrines. It is also suggested that these different congregations which may have different views of the problem that is dealt with in this study. 14 men from the Meru council of elders, commonly known as the 'Njuri Ncheke', will also be interviewed in a group interview. The Njuri is the only traditional judicial system which is recognized by the Kenyan government. This council of elders deals with cultural issues like land and properties within the county. It is therefore considered legitimate and influential especially on issues of political decision making amongst the Meru people (History of Meru on Blog). The Njuri is also a custodian of Meru traditional law and order which deals with land and property issues ( ibid).

This study is a qualitative field study, in which the data is gathered through semi-structured interviews conducted in a case study. Snowball sampling will be used in which a small group of people relevant to the research questions will be interviewed. As Bryman A, 2012:424



suggests, the interviewees may as well propose other participants who have had the experience or characteristics relevant to the research. The information will be gathered recorded through a tape-recorder and later transcribed into relevant themes. The research finding will be coded and later developed into different themes according to what the interviewees say to the interviewer.

### **Main literature which is considered relevant for the study**

In this study, many relevant literatures and authors will be referred to. However, I just want to highlight some major ones whose work will be mainly referred to; and which I find directly linked to the research question for this study. These are:

The International Women's Rights Clinic Georgetown University Law Centre and The Federation of Women Lawyers in Kenya, offers a relevant report and proposal on "Empowering Women with rights to inheritance – A Report on Amendments to the Law of Succession Act Necessary to Ensure Women's Human Rights: A Human Rights Report and Proposed Legislation". The part A of this report – The Law of Succession Act Fails to protect widows from harmful cultural practices of widow eviction, widow inheritance, and widow cleansing, are very relevant for this study , hence will be referred to in this study especially in chapter 5 ( Discussion ).

DrFareda Banda's detailed work on "Project on a Mechanism to address laws that discriminate against women" will be referred to in this study. His inputs on "Laws that discriminate against women in part D, e.g. Post-divorce property settlement, Succession and inheritance is of great relevanceto this entire study.

Muli, Koki's credible work on "Gender Discrimination of women in Kenya", is quite resourceful in this study. Her contribution will therefore help the reader to understand the general situation of women in Kenya today.

### **Others include the following:**

Richard's discussion on "Women's property and inheritance Rights in the context of HIV/AIDS in Sub-Saharan Africa". His work also provides a relevant and meaningful insight for this study.

These authors will be considered together with others, but a lot will be referred from these 3.

## **1.6 Outline of the Thesis**

Chapter 2 comprise of the general background of property rights among the Meru community of Kenya

Chapter 3 will present a theoretical framework of the study.

Chapter 4 comprises of an empirical data which will be presented thematically.

Chapter 5 will comprise of data analysis. A discussion about the findings will be done in this chapter.

Chapter 6 comprise of the general summary of the thesis, limitations and further recommendations for the study.

Chapter 7- Bibliography/ literature and other sources used for the study.

Chapter 8- List of Appendices.

## **CHAPTER 2.0 General background of Women's property rights in Kenya**

### **2.1 Introduction**

In the previous chapter 1, we discussed the general introduction of the study which comprise of the motivation, the statement of the problem, the main research question, the aims and the objectives of the study. It also discussed the methodology approach of the study, together with a projection of the main literature which will be used.

We now turn to is chapter 2, which comprise of the general background of property rights in Kenya. The name of the country Kenya is derived from Mount Kenya, which is located in central highlands. Kenya is located in East Africa and it borders the following countries namely: Somalia on the North-East, Ethiopia on the North, Sudan on the North West, Uganda on the West, Tanzania on the South, and the Indian Ocean on the East.

Kenya as a country can be said to be multi-ethnic, multi-racial, multi-lingual and multi-religious society. This is explained by the existence of about 43 different ethnic communities which all speak different dialects. Additionally, different people from other countries who are not necessarily Kenyans by birth, also live and work in Kenya. However, Kenyan (natives) constitutes the majority of the population. Many religious groups are evident in Kenya whereby Christians are the main dominant among others. Kenya constitutes of about 43 tribes/communities. Moreover, these ethnic communities comprise of the 3 major linguistic groups who are the Bantus, Nilotes and the Cushites. Before we focus on the Meru community, let us briefly look at the general background of women's property rights in Kenya in the following few paragraphs.

### **2.2 General view of women's property rights in Kenya**

In general, women experience discrimination in property throughout their lives including before, during, and after marriage, but especially at the death of a spouse. The collaboration of Federation of Women Lawyers in Kenya (FIDA), and the International Women's Human Rights Clinic (Georgetown University Law Centre), argues that Kenya's land statutes discriminate against women by (1) vesting in men absolute sole ownership rights to registered land; (2), invoking customary law which generally confers exclusive control of land to men to govern land rights, and which is insulate from appeal and judicial scrutiny. The Kenya Land Alliance & FIDA Kenya, also claim that Kenya has over 75 land laws,

which create a confusing and anachronistic legal framework that fails to recognize women's rights (Kenya Land Alliance & FIDA Kenya, 2006). The bodies that govern land issues lack adequate procedural safeguards to protect the rights of women perhaps because women are nearly absent from the bodies; the land disputes procedures therefore remain biased against women; and husbands may sell matrimonial land without their wife's consent ( *ibid*). A Special *Rapporteur* on Housing concludes that discrimination against women in land ownership, access, and control of land in Kenya has "a direct and negative impact on their right to adequate housing" (U.N. Special *Rapporteur* on Adequate Housing). Nevertheless, quite a number of married women in Kenya play an insignificant role in family decision making. This means that they may not necessarily be consulted on some main issues which concern their own families. This of course includes issues of purchasing properties among others. After all as the Federation of Women in Kenya (FIDA) and the International Women Human Rights Clinic notes that, there is no legal law that requires the consultation of the wife especially when property owned by the male during marriage or a *de facto* relationship is sold or otherwise disposed. This has a negative implication because it limits the woman's ability to control disposition of the property or the income derived from it (*ibid*).

Muli Koki's Article - On "help me Balance the Load": Gender Discrimination in Kenya gives us a clear overview on discrimination of women in Kenya. We will therefore discuss her contributions in the following paragraph below.

### **2.2.1 Muli Koki's contribution on discrimination of women in Kenya**

Koki, Muli, a Kenyan feminist complains that in Kenya even where the law bars discrimination, traditional practice accepts and tolerates the inferior position of women. Furthermore, Koki also argues that Chapter 5, section 70 of the Kenyan Constitution guarantees fundamental human rights and freedoms to every individual irrespective of their tribe, race, place of origin, residence or other local connection, political opinion, color, creed, or sex, section 82, which also prohibits the enactment of any law that is discriminatory either in itself or in its effect, on the contrary, defines discrimination in all other contexts except that of gender or sex ( Muli – on "Help me balance the load" : Gender Discrimination in Kenya, an article in Julie & Wolper 1995:78).

Muli notes that the failure to proscribe discrimination based on gender is indeed a very significant omission in the constitution, which ensures that where such gender discrimination occurs, no existing law can even challenge it. It is also notable that in both 1976 and 1979, a male –dominated parliament rejected the Marriage Bill in Kenya, which would have given women equal status with men in matters relating to marriage and divorce (Muli, *ibid.*, ). In Kenya as Koki further notes, out of the four systems of family law, which includes Christian or Statutory, Hindu, Islamic and African customary, only two allow male polygamy ( but not female). According to the African customary law, marriages are not registered, and where parties must prove the existence of the marriage, they often have to swear affidavits. Muli argues that since customary law gives the man a decisive advantage over the woman, many middle-class men prefer to marry under customary law, or to enter into what is commonly referred to as “trial marriage” (*ibid.*).

Under the customary law, Muli reports that in many marriages, women are not necessarily consulted. In fact, among the Hindu, Islamic, and African customary marriages, the parents of both parties arrange the marriage, where mostly, the girls are married off to generate income to educate the family members among other issues. The payment of dowry during marriage among the Muslims, the Christian statutory marriages, implies that husbands regard their wives as part of their property (Muli., *ibid.*, p. 79).

It is also noted that while a husband can sue his wife for adultery, the wife cannot sue her husband whatsoever. The husband has the right to ‘discipline ‘his wife under customary law, which often means serious domestic violence (Muli, *ibid.*). When women are raped either outside or in their marriage, the law treats them not as victims but as prosecution witnesses on whom the burden of proof lies. However women who report domestic violence are sent home to fetch for their husbands. Those who take legal actions are likely to be deserted, which means losing their means of subsistence and that of providing for their children (*ibid.*).

On issues of divorce, both customary and Islamic laws can be extrajudicial; meaning that one party can unilaterally bring about divorce without any requirement that a court hear the dispute. While this may be considered as gender neutral, the result is *de facto* discrimination against women, who have no recourse to independent hearings of their cases ( *ibid.*,). Women who divorce under Islam and African customary laws are almost never entitled to marital property and are rarely provided with maintenance ( *ibid.*,).

In a system in which property ownership is the only way to acquire more property, women generally lack tangible security with which to secure loans from the bank and other financial institutions in order to buy property. The Registration of Titles Act is still largely based on African customary land ownership, whereby only one man and his family or clan can own the land in the area in which they live. Additionally, domestic services of housewives are not quantified in monetary terms as part of woman's contribution towards the purchase of matrimonial property. Muli's emphasis is that such work let alone physical, emotional, and moral support, is not recognized under the law as a contribution to the welfare of the home or the matrimonial property, and the fact that a woman may have resigned from paid employment to work for the family is considered irrelevant, and since majority of women are employed to work in the informal and often non-remunerative sector, legislation fails to protect them (Muli., *ibid*, p.80).

In this case, women's movements have faced many challenges in their attempt to gain equality politically, socially, and economically. This has mainly been due to patriarchal nature of the Kenyan society. However despite that, many prominent women have contributed immensely towards the feminist movement. These include the late Professor Wangari Muta Maathai, who was an environmental and political activist (*Feminism in Kenya* 2011:10). In 1977, Wangari formed the Green Belt Movement which was a non-profit organization that aimed at promoting conservation of the environment and creating access to resources such as clean water and firewood for cooking; the movement also involved women in planting trees (*ibid*).

Nevertheless, there was also the struggle for affirmative action which can be traced back in 1996 in Kenya through Honorable Charity Ngilu, who moved a motion in parliament on the implementation of the Beijing platform for Action although it was rejected and never passed. In the following year 1997, Hon. Phoebe Asiyo also tabled the first affirmative action bill in parliament which also flopped (*ibid*). However, other female members of the parliament pushed for an increase in the number of women in parliament, and in 2007, the minister for justice and Constitutional Affairs, Hon. Martha Karua tabled the Constitutional (Amendment) Bill 2007 on the Affirmative Action that aimed at creating 50 automatic seats for women in the 10<sup>th</sup> parliament and create additional 40 Constituencies in Kenya. Although Honorable Karua defended the creation of 50 special seats as an affirmative action issue, which sought to put women's representation in Parliament at par with their population size, the move led to

an uproar from other members who felt that she personalized the Bill, leading to its lack of adoption ( History of feminism in Kenya 2011: 11).

Although the Bill was not adopted, the Honorable Karua continued to get support outside the parliament through support from women in the civil society, former MPs, women bodies such as *Maendeleo ya Wanawake*, the National Women Coordinating Committee, educationists and Media specialists (ibid). The struggle for affirmative action was finally accepted in the 2010 Kenyan constitution which was promulgated in 2010.

In the new constitution, there is a legal framework for gender equality and women's empowerment. The affirmative action in the constitution is guaranteed in a couple of provisions including Article 27 (8), which states that the State shall take legislative and other measures to implement the principle that not more than two-thirds of the members of elective or appointive bodies shall be of the same gender. Article 81 (b) also provides that not more than two-thirds of the members of elective public bodies shall be of the same gender (The Kenyan Constitution 2010, quoted in the History of feminism in Kenya 2011:11).The women feminists activists have contributed a lot on the issues of gender equality although women in Kenya still struggle with issues like domestic violence, poverty, Female Genital Mutilation, and other social injustices which also needs to be curbed. Nevertheless, this does not imply that women rights to properties are easily assimilated. There are issues that still curtail and sabotage efforts made by many feminist activists.

For instance, the Federation of Women Lawyers- in Kenya (FIDA- Kenya), and the International Women's Human Rights Clinic – Georgetown University, claims that due to discriminatory customary law which often prevails in matters of inheritance, widows in Kenya suffer. According to the Federation, widows in Kenya suffer human rights violations on the basis of their sex and marital status. Furthermore, they complain that some widows are even evicted by in-laws who use customary law to claim that a widow has no right to her deceased husband's property. In most cases, they observe that others are coerced into marrying a male in-law, "inherited " by him as part of their husband's estate, and evicted from her home and banished from the community if they refuse ( Kenyan Laws and Harmful Customs Curtail Women's Equal Enjoyment of ICESCR Rights 2008: 18). However in very rare and special cases, women in Kenya may be allowed to inherit their fathers' properties. In Murang'a County, for instance, Nyamu, on Property Relations, *supra note* 21 argues that an unmarried woman may inherit from her father, particularly in case the daughter has been

taking care of her father in his old age (Nyamu, Property Relations, supra note 2, by Kamau Winifred ...Page 28).

Having a contribution and a discussion of women's discrimination by Muli Koki, in the following paragraph, we will now look at the classification of the Meru people.

### **2.3 The Meru people of Kenya**

The Meru people belong to the Bantus group. The name 'Meru' refers both to the people (the 'a Meru'), and the location. They live on the fertile slopes of Mount Kenya. Originally, there was only one geo-political district for the Meru people which originated from the colonial land unit. In 1992, the larger Meru district was subdivided into 7 sections namely: *Igoji*, *Imenti*, *Tigania*, *Miutine*, *Igembe*, *Mwimbi* and *Muthambi* (the history of the Meru people of Kenya).

Having discussed about the brief history and the classification of the Meru community of Kenya in the paragraph above, in the following paragraphs, we look at some cultural beliefs about women and properties among them.

#### **2.3.1 Negative descriptions of Meru women**

#### **2.3.2 Women as 'properties' with very limited rights over family properties**

Among the Meru community, girls are also taught to believe that they have very limited rights to own properties. This is because they grow believing that they are properties to either their fathers, or their husbands to be. In fact, they are cultured to believe that everything in the household belongs to their father or their husbands. In essence, they are perceived as properties to both their maternal families, and to their husbands.

When I was still a young teenager, I decided to grow some beans and maize corns in my father's farm after discussing with him that I was indeed of many personal items which he could not provide due to his low income for the family. So the aim of doing farming was in order to get some money for clothing; and other personal effects which I considered essential. Despite the fact that I had a deal with my dad earlier, everything we had discussed became a nightmare when I insisted that I should sell all what I had harvested to do what I wanted. My dad was so furious and he shouted saying "When did women start taking possession of their fathers' properties!?"



Although I reminded him of our deal, he only gave a deaf ear insisting that I needed to be ashamed of myself because I had no manners. He further summoned my mother saying: “How can your daughter talk the way she is talking to me? Furthermore he said, tell her that you and her owns nothing in this household!”. I do remember that day I went to bed hungry with no food because he ordered that as a consequence I should either leave the family or remain silent and outside for a couple of hours. I was literally out in darkness and cold weather for 4 hours before peeping in slowly in the kitchen where I spread a mat and slept after everyone else was asleep.

This story gives evidence that women are considered to be of lower status than men; hence they are either given very limited or negligible rights to properties. Wilhelmina Uhai also argues that in African societies, women are not regarded as having equal rights and status with men, yet they are the pillars of the family (Journal for African Christian Studies Volume 30, Number 4, December 2014:28).

### **2.3.3 The Kitchen as the ‘main office’ for married women and girls whose responsibilities are cooking and nursing the children**

Besides being taught that their place is in the kitchen with their children, girls are also taught that their value depends on their efforts to cook nice food in order to please their husbands ( Banda , 2005 :22). This learning was through informal education to young girls; which mainly focused on maintaining good hygiene in their bodies, children, and in the house. Failure to observe these could lead to their being sent back to their maternal homes. Mugure, (not her real name) was only 18 years when she got married. However, barely 3 months later after giving birth to a girl, her husband started complaining about his wife, and eventually, he accompanied her and their 3 months daughter to his in-laws. His complaint was that his wife Mugure’s performance as a wife was wanting.

Among the main complaints were that, his wife could not make tasty chapattis as expected by her husband, and that she had no idea on how to use the diapers on their 3 months daughter,... and the whole house was stinking...”. Her husband lamented. ‘Chapatti is a Kenyan traditional food that is made from wheat flour. The food is so delicious but it is made by experts and those who are well skilled. Chapattis are made occasionally, when a family is hosting special guest. Among the Meru community, girls are taught to make chapattis during

adolescence). Mugure's husband shouted to his in-laws saying: 'I think your daughter needs proper training on how to cook and take care of her children, otherwise I do not think she fits to become any man's wife...'(He said this nodding his head).

### **2.3.4 Women as 'unclean', 'immoral', and tempting men**

The image of women in many parts of Africa has been tainted negatively. Despite the fact that women have contributed immensely to economic development, that seems unnoticeable. As Ayanga argues, women are portrayed negatively ... and their value, integrity, trustworthiness, cleanliness and rationality are questionable (Wamue & Getui 1996:1). Culturally, when a woman gives birth, she is exempted from cooking and preparing the traditional gruel (porridge), until the time when her child stops breastfeeding. This is because many Meru people believe that women are unclean after giving birth; and that it is not hygienic to prepare food for their husbands or families.

In proverbs among the Meru people, they say: 'Breastfeeding women do not bathe and they smell breast milk'. In this case, breastfeeding women feel traumatized even to attend ceremonies for fear of being ridiculed against. This kind of stereotype is also common especially when women have their menstruation periods. There are those who believe that a woman is not worthy making food for the family during that period simply because they believe that they could smell. In most cases, the Meru men go out with other men and drink beer, eat from a restaurant, and stay out until very late. This is in pretense that their wives are not clean. As much as one would expect them to help their wives during those moments, they do not bother at all because after all, it is not the men's responsibilities to cook and do other house chores.

Besides being regarded as unclean, women have also been viewed as either immoral, trouble-makers, unmanageable, tempters, wizards and even murderers (Wamue & Getui 1996:2). Some people believe that women are the primary causes of rape. In other words, some believe that naturally, women are tempters of men and mostly contribute to being raped. Cases of rape in Africa and many parts of Kenya are taken lightly with no seriousness. Margot Kassman (1998:46) is perhaps right saying that the weakest members of a community are the most vulnerable to violence; and in time of rising violence, it is women, youth and children who suffer most. Explaining this further, Margot says:

''A horrifying mass rape of schoolgirls took place at a residential college in Kenya in 1992. Several of the victims were even killed. When asked later why the staff had not come to rescue the girls, the headmistress said; ''we did not think it was anything, only boys raping the girls'' (ibid).

The girls/ women are perhaps naturally believed to tempt men by either their appearance, dressing among other things. Probably due to their physical beauty, women so easily attract men and by so doing, they are to blame for whatever happens to them either through forced sex, or rape. In some countries like Latin America, rural Southeast Asia and parts of West Africa, when a girl is raped, she is encourage and sometimes pressurized to marry the rapist (Okin 1999: 15). Additionally in many cultures, rape is not viewed as primarily a violent assault on the girl or a woman herself, but rather as a serious injury to her family and its honor (ibid). These believe cuts across almost all parts of African continent.

This may perhaps explain the reason why some are advised to cover their heads and sometimes veil their faces (among the Muslims). Among the Meru community, women and girls should dress decently in long and loose dresses in order to avoid portraying the body shape. The wearing of tight skinny outfits is therefore believed to sometimes 'tempt' men. Nevertheless, girls and women are trained to have some kind of 'good manners', and be careful to behave just 'right' amidst their male counterparts. This means avoiding eye contact with men who could be 'dangerous'. In Nairobi the year 2014, a lady was stripped naked by angry men after they sported her wearing a mini-skirt (according to the research findings, the lady ailed from Meru, though she had gone to work and was living in the capital). A group of men followed her closely after alighting from a public convoy, only to tear down her short skirt in protest. The men argued that the young lady 'tempted' them by portraying her body parts (My dress my choice, on 7th November 2014 edition).

Tight skirts and dresses among the Meru community are considered unfit for girls and women who are considered to have 'good morals'. Dressing in them therefore portrays a sign of 'loose morals and prostitution. Additionally, for a girl or even a married woman to look straight into a man's eyes; portrays a sign of loose morals and a lack of good manners. Instead, girls and women are supposed to speak to boys/ and men avoiding direct eye contacts, and eye gestures. That probably may explain why many African girls even today; avoid direct eye-contacts while addressing their male counterparts. This was/ and is meant to

keep them off from having any 'evil thought' on the girls/women. Furthermore, among many communities in Kenya, it is viewed as a taboo to look straight to a man's eyes.

I do remember when I was a young girl; I was always reminded by my mum and elder sisters not to look at boys' /men's eyes whenever I am engaged in a conversation. After all, it was regarded as immoral for young girls to stop on the road side and converse with boys/ or men. In case they were caught in such an incidence, they were thoroughly beaten by their mothers. This was a sign of punishment, and to avoid further projection of anger to their fathers. In other words, punishment was a way of communicating to the father that the mother was not happy with her daughter's behavior; and that she (the mother) did not encourage it.

### **2.3.5 Women as wizards, bad medicine women, practicing black magic, thieves and murderers**

Besides branded as immoral and tempting men, Meru women like many others have been accused of theft, murder either through superstitions like witchcraft, food poisoning or love potion commonly known among the Meru as '*Kagwiria*', which is literally translated to mean 'to make happy', or 'to bring happiness'. In the Meru community, some believe in a traditional herbal medicine, which when taken 'arouses' or triggers love senses between male and females. Among the Meru people, this charm is taken through the instructions of traditional medicine men / women, and some of those who practice black magic. These are commonly known as '*agaa*' (plural), or '*mugaa*' (singular). Medicine men are found in almost every African society and village as Mbiti J, 1999:153 notes. Their main responsibility is to carry out the work of healing the sick and putting things right when they go wrong. Africans believe that whatever happens to a person must always have a reason. For this reason therefore, issues of death of animals and humans, accidents, among others are all consulted about (Mbiti J, 1999: 157).

The medicine men could either be male or female. However their main intention is to give remedy or solution to certain problems in the community. Needless to say, the office of medicine men can be misused like any other office or gift. In most cases, those who are accused of misusing the gift are mainly women. The medicine women in several occasions have been branded as 'trouble makers' either in their families, or in the society. Recently *Baite* FM reported that, there was a case of a young Meru woman who was completely excommunicated and forced out of her matrimonial home after being suspected of witchcraft and food poison.

The case was associated with food poisoning of one woman in the neighborhood (*Baite FM 6th April 2015, on Mob Justices in Kithirune Meru Central Imenti*). This woman was forced out with only a bag full of her personal effects. Although there was not enough evidence that the woman actually poisoned the purported colleague, she had to vacate the neighborhood as fast as she could to avoid further serious mob justice acts. In some places among the Meru people, such offences were culminated by burning of the suspects to death along the main road. The whole episode portrayed a lot of animosity and demoralization to most women.

In most cases, elderly women among the Meru community are sometimes associated with witchcraft. When I was a young girl, my mother severely warned me against going closer to an old woman in our neighborhood, who was believed to be a wizard. Mum used to give us stories of how that suspected woman poisoned 2 beautiful girls in the neighborhood, after giving them some ripe oranges which they ate. Both girls died instantly after eating the ripe oranges. My young siblings and I used to run as fast as our legs could carry us, every time we saw this old woman from a distance. I do remember one day, this woman was passing along the main entrance of our gate, and my mother found some 5 coins with stains next to our gate. She carefully held them with some sticks, being careful not to touch any of them; and threw them to the pit latrine never to be touched or used. This is because she believed that anyone who would touch or use the coins would probably die.

In other instances, my elder sister would send my elder brother and I to the neighbors to borrow some salt. She always sent us with a warning saying: "Even if they give you some food, none of you should eat, or you will die!". Furthermore she added: "So and so are wizards"! I do remember one day after the woman neighbor insisted that we should eat the food, I shouted saying: "my mum warned us against eating anything at your home, because you are wizards". The lady became very furious and she followed us to our home to inquire this from our mum. Since I was young and forgetful, I narrated the whole episode on how mum was careful to warn us about the neighbor's family. Afterwards, this lady went back to her home angry and furious saying all sorts of insults her mouth could mention. Eventually, mum became emotional and got hold of our hands. She pinched and beat us thoroughly because we were not supposed to disclose what we were told.

These are among the many ways that are used to describe the negative images of women among the Meru people. Such negativity ridicules women and makes their integrity, worthiness, and rationality questionable; hence nothing of great value is seen in them. This

form of stereotype could perhaps also explain the reason why women are thought of as being irresponsible and not fit to ‘own anything’ independently. Wamue & Getui argues that women’s worth in the Meru community is tainted due to those stereotypes mentioned in the above paragraphs hence could be a way of explaining their ‘unfitness’ to ownership of properties Wamue & Getui 1996: 19).

### **2.3.6 Women as properties to men and the entire community**

Sometimes some proverbs are also used to belittle women’s abilities. For instance, women are portrayed as possessions of male and society. In most instances, women are looked down as the ‘weaker sex’, who can hardly contribute positively to the society. In this sense, they viewed as sex objects obliged with giving birth and rearing of children. People who do not need to know many issues in the family. Their value is viewed in terms of the dowry (bride-prize), which is paid in exchange of a girl in marriage, and giving birth to children. In most cases, the more girls a father owns, the ‘wealthier’ he presumes to be during their marriage. Those are albeit few positive aspects of the value of women among the Meru community. However, it should also be mentioned that, though their value is not always appreciated, the Meru women have played a great role in the society especially in agriculture as Wamue & Getui, 1996:48 notes.

## **2.4 Marriage, children, polygamy, separation, divorce and inheritance among the Meru community**

### **2.4.0 Characteristics of Meru Customary Marriage**

Marriage among the Meru community like many other communities in Kenya is sacred. This implies that it is intended to be a lifelong union between a man and his wife, or wives (in case of those who are polygamous). In both Njoya and Mbiti’s arguments, although in the actual sense, not everyone who gets married; marriage is viewed as a responsibility of each and every person in the society; with the purpose of establishing relationships between both families (Men for the Equality of Men and Women 2008: 32, & Mbiti, 1999:108). It is therefore a communal/ or cooperate activity and not an individual. It is believed that a normal person in Meru should marry and have children. During the Meru customary marriages, the boy’s parents/ or family must first pay a bride prize. In the Meru community, a heifer (She sheep) must first be paid before a girl can be allowed to live with the boy. It

should be noted that this is also in case the girl is expectant with a child from the betrothed man.

Marriage among the Meru can either be a monogamous or polygamous depending on many aspects namely: status in the society, and wealth among others. Those from wealth families mostly are known to marry many wives as a symbol of wealth and dignity. The king's family also had many wives because it was believed that all the women were his.

#### **2.4.1 Polygamy among the Meru people**

In Kenya, out of the four systems of family law, which includes (Christian or Statutory, Hindu, Islamic, and African customary), only two allow male polygamy but not female (Muli1995: 78). The Meru people like many communities in Kenya therefore have a long history of the practice of polygamous marriages. In Wamue, & Getui's view, this can perhaps be explained by an old patriarchy superstition/ or believe that 'all women belong to men' and therefore should/must be married (Wamue, & Getui, 1996:17). In such a view, women among the Meru community have long been regarded as properties and albeit, as 'sex toys'. For instance, a couple of years ago, I witnessed a man marrying 2 girls from the same family. The claim was that the girls were very beautiful and the man was jealous to let another man possess them. Such instances have been very common especially in cases where the prospective husbands are wealthy and educated. For a man to marry such known beautiful girls, he had to prove himself a 'real man' by paying a huge amount of cattle and goats as dowry.

Polygamy was/ and is today considered as a way of expanding and enlarging the family. The whole essence of marriage is actually for procreation. Therefore men married many wives in order to have many children. As already mentioned, many girls were valued in terms of dowries paid in marriage, while boys were viewed as symbols of family stability, through inheriting family properties. Therefore in such a view, wealthy men could marry as many as 5-10 wives and beget children with them.

If 1 or 2 of them begets 5 girls, the others at least get 8, or 6 boys and the family is enlarged. The more boys a man has, the more stable and self-esteem he feels in the community. This is also because; boy children are believed to be symbols of strength in the family. For instance, if a man has many sons, he rested assured of protection for his neighbors and enemies. However, instances of polygamy are not as they used to be a few decades ago. More and

more people are embracing the monogamy kind of marriage. This transition is probably explained by the current poverty and low economy, high prevalence rate of HIV/AIDS in Kenya, migration, Christianity, among others.

Despite the fact that rate of polygamy is decreasing among the Meru people, there are still some sub-tribes in Meru community which advocate for polygamy. This perhaps can be explained by the indigenous patriarchy tradition/ or believe that 'all women belong to men' and therefore should/ and must be married (Wamue, & Getui, 1996:17). This belief has a positive impact among the community in that it made sure that most of the girls, who are of age got married regardless of their number, for instance whether second, third, or even fourth wives. On the other hand, such view of marriage lowered the dignity and worth of women, making them mere properties and albeit, 'sex toys'.

A couple of years ago, I witnessed a man marrying 2 girls from the same family. The claim was that the girls were very beautiful and the man was jealous to let other men possess them. Moreover, the girls were from a very poor family. Coincidentally, this was the only wealthy man in the village, who offered to save the family from ravaging poverty. Such instances have been very common especially in cases where the prospective husbands are wealthy and educated. For a man to marry such known beautiful girls, he had to prove himself a 'real man' by paying a huge amount of cattle and goats as dowry.

It is also worth noting that although one man married/ marries more than one wife, the first wife is highly dignified by her husband and the entire community by the virtue of being the first wife in the family (Gitaari, 2006:79). This of course does not nullify the dignity accorded to other wives, but rather it means she is to be respected by other co-wives almost in the same way they respect their husband. In other words, she almost becomes the leader of other wives.

Additionally, besides marrying many wives only to belong to them, the Meru men has a common slogan which is used as a form of possessing and controlling women. For instance, among the Tharaka Sub-tribe of Meru, when a woman is married, all the men who are age mates to the man or circumcised the same time with the man ( groom), refers the newly wedded woman as 'our wife'/ and wives in case they are many in polygamous marriage. On the contrary, this does not imply that the wife/ is/are free to make love with any one; but that she / they belong to the entire clan.



Again this may perhaps be explained by the presence of cultural possessiveness /and patriarchal dominance. Another reason for this kind of possessiveness may be explained by the communal contribution of dowry paid as bride-price. In some instances, the whole clan contributes for the payment of the dowry. However, the dowry is not meant to be paid all at once, but can be paid bit by bit. The intention is not actually the ‘buying’ and ‘selling’ deal, but rather it is meant to establish and build a lasting relationship between the 2 families.

Perhaps it is also worth noting here that among the Meru community, currently a few educated girls lack someone to marry unlike a few decades ago. There is an ongoing rumor spreading that educated girls are ‘stiffed-necked’ and may not make good wives to their husbands. Following such believes and superstitions, educated boys and men are advised to marry semi-illiterate women, whom in this case they can control over.

#### **2.4.2 Children’s number, and sex, explains the value of polygamy among the Meru community.**

The sex of children among the Meru people is highly regarded. This is explained by the importance put on boy children more than the girls. If a man begets only girls, he may feel insecure even among his own family members and especially his own siblings. This is because; he fears that his property may be grabbed by his siblings, poisoned or a crafted murder by his close friends, who may want to forcefully take his properties away from him. This belief is evidenced by the instability of Meru families who have no boy children. In most cases, if no son is born after a long period of marriage, the Meru men either marry second wives, or will try by all means to beget a boy outside the marriage.

On the other hand, when a young girl is born, the whole community celebrates her as a source of great joy to the family, which is sometimes interpreted by her worth in marriage. She is thus valued in terms of properties the family will gain during her marriage, to bring a lot of wealth and gain to them. It is also a common practice among the Meru people to swap or exchange wives and husbands in such cases. The Meru people do not believe in having few children. For instance, having 1 or 2 children is considered inadequate. In fact a few decades ago, a family was considered complete with at least 5 to 10 children.

Women have always been blamed as the major causes of infertility/ or impotence in many Kenyan and African communities. This is because; traditionally men are believed to be fertile, although there is a belief that there could be some few instances of infertility. In

known cases where the man is infertile, a cover up is made whereby the husbands' brothers help their 'impotent brother' to have children by having sexual intercourse with her/ or them (in case of polygamy). This also helps to cover up the shame of either not begetting children at all, or failure of begetting a boy child.

### **Polygamy**

In Mbiti and Njoya views, marrying of more than one wife may be partially considered as a way of remedying the immediate concern of childlessness, and partly removing the shame and anxiety of apparent un-productivity, since productivity in having children and especially boys is regarded as one of the essential attributes of being a mature human being (Njoya., on Men for the Equality of Men and Women, 2008:23), (Mbiti J.S 1999:139). Alternatively, barrenness and lack of boy children are among the reasons for polygamy in Kenya. However, in all these attempts, it should be mentioned that the child who is born through the husband's brother, still remain the husband's child and not the brother's. This is in order to maintain the continuity of the family, and to cover up the man's shame of infertility. On the other hand, marrying another wife may also be considered an option for infertility/ or barrenness.

The obligation of marriage is considered fulfilled through giving birth to children, which is regarded as a duty and the custom of many Africans. If one does not have children, it is viewed as a bad luck or sometimes barrenness. Furthermore, marriage is meant to build and extend the family (Gitaari , 2006:29, Mbiti J, 1999: 110). In instances where a wife is unable to conceive and have children, the husband may take another wife through the consent of his wife/ or other existing wives. This explains why polygamy was allowed in the community. However, in extreme cases where the husband was impotent; his brother or cousin was allowed to have sex with his wife in order to have a child. This has been for cases where there is a lack of a boy child in the family.

The importance and worth of the birth of a boy child is based on becoming an heir of his fathers' properties. When a mother gives birth to a baby boy, she is highly appreciated by her husband's family by slaughtering a He- goat as a symbol of great achievement to the family. In most cases, when a woman gives birth to a boy, she is assured of protection and stability in her family. Nevertheless, among the Meru, boy children are regarded more than girls simply due to property inheritance. There is a belief that if a woman only gives birth to girls, the husband stands a risk of having no one to inherit his properties ( African Christian Studies Journal Volume 30, Number 4, December 2014: 12). This is because girls are believed to get

married away from their maternal homes, to live with their husbands, who possess them as their own, hence leaving their families empty with no one to inherit them. The birth of boy children is therefore of great regard for they are considered to be the heirs of their fathers' properties; hence they were of great value in the families.

### **2.4.3 Separation and Divorce**

Separation and divorce are very rare among the Meru people. This is because, they strongly believe in unity of both the husband and the wife; and the spirit of lifelong unity among the in-laws. Since marriage is entirely a communal responsibility, it is considered hard to break through separation, or divorce. However, in very rare cases, they do happen. Muli notes that in case of divorce under both African customary and Islamic laws, women are never entitled to marital property and are rarely provided with maintenance (Muli 1995:79). Further Muli mentions that after the breakup of marriage, a woman is left with little more than her personal belongings and is expected to return to her father's care (ibid).

In most common cases, Meru women separate from their husbands after serious quarrels at home which mainly led to wife battering. Wife battering is very common domestic violence among the Meru people. In such cases, women run to their maternal homes, although they were / and are expected to come back to their husbands after sometime. The duration of separation was unpredictable. At times it could be shorter, or longer depending on how serious the problem is considered. However in rare cases, such separations resulted in divorce. The reason was/ is perhaps the strong believe in the sacredness of marriage. Culturally, marriages are intended to be life-long; and that since a dowry was paid, they are no longer supposed to remain in their fathers' homes.

In most cases, brothers and sisters and other wives married in the same family are sent by the man to bring the wife back. During that time, they are supposed to buy some honey as a way of sweet talking or soothing the woman's parents and siblings to allow her go back. Additionally, it is a form of being remorseful for the battering act to their daughter. However, during all that time, a woman cannot whatsoever claim ownership of any property in her husband's family. However, she is allowed to take all her clothes and other personal effects with her.

## **2.5. 0 Meru women and the limits of property rights**

### **2.5. 1 Breastfeeding / young children**

If a Meru woman separates or is divorced by her husband, she is not allowed to take any family property. This is by the simple reason that she owns nothing. In essence, 'she is owned by her husband'. The only thing a woman is allowed to take with her is breastfeeding children and other young babies who need a lot of care. This is because it is believed that a man should not be entangled with children. After all, it is not the responsibility of a man to take care of the children. Additionally, she is allowed to take her clothes and no animal even the cows she had long been tending. Although separated/divorced women take with them young breastfeeding toddlers, they are supposed to return the kids back after they are weaned. It should be noted that this is only in cases of boy children who are esteemed highly as the inheritors of their father's properties and NOT for the girls. A woman is therefore free to 'run' to her maternal home with a girl child who does not necessarily need to return to her father.

Similarly, a divorced wife is free to re-marry with her girl child. This implies that a girl child is welcome as a step-child and not a boy child. This has to do with property inheritance. Many Meru men are jealous to share their properties with step-sons who are not biologically their own. If a woman is divorced, she cannot take her son to the new husband. This is because the son is not a biological child and the chances are that he will obviously need to inherit the properties of his step-father. This idea is not always welcome among the Meru people due to jealousy among the family members who may argue that a step-son is a 'stranger' in their family. On the other hand, a girl child who is not a biological child is welcome though not always. The reason is simply due to her value placed during her marriage. Additionally, she was considered as a babysitter to her half siblings.

However, due to various responsibilities like bringing her forth, feeding her, and currently educating her, (in instances of poor families), she is not always welcome (Gitaari, 2006:29). It should also be noted that there are very known instances among the Meru community, whereby such girls are never educated to high school level due to the fear of costs incurred. Many therefore end up getting married at very early ages by force/ or pressure from their surrounding environment who are thirsty for wealth paid in exchange of the girl in marriage.

### **2.5.2 No right to buy/sell/slaughter/ or and use some utensils without consultation**

Besides not allowed to own properties, married women among the Meru community have no rights to slaughter/ sell/ either milk or eggs without seeking permission from their husbands. Additionally, a woman cannot just take anything from her marriage home to her maternal home without first consulting her husband. If she happens to do secretly, she will have disrespected and dishonored her husband who is the owner of the family property; including herself. The influence of patriarchal dominance seems to have great impact in such a view. This may even better be explained perhaps in Okin's view, that many of the world's traditions and cultures, including those practiced within formerly conquered or colonized nations-states – which certainly encompasses most of the people of Africa, the Middle East, Latin America, and Asia – are quite distinctly patriarchal (Okin 1999:14) In this view, a Meru traditional wife needs to consult her husband before taking any action since she belongs to him. Failure to do so may lead to thorough punishment by the entire family or the whole clan. The Meru people believe that women are communally owned. In other words, they are communal properties by the virtue of their communal payment of dowry and the whole process of marriage.

In this view, if a Meru man finds a woman disobeying/ or being disrespectful to her husband, he can choose to beat her as a 'communal wife'. Additionally, women cannot buy anything or use any family item without consulting their husbands who have the rights to decline. There is a known case of a man in our district who murdered his wife just because the wife could not give a monthly account of the total amount of money collected by selling milk. Despite the fact that the husband lived and worked far from home, he demanded all the total income and expenditure from the dairy animals. The husband always came at the end of the month just to receive the collection and the total earnings gathered from the dairy milk, without caring whether the wife had any other source of income or not. When he came, he always complained that he paid handsomely to acquire his wife; hence she is her own property. Moreover the man could be heard shouting that his wife did not bring anything in his home, hence she must always be careful with his properties.

For instance, if a girl does not get married and happens to become pregnant out of wedlock, she is forcefully thrown out of the family. One time in my neighborhood, I witnessed a case whereby 2 girls were literally forced out of their maternal homes by their families. This was

after becoming expectant, either with no intentions of getting married, or their boyfriends did not intend to marry them.

Nevertheless, besides not getting married, the value, integrity, trustworthiness, cleanliness and rationality of women among the Meru are highly questionable. Women are also portrayed as trouble-makers, unmanageable, tempters and murderers (Grace W. & Mary G, 1996:1). If a girl reaches marriageable age, she should get married out of her family. Otherwise her family and the community looks at her with mixed feelings or she is braded negatively as either barren, of bad morals, ugly, less fortunate, or a curse to the family. Her being unmarried is therefore perceived as a disgrace to her mother and the entire family. In this regard, women have no right to choose not to get married. It is actually viewed as a taboo not to get married. In the olden days, if such a girl died while unmarried, she was buried away from the household because she was believed to be a bad omen. Such deaths and burials were accompanied by traditional cleansing to avoid spreading of the same to other unmarried girls and future family generations (Men for the equality of Men and Women 2008:63).

After the dowry is paid, some family members make fun of the girl that she is now ‘paid for’ and now has become ‘somebody’s property’. Among the Meru, this perception renders a woman less independent as she has to almost and always depend on her husband’s decision. It is also worth mentioning that the concept of becoming ones’ property after the payment of dowry and marriage, has also led to the increase of many domestic violence cases in families; whereby men end up doing whatever they like with their wives whom they perceive as ‘their properties’.

This explains Lita Lou’s claim that some husbands beat, stab, shoot, choke, rape and even kill their wives because they perceive them as their own properties (Clarke, 1986:24). Nevertheless, women cannot claim any property in their immediate families; for they believe that they ‘fully’ belong to their husbands. Elizabeth Archampong also echoes this saying that when a woman gets married, there is the perception that one gives herself up anytime, every time, and all the time’. Furthermore, Elizabeth argues that in cases of separation, the wife cannot take anything with her since she owns nothing (Journal, Equality Effect,).Muli insists that the persistence of customary law in many rural parts of Kenya means that only a few middle – and upper –class women can own properties (Muli, 1995:79). Furthermore, she maintains that only under very special circumstances can women have land registered under

their names because the Registration of Titles Act is still largely based on the African customary system of land ownership (ibid).

### **2.5.3 Change of names and status of women after marriage**

The Meru people also believe that when a woman is married, she changes her status and therefore changing of names to replace their immediate husband's names, is a prided practice. Immediately a woman is married, all the family members do not call her by her name but after her husband's name e.g. ('Mwekuru wa/ or 'Muciere' 'wa'... which literally explain the passiveness of a woman to the man whom she is married to. In fact the literal meaning is a word which is interpreted with great regard and respect for the wife as 'the bearer of children, the wife of Mr X. In other words, comes to enrich, and extend the family with children (among the Meru people, the Kimeru term used is 'kethegyia mucii kana nja). Her value is therefore understood in her potential and the capacity to bear children for her husband. Among the 'Tharaka' community for instance, (who also belong to the larger Meru community), a newly wedded wife is known as '*Mugeni*' literally translated as 'a visitor'/ alien. This literally implies that the woman who is newly married is a new-comer into the family. This actually brings about the concept of being a stranger and therefore having nothing to own. The woman in such a view is made to understand that she is only an alien to the family.

Additionally, children born are known through their fathers and never through their mothers. The family is also known and referred by the husband's name. For instance 'wife to Mr X, ...children to Mr X, ...homestead to Mr X,...the family of Mr X, and never mentioning the wife. This is because the wife and the children are all likened to 'properties' to the man. It is also common that when an old man visits the family he shouts at the gate asking 'are people in this home'. If the woman is home with her children and her husband is not in, she replies back 'no, people are not at home, but it is only me with the children!'. I need to mention here that, although this has a negative connotation, many typical Meru women perceive this as respectable and just fine.

In another incidence, a couple quarreled over a slaughtered chicken during the pastors' visit into their home. The church pastor had arranged a pastoral home visitation to his members and he happened to visit a certain woman who was very active in the church choir. Since the woman had nothing to prepare for the visiting pastor, she decided to slaughter a cock to him. When the husband came home the following weekend, he went to the chicken house and head

counted them demanding the whereabouts of the missing cock. The wife kindly narrated the whole story but to a deaf ear. The husband complained that his wife should have called him to ask what to cook for the pastor without deciding anything alone. This resulted into a quarrel which saw the wife run back to her maternal home.

#### **2.5.4 Wife inheritance among the Meru community**

The custom and the practice of inheriting the widowed women are fairly common among many communities in Africa (Mbiti, 1999:140). However, those who are allowed to inherit widows may not always necessarily be related to the bereaved. In some instances, distant relative may also inherit the wife in case no brothers or cousins are alive. Before the woman is inherited, some tradition cleansing is done whereby the woman who is a widow has sexual intercourse with someone who is not related to the family. The wife of the deceased is supposed to literally have sexual intercourse with this man for at least twice or thrice before dawn (Men for the Equality of Men and Women 2008:22). In the olden days, someone who was mentally sick was expected to do the deal.

An old man in the family; or a close relative; made sure that the duo went into the house together, and literally made sure that the man does not run away. It was believed that the woman must be cleansed from her dead husband or else, curse and other misfortunes like death may befall the entire deceased family and his people. In case the wife of the deceased did not comply with the cleansing process, she was thoroughly beaten and thrown out of the family. This has led to many living on the streets as either beggars, or prostitutes. Others end up in the slums like Gatumi, a 53 year old Meru woman who was forced out of her late husband's family after she declined to be inherited. Having no one to offer her some shelter; she went to live at 'Korogocho' slum in Nairobi (Men for the Equality of Men and Women 2008: 52).

In a similar incidence, a woman was stripped of all their family properties, and forced out of her matrimonial home after she refused the elders orders of being cleansed following the death of her husband. Awino was ordered to be cleansed by having sexual intercourse with a social outcast. This was according to the custom and tradition which were preliminary conditions for a continued life in her home. "She was forced to have sex against her wish and without a condom". Awino declined and as a consequence, she and her children were forced out of their matrimonial home to live in the streets (Citizen TV News, 29 November 2002).



## **Conclusion**

This chapter gives detailed characteristic features of the Meru customary believes and practices. It is clear that traditionally among the Meru community, women are looked down upon as inferior than men. The community put their value /worth on the properties paid during their marriage. After all, they are meant to be married and not to demand for any property from their fathers. The chapter also exposes the fact that there has always been negative stereotypes and generalization concerning women.

They are for instance considered ‘dirty’, an aspect that makes them feel inferior in the midst of men. Women in this chapter are also presented as less powerful by the fact that their worth depends on their ability to give birth and nurture children. In terms of property inheritance, boys score higher than girls; since they are highly valued as the heirs of their fathers’ properties. This could explain why numerous violence and abuse in families go unnoticed or unreported because probably, many illiterate / or traditional women consider such way of being ridiculed as just okay for them, as long as they are married to their husbands whom they consider to be like their ‘Lords’.

Generally this chapter gives a general view and the image of the Meru women under review in this study. This being the reality of the matter, the chapter becomes very useful in giving the reader a clear picture and a clue about the depth of the problem among the community in question. In the chapter 3 that follows, we look at the theories that guide this study.

## **Chapter 3.0 Theoretical framework of the study**

### **3.1 Introduction**

This study shall be guided by 2 main theories namely: Human Rights which are included in the Universal Declaration of Human Rights (UDHR), and feminism theory. The first and the former section shall comprise of Articles on Human Rights in the Universal Declaration of Human Rights, and the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW). In this section, views of women's human rights activists, namely: Marsha A. Freeman, (On ' The Human Rights of Women in the Family: Issues and Recommendations for Implementation of the Women's Convention), will be presented and discussed. The reason for choosing only these 1 women's human rights activist is due to the following reasons: limitation of space and time, and that the topic under review is clearly addressed by this author. The latter section shall discuss feminism in general. This will of course include feminist theories, feminist theology, and feminist Ethics. We will now discuss the relevant articles in the Universal Declaration of Human Rights, in the following paragraphs that follow.

### **3.2 Human Rights as included in the Universal Declaration of Human Rights (UDHR)**

The Universal Declaration of Human Rights was adopted in 1948. This Declaration clearly defines human rights as a word of respect for all humanity. Furthermore it sets the principle of non-discrimination, including based on sex, and in the enjoyment of rights, it guarantees-including as it relates to property, food, and housing (Open Society Foundations,). However, although not everything is said about women in the Universal Declaration, articles like 2, entitles all to the rights and freedoms set forth in the Declaration without any distinction of any kind, including sex (UDHR).

It is also notable that when read from women's perspective, many violations of women's rights such as rape and battering can readily be interpreted as forbidden under existing clauses such as "No one shall be subjected to torture or cruel, inhuman or degrading treatment or punishment" ( ibid). Additionally, Charlotte Bunch further suggests that the main problem lies in the fact that very little elaboration of these rights has been made from women's point of view, which has resulted to insignificant body of international human rights law and practice in the area (ibid).The following articles will therefore be considered: Article

12, article 16:1b, article 17 and article 25. The content in these articles shall be discussed and their relationship in this study elaborated in the following paragraphs below.

### **3.2.1 Article 12**

Article 12 of the UDHR states that: “No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, or to attacks upon his honor and reputation”. Everyone has the right to protection of the Law against such interference or attacks. The African Charter that was adopted by the OAU in 1981 also has the view that treats the human person both as an individual, and as a member of the collective, referred to as “peoples” (ibid). Among the Meru people where patriarchy dominance has taken the upper hand, there are several cases of women who have been invaded in their families and have been forced or evicted out of their matrimonial homes.

This mainly happens after the deaths of their husbands, or after being divorced by their former husbands. In such a view, the extended family members from the husband’s side interfere with the privacy of their late brother’s wife (widow) / and sometimes the divorced wife, as though she is not part of the family. Women who find themselves in such incidents lacks anyone to protect them since the community and the relatives of either her late husband or her former husband who are expected to support them, eventually turns against them. However, concerning the protection of women; Article 18.3 of the African Charter claims that “the state shall ensure the elimination against women, and also ensure the rights of the woman and the child as stipulated in the international declarations and conventions” (ibid).

The United Nations (UN) are therefore concerned with the protection of such individuals whose rights are to be defended even against the collective. The preamble in the Declaration for instance, affirms the “dignity and worth of human person and...the equal rights of men and women” (ibid). This therefore addresses the rights of every individual person. It is also suggested that the dispute of land and property inheritance and ownership reveals different views about individual human rights and customary law, in which the conflicting opinions are based on different value systems which have also been expressed in the Universal Declaration of Human Rights and the African Charter on Human and People’s Rights (ibid).

### **3.2.2 Article 16.1b**

According to Article 16.1b of the Universal Declaration of Human Rights, both men and women are entitled to equal rights as to marriage, during marriage; and its dissolution. This

implies that both husband and wife should enjoy equal rights while they are still married and even after divorce. In many parts of the world today, women's rights to land and property are systematically denied (Open Society Foundations: Securing Women's Land and Property Rights). Some laws give women fewer or less secure rights than men, hence discriminating attitudes and practices undermine them. This in most cases lead to majority of married women to develop a dependency syndrome on men in order to sustain their lives.

Furthermore, such laws makes them more vulnerable to violence, poverty, and food security, especially when they are widowed, divorced, single, or in marriages which may not be officially legalized. The main problem in relating to women's rights to matrimonial property upon divorce in Kenya today is that the law on this subject is grossly inadequate. Kamau Winifred argues that the parliament has not enacted comprehensive legislation to deal with the division or allocation of property between spouses at the dissolution of marriage (Kamau Winifred, page 25). Additionally, she laments that this problem in the Kenyan judiciary has resorted to the use of an old English statute , which is the Married Women's Property Act, 1882 ( MWPA). This act is actually more procedural than substantive in that it recognizes a married woman's capacity to hold property in her own right and transact in it ( this act changed the common law position where married woman's legal identity was subsumed into her husband, and hence she had no capacity to hold property in her own right ( *ibid*).

Furthermore, Kamau points out that there is a great problem especially when it comes to women in customary marriages since in order to bring themselves within the ambit of the MWPA; they have to prove that they are married. This puts them into a dilemma since there are no marriage certificates in the customary marriages. In the absence of a marriage certificate, their marriages are not registered, hence it is a difficult task and unduly which puts them at a disadvantage compared to the women who are married under statutory law (Kamau, page 27).

The law of succession in Kenya is characterized by plurality and this again has a great implication on the women's rights. For instance, Kamau notes that under customary law in Kenya, succession of property is patrilineal, which is through the male line (*ibid*). Furthermore, she mentions that the main features of customary law of inheritance include communal holding of land and property, supremacy of males (which is particularly the eldest son), and general exclusion of women from inheriting, particularly land. Additionally, customary law is characterized by patriarchal relations which, when interconnected with

capitalism (for instance the individualization of title to land), has resulted to the general exclusion of women from inheritance, particularly land).

### **3.2.3 Article 17:1**

Article 17:1 and 2 is also in support of article 16.1b. It states that (1) everyone has the right to own property alone as well as in association with others. (2) No one shall be arbitrarily deprived of his/her property. The United Nations Committee on the Elimination against Women also supports this Article in that, it recognizes, “the right to own, manage, enjoy and dispose of property is central to a woman’s rights to enjoy financial independence, and in many countries will be critical to her ability to earn a livelihood and to provide adequate housing and nutrition for herself and her family”. Furthermore, it also states that in countries which undergo programs of agrarian reform or distribution of land, “the right of women, regardless of marital status, to share such redistributed land on equal terms with men should be carefully observed“.

This article challenges the African customary law in which women are only allowed limited access to some properties. Kamau Winifred argues that traditionally, men owned land and livestock while women could only own movable assets such as cooking utensils and farming implements. Nevertheless, in many communities, it was a rule that a man’s property is distributed equally among his sons, while daughters do not inherit any property from their father, as they are expected to get married and enjoy properties from their husbands (Kamau Winifred, .page 28).Among many Kenyan communities, as Kamau mentions; when a man has only daughters and no sons, his property is divided up among his brothers. This also happens to the widows who have the right to be maintained through limited access to their deceased husbands as long as they remain in the family.

Furthermore, Kamau Winifred notes that gender inequalities in land rights are pervasive and such dependency is common hence talking about women’s rights to properties may perhaps be a bit theoretical than practical. This may perhaps be explained by the fact that women not only have less access to land than men, but there are also restricted to the so called secondary land rights, whereby they get access to these rights through their male family members. In this case, they end up losing entitlements in cases of divorce, widowhood or their husband’s migration. This may perhaps be explained by the fact that traditional African societies are governed on the basis of patriarchal structures, where women’s individual interests were subsumed under the interests of the group (Kamau Winifred, on Customary Law and

Women's Rights in Kenya). The rights of women to inherit equally with men as granted in the Law of Succession Act, Cap. 160, therefore offends customary law practices that dictates against women to inherit immovable property, particularly land (ibid, page 3). Customary law portrays some aspects that often run counter to the principles of gender equality and non-discrimination espoused in both domestic and international human rights instruments.

Nevertheless, the committee also observes that in matters of inheritance, there are many countries where the law and practice concerning inheritance and property result in serious discrimination against women and often, inheritance rights for widows do not reflect the principles of equal ownership of property acquired during marriage. Such provisions which contravene the Convention, the committee suggests that, they should be abolished (United Nations Committee on the Elimination of Discrimination against Women, General Recommendation 21, Equality in marriage and family relations (Thirteen session, 1992), U.N. Doc. A/49/38 at 1, 1994, paragraph. 26, quoted in Open Society Foundations page 10). The United Nations Committee on Economic, Social and Cultural Rights also states that: 'women have a right to own, use or otherwise control housing, land and property on an equal basis with men, and to access necessary resources to do so' ( Open Security Foundations).

In the General Comment No.28 on the equality of rights between men and women, the United Nations Human Rights Committee states that, "the right of everyone ...to be recognized everywhere as a person before the law is particularly pertinent for women , who often see it curtailed by reason of sex or marital status. This right implies that the capacity of women to own property, to enter into a contract, or to exercise other civil rights may not be restricted on the basis of marital status or any other discriminatory ground. It also implies that women may not be treated as objects to be given together with property of the deceased husband to his family". The General Comment also states that:

"States must ensure that the matrimonial regime contains equal rights and obligations for both spouses, with regard to... the ownership or administration of property, whether common property, or property in sole ownership of either spouse. States should review their legislation to ensure that married women have equal rights to the ownership and administration of such property, where necessary....Women should have equal inheritance rights to those of men when the dissolution of marriage is caused by death of one of the spouses" (United Nations Committee on Elimination of Discrimination against women...ibid).

This article challenges most of the African practices in which a woman is not allowed to own anything after the dissolution of marriage. In Kenya for instance, as Kamau Winifred notes: “In many Kenyan communities, there is the practice of levirate marriage where, upon a husband’s death, the widow gets married to the deceased’s brother in order to perpetuate the deceased line and to provide for maintenance of the widow and the deceased children” (KamauWinifred...Page 28). This means that a woman has no right to properties after the husband’s death, and that her rights are only linked to her relationship to her deceased’s family either brothers or cousins (my emphasis). For her to enjoy her deceased husband’s properties, she has to be inherited by one of the close relatives to her former husband.

On issues of health and standard of life, Article 25 states that: “Everyone has the right to a standard of living adequate for the health and well-being of him/herself and for his/her family, including food, clothing, housing and medical care necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his/her control” (Universal Declaration of Human Rights- Internet source). In most cases especially in Africa, limited access to land, productive resources, together with fear of violence, has left many women trapped in relationships where they are vulnerable to HIV infection. This is perhaps due to poverty, whereby many are forced to remain in abusive families or are inherited as the last option. Additionally, economic insecurity also makes it even worse for those women who are living with HIV /AIDS to manage the disease.

Furthermore, in Sub-Saharan Africa, widows living with HIV/ AIDS are particularly victimized by property-grabbing by relatives. The World Health Organization particularly notes that many women living with HIV/ AIDS lose their homes, inheritance and possessions when their partners die, forcing ‘many women to adapt to survival strategies that increase their chances of contracting and spreading HIV ’ (Open Society Foundation,). Moreover, several other numerous Economic, Social and Cultural rights in the UDHR and ICESCR( International Covenant on Economic, Social, and Cultural Rights) are intimately related to access to land which also includes the right to housing, food, health, and work ( United Nations Universal Declaration of Human Rights ( UDHR, Art.23, 25, Dec 10, 1948 ).

According to a feminism report on women’s rights to own property, it is estimated that about 41% of women headed households live below the local defined poverty line, and close to one third of the world’s women are homeless or live in inadequate housing ( Feminist issues:

women's right to own property: Feminism). In most cases, exclusion of women from access to land pushes them towards the cities, where they often join the ranks of the increasing number of women headed households in slum areas (ibid). This report also gives an example in Kenya, where women head 70% of all squatter households, and over 25% of them are slum dwellers who migrate from their rural homes because of land dispossession (ibid). This shows that among men and women alike, there is still a lack of gender and human rights awareness explaining the serious repercussions that the denial of women's rights continue to exhibit. Nevertheless, due to such problems that women are facing globally, they have become more conscious about discriminating behavior and structures that mainly oppress them. They therefore look with great anticipation for liberating structures through which, they will be able to articulate their expectations to be treated fairly with inalienable rights.

Although it is severally emphasized in almost of the articles discussed, that women like any other human being requires equality treatment with dignity and respect, there are many continents in the world where women are treated like less human. This is therefore true saying that women experience discrimination and oppression in almost every culture. There is probably no society in which they are treated equally with their counterparts. Kassmann (1998:47) also claims that due to their sex, women in all parts of the world become victims of other specific human rights violation like rape, whipping, circumcision, mutilation and murder. Furthermore he argues that most of the refugees in the world today are women, many who have fled their homes to save themselves and the lives of their children (ibid).

In the humanitarian view, it is therefore logical to argue that women's rights are human rights. This may simply be explained by the fact that, humanity is inclusive of both men and women and by the virtue of and fact that women are part of humanity. This is also similar to Wallace & Smith's view, (Robin Redhead, 2015:12), that in the liberal, Western conception of universal human rights, "human" is conceived as the subject of rights attributed on the basis of an innate humanity, in which the ontological position is rooted in the idea of natural rights, which claims that individuals have certain basic rights by the virtue of sharing an essential human nature.

Furthermore, it may be true perhaps to argue that the concept of an essential human nature appeals not to physical, but moral nature, and it is in this vein that human rights come to be considered inalienable, meaning; "no human" is without them (ibid). It is also argued that the liberal political philosophers, such as Thomas Hobbes, John Locke and Thomas Jefferson,



who advanced the notion of natural rights, conceived the individual ‘‘human ‘‘ subject as a sovereign entity. This also means that every human being has a natural and equal right to everything necessary for the preservation of life, and a right to the free pursuit of individual interests and ends (ibid). Human rights therefore are a response to the ‘‘universal social facts’’ that it is wrong to torture, starve, humiliate and hurt others. The need for human rights thus can be said to have arose out of people’s inhumanity towards each other. This further implies that, if people acted in a just way to each other, there would be no need for human rights as John Pfitzner quoted in an article by Peter N. Prove & Luke Smetters (2006:159) argues.

Having discussed some articles about Human Rights in the Universal Declaration of Human Rights, in the next paragraphs, we look at feminism, feminist theory, feminist Theology, and feminist Ethics, all which are relevant in this study.

Understanding Feminism (Feminist Theory, Feminist theology, and Feminist Ethics)

### **3.3 Feminism.**

Feminism may simply be defined as an ideology that seeks equality of both men and women. It may also be explained as the right to enough information available to every woman so that she can make a choice to live a life that is non-discriminatory and that is within the principle of social, cultural, political and economic equity and independence ( History of Feminism in Kenya 2011: 4). Furthermore, it is a movement that deals with social, political and economic equality of men and women. It may also mean engaging with the government, the law, the social and cultural practices and beliefs of the society and participating in the gainful economic activity ‘‘all with a goal ‘‘of bringing equality among the sexes (ibid). Feminism advocates for the transformation of all social relations of power that oppress, exploit or marginalize any set of people, both women and men, on the basis of their gender, age, sexual orientation, race, religion, nationality, location, ability, class, or ethnicity (ibid).

Moreover, feminist writers criticize the mainstream social and political thought. For instance, they point out that mainstream social and political thought has commonly accepted and confirmed women’s subordinate position in social and political life, either explicitly or implicitly ( Grimshaw, 1999:6) In this regard, feminists argue that the mainstream theory takes women’s subordination for granted in their assumption that it is not significant in political thought. Porter claims that there are 2 major ways in which women’s accepted

subordinate status has been explicitly presented in mainstream, namely :( 1) women as partial helpmates, (2), women as different complementary (Beasley Chris 6-7).

### **3.3.1 Women as ‘partial helpmates’**

In this view, women are defined in terms of men’s needs regarding pleasure, provision of services, children among others. Porter argues that such a perspective is also evident in Judeo-Christian theology and Greek philosophy, which both remain fundamentally important in present-day western political concepts as well as in the general cultural heritage of the West (Porter, *ibid.*, p.55, quoted by Beasley 1999:6). This view of thought is also linked to Aristotle’s argument that, while the ‘rational soul’ is not present at all in a slave, in a female, it is inoperative, (and) in a child underdeveloped’. In his view, women are in need of care and control, and that they are morally unstable (Porter, *ibid.* p.56, by Beasley, *ibid.*). This view is likened to St. Augustine’s view.

In St. Augustine’s view, only men are created in the image of God, while women are partial beings. Furthermore, he assumes that women’s lesser spiritual and social status is a consequence of their link to sensuality and nature, while he thinks that men are committed to reason and authority (Beasley 1999: 6). In this regard therefore, women can only be cast assistants, given their intrinsic failings and limitations. Beasley thinks that such a view of women as partial beings, as compared to men, constituted women as a second-rate, as flawed or blemish men, is still evident even today in many Western thought (Beasley 1999:7).

### **3.3.2 Women as different but complementary**

The second view according to Porter is that women are different but complementary. In this view, Porter argues that both sexes are of great value, though in practice, women are described not just as different but as men’s opposite, which implies that women are defined in relation to men. Furthermore, he argues that man is the norm while woman is defined negatively in relation to that norm. In such a view therefore man becomes the standard model, while woman is the creature with extra and / or missing bits (Beasley. *ibid.*).

Simone de Beauvoir summed the hierarchical relationship between men and women assumed in the concept of ‘different but complementary’, in the following way: ‘He is the subject, he is the Absolute- she is the other ‘(E. Porter, *Women and Moral Identity*, p.57, by Beasley, *ibid.*). Nevertheless, in this kind of rating, men are linked to rationality, to civilization, to the ‘big picture’ beyond specialized small-scale concerns, and to what is particularly human

(rather than merely animal), while on the contrary, women are associated with the non-rational or irrational, with the supposedly narrow concerns of kin, and with biology and nature.

This kind of view women are likened to a kind of rag-bag of repressed elements that cannot be allowed within the masculine. Women therefore represent physical reproduction and the nurturing of dependent children within industrial law, although men in the workforce have children (Beasley 1999: 7). According to Rousseau, the women and men are different kind of beings. Furthermore, he argues that women should be educated to please and compliment men (Porter, 1988:58).

Beasley therefore thinks that in both traditional social and political thought, women are not allowed capacity or room for analytical (rational), thinking hence they are only precluded from theorizing. Their thinking is viewed to be less significant compared to men's (ibid). This view is similar to Ciru Muriuki's argument that, "African women are given a long list of many things they need to do in order to earn respect, while men are respected just because they are men" ( Radio Producer, Nairobi). Having discussed feminism and its key issues in the last paragraphs, we now discuss main issues in feminist theology.

### **3.4 Feminist theory**

According to the Oxford Dictionary of Sociology, Feminist theory is a social movement, which combines theory with political practice (Scott, & Marshall 2009: 250). It seeks to achieve equality between men and women. Jackie & Jackson's understanding of Feminist theory is that it seeks to analyze the conditions which shape women's lives and to explore cultural understandings of what it means to be a woman. Furthermore, they also note that feminist theory was initially guided by the political aims of the women's movement whose main aim was to actualize the need to understand women's subordination and their exclusion from, or marginalization within, a variety of cultural and social arenas (Jackie, & Jackson 1998:1). Moreover, Feminist theory is also concerned with giving voice to women and highlighting the various ways women have contributed to the society.

There are basically 4 main types of feminist theories which attempt to explain the societal differences between men and women. These include Gender differences, Gender Inequality, Gender Oppression, and Structural Oppression. I will discuss each of them in the following paragraphs below.

### **3.4.1) Gender Differences/ Cultural feminist Theory**

This perspective examines how women's location in, and experience of, social situations differ from men's. Jackson, & Jackie, notes that this movement points out how modern society is hurt by encouraging masculine behavior, while it is viewed that the society would benefit more if they encouraged femininity instead. Cultural feminists fall in this group. They argue that while the modern society encourage people to be aggressive and competitive which may be useful in certain contexts, these behaviors may also attract some negative aspects of competition and aggression, such as the suppression of feelings, crimes like assault and murder, and domestic violence among the social issues ( ibid,. page 5). Furthermore, cultural feminists look at different values associated with womanhood and femininity as a reason why men and women experience the social world differently (Crossman Ashley: Feminist theory, page 1). In her view on feminist Theory, Ashley also adds that other feminist theorists believe that different roles assigned to women and men within institutions better explain gender difference, including the sexual division of labor in the household. In this regard, women are seen as objects and are thus denied the opportunity for self- realization.

### **3.4.2) Gender inequality / Liberal feminist Theory**

Gender- inequality theories argue that women's location in, and experience of social situations are not only different but also unequal to those of men. Liberal feminists also belong to this group. They argue that women have the same capacity as men for moral reasoning and agency, although patriarchy, particularly the sexist patterning of the division of labor, has historically denied women the opportunity to express and practice this reasoning (Crossman Ashley: Feminist Theory...page 1).In history, Crossman notes that women have been isolated to the private sphere of the household and thus, they are left without a voice in the public sphere. After all, even after they enter into public sphere, they are still expected to manage the private sphere and take care of household duties like child rearing (ibid). Liberal feminists also point out that marriage is a site of gender inequality where women do not benefit from being married as men do. They therefore propose that sexual division of labor in both public and private spheres therefore needs to be altered if women are to achieve equality with men.

### **3.4.3) Structural Oppression / Socialist Feminism**

This theory posits that women's oppression and inequality are as a result of capitalism, patriarchy, and racism. The social feminists agree with Karl Marx and Freidrich Engels that

the working class is exploited as a consequence of capitalist mode of production, but seek to extend this exploitation not just to class, but to gender (Ashley : Feminist Theory,...page 3). This movement therefore, calls for an end of capitalism through a socialist reformation of economy (Feminist theory, page 4). Socialist feminism argues that capitalism strengthens and supports the sexist status quo, because men are the ones who currently have power and money. Basically the argument among the socialist feminists is that when men acquire more power, they share with other men hence giving women fewer opportunities. In most cases, women are even paid less than men for the same job. This difference according to socialist feminists is based on capitalist system. Social feminism also believes that technology and the social shaping of technology have often been conceptualized in terms of men, excluding women at all level.

The Socialist feminist reforms propose that the allocation for technology development should be determined by the greatest benefit for the common good (History of feminism in Kenya 2011: 7). In Jackson & Jackie's view, feminist social theory is also concerned with understanding fundamental inequalities between women and men and with analyses of male power over women (Jackson& Jackie 1998:12).Furthermore, Jackson explains the fact that male dominance which derives from the social, economic and political arrangements specific to particular societies forms the basic premise for feminist social theory. He also associates the origin of such theories and concepts to the social sciences, which focus on the material conditions of women's lives and the ideological processes which legitimate and help perpetuate women's subordination (ibid).

#### **3.4.4 Gender Oppression/ Radical feminism**

In this kind of feminism, it is believed that men not only benefit from the exploitation of women, but they are also responsible for women's exploitation. Radical feminism therefore rejects most of the scientific theories, data and experiments not only on the basis that they exclude women, but also because they are not women centered. Furthermore, they argue that since men, masculinity, and patriarchy have become completely intertwined with technology and computer systems in our societies, there is no true feminist alternative to technology (History of feminism in Kenya 2011:7). Theories of Gender oppression argue that not only are women different from or unequal to men, but they are actively oppressed, subordinated, and even abused by men (Ashley: Feminist Theory...page 3).

In their view, radical feminists suggest some changes such as finding technology that will allow babies to be born outside a woman's womb. This idea is intended to promote the equality between men and women. Furthermore, it is argued that through this, women will not miss working due to maternity leave. The maternity leave is among the reasons as to why women do not get promotions as men (ibid, : 4). In their view, the whole idea of traditional family system is entirely sexist, in which men are expected to work outside the home, while women are expected to care for children and clean the house. This traditional dichotomy therefore maintains men as economically in power over women, hence such kind of a structure should be rejected.

Freeman Marsha's Article- on The Human Rights of Women in the Family: Issues and Recommendations for Implementation of the Women's Convention offer a very relevant discussion and will be considered here below.

### **3.5 Freeman Marsha- On the Human Rights of Women in the Family**

Freeman presents the content, and discusses the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) in relation to women's rights. This convention was established in December 1993 (Marsha, 1995:149). This convention establishes international standards of equality between women and men in a context that includes the historical fact of change in families and society (ibid). The convention also states that human rights shall not be denied on the basis of membership in a particular racial, ethnic, or religious group and, particularly, on the basis of sex. The Women's Convention therefore describes the significant areas in which women must be accorded the right to make choices. We also look at different articles related to the same here below.

#### **3.5.1) Article 15 of CEDAW**

In this article, obligation is given to all governments, to ensure that women can exercise the full range of rights necessary to function as responsible adults in the society. This is by stating the fact that women shall have equality with men before the law, full legal capacity and the same opportunities as men to exercise that capacity, and equal rights pertaining to property (ibid). Furthermore, the convention states that women are to have equal rights to make contracts, and contracts limiting women's legal capacity are to be deemed null and void. The article also confirms that women shall have equal rights to movement and to choice of residence and domicile (ibid).

However, according to a Global Issue report on Women's Rights, there seems to be a lack of progress even after more than thirty years after the adoption of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) (Women's Rights-Global Issues). Furthermore, the report claims that many girls and women still do not have equal opportunities to realize rights recognized by the law. Additionally, in many countries, women are not entitled to own property or inherit land; experience social exclusion, "honor" killings, female genital mutilation, trafficking, restricted mobility and early marriage among others, all which deny the right to health to women and girls, hence increasing illness and death throughout the life-course (ibid).

### **3.5.2) Article 15 (2): Contracts, Property, and Majority**

Article 15 states that parties must provide women with the same opportunities as men to exercise all aspects of legal capacity. This implies that, the age of majority should be the same for both men and women, to undertake contractual obligations and administer property in their own right (Freeman A. Marsha, -The Human Rights of Women in the Family: Issues and Recommendations for Implementation of the Women's Convention, an article in Julie & Wolper 1995:152).

This article also gives women the right to inherit property on an equal basis with men, and this is also confirmed in Article 16 (1) (h), which is the Legal capacity to "administer property". This refers to the ability to own as well as to manage, and administration of property includes administration of estates; along with equal rights to inheritance; although throughout the world, this is still very controversial; perhaps because many religious and customary legal systems are based on assumptions that property must be retained by male, and that statutory systems reflect the traditions of male property control (ibid). It is also noted that the existence of legal and cultural impediments to owning and managing property, is a major cause of women's poverty worldwide (ibid). In most cases, land titles acts and practices frequently exclude women, and particularly married women from taking title deeds to their lands. In many cultures, women's wages are used to support the family needs, while men's income is used exclusively used by and for men as the heads of their families.

### **3.5.3) Article 15(4): Freedom to Choose Residence and Domicile**

Despite the fact that freedom of movement is universally recognized as a basic human right, women's right to move freely is frequently restricted either by culture or by law. In many countries like Madagascar, Iraq, and Kenya for instance, the law requires that the husband

determine the residence and / domicile for the family (Freeman A. Marsha., *ibid.* p.155). Also in some communities like Meru people of Kenya (my emphasis), which believe married women are their properties, it becomes very difficult to move out of the marriage even after the husbands' death. This is because some believe that the wife of their deceased brother /or relative is like 'their own wife', therefore she should be inherited by one from his own family /clan. In this case, widows among the Meru community and like many others in Africa do not actualize the freedom of choice / and movement.

Feminism has therefore developed for some time, although the concept has not always been received positively in some countries. There have always been superstitions about feminism and its intention. However, despite the challenges in advocating for the equality and the rights of women globally, women have formed a variety of women groups in which they discuss issues affecting them.

Feminist activists all over the globe, like in some parts of Africa, oppose the fact that inequalities between women and men are natural and inevitable. Instead they insist that such a view should be questioned (*ibid.*). The idea of feminism as many would argue, involves challenging the status quo. In Jackson & Jackie's view, feminism also challenges much of what has long been counted as 'knowledge'. This idea is gotten from the notions that since women have historically lived in male-dominated societies, in which they have often been viewed as the objects of knowledge than the producers of it. In such a view, much of what has been passed to the world as objective knowledge has been produced by men, framed by their particular location in the society as men, and usually white, middle-class and heterosexual men (*ibid.*).

Kate Millett, Betty Friedan, Valerie Solanas, Shulamith Firestone, and Juliet Mitchell's writings have also contributed immensely on feminism. They have echoed the concerns of the emergent women's liberation Movement. They also drew attention to varied forms and sites of female subordination and male power (from reproductive technologies, and socialization practices to laws and cultural representations), and the ways that marriage and motherhood confine women to the 'private sphere', hence preventing them from realizing their potential, contributing to their acceptance and even exteriorization of inferiority ( *ibid.*).

In Jackson & Jackie (1998:1) views, feminist theory also seeks to analyze the conditions which shape women's lives, and explore the cultural understanding of what it means to be a woman. It is also argued that initially, it was guided by the political aims of the Women's



Movement which advocated for the need to understand women's subordination and marginalization within, a variety of cultural and social arenas. Feminists oppose and refuse to accept that inequalities between women and men are natural and inevitable and insist that they should be questioned (ibid).

Furthermore, he argues that Feminist theory is concerned with understanding the fundamental inequalities between women and men and with analyses of male power over women. After all, he adds that its basic premise is that male dominance derives from the social, economic and political arrangements specific to particular societies (ibid). In 1970s, social science perspectives were at the forefront of feminist analysis, although they have since been displaced from their central position by literary and cultural theory. Michele Barrett (1992), in Jackson, & Jackie characterized this shift as a 'cultural turn' in feminist theory, a change of emphasis from 'things' to 'words'. This implies that where once feminist theory was preoccupied by 'things' such as housework, inequalities in the labor market or male violence, now it has come to be more concerned with 'words', with issues of representation and subjectivity ( ibid).

### **(C) Feminist theology**

According to Swatos, William H. JR (1998: 186), Feminist Theology, is grounded in the promotion of full equality of women with men in church and society. When the second wave of feminism was introduced throughout the 1960s and 1970s in the Western world, Swatos William argues that women theologians began to incorporate their growing feminist consciousness into their religious practice and scholarship. In Kanyoro's view, feminist theology it is rooted in women's experiences in church and society. Furthermore, he argues that their purpose is not to inject political correctness into the church and society, but rather to invite men and women radically to examine their understanding of God and their relationships (Kanyoro, 2006:87). In his view, Kanyoro claims that Christian feminist theologies base their meditation on God's gracious gifts of creation and baptism in which all Christians (both men and women), have been created in the image and likeness of God. In this regard, believers are called to live in a right relationship with each other, and with all the creation. Living in a right relationship therefore means respecting one another, sharing our humanity, and caring for all that God has put in our hands (ibid).

Feminist theologians therefore challenge the church to reflect on how gender history in our societies has shaped our sexuality, spirituality, worship, interpretation of the scriptures, and

the use of power and privilege (Holloway 2006:88). Nevertheless, Kanyoro suggests that, feminist perspectives in Christian theology should invite the church to explore new possibilities of being church as men and women of faith, who are bound together by the good news of Jesus Christ. He further challenges the church that if it accepts the fact that human rights are an important part of its mission and ministry, then feminist theology can serve as a framework to help it redress these issues (ibid). Among the greatest advantages of feminist scholarship, Kanyoro notes has been to listen to women's stories and to recognize that their subordination as a gender is a worldwide phenomenon that defies the confines of race, class, creed or nationality (ibid).

Breaking the long silence of unjust treatment of women along the globe has not always been easy as some pioneers of women's movement notes. Many times, those advocating for the rights of women have been viewed negatively with lots of suspicions. Kanyoro notes that among the reasons for this is that challenging the status quo is not always welcome. Furthermore, he adds that in history, the women's movement has been less accepted in church circles hence raising suspicion, mistrust, resentment and aggression (Kanyoro, 2006:90). Having discussed feminist theology, we now discuss feminist ethics in the following paragraph below.

#### **(d) Feminist ethics**

Feminist ethics is an attempt to revise, reformulate, or rethink traditional ethics to the extent at which, it depreciates or devalues women's moral experience (Stanford Encyclopedia of Philosophy 1998: 1). Alison Jaggar faults traditional ethics for letting women down in 5 related ways namely: (1) By showing less concern for women's as opposed to men's issues and interests, (2) that traditional ethics views as trivial the moral issues that arise in the so-called private world, the realm in which women do housework and take care of the children, the infirm, and the elderly. (3), it implies that, in general women are not as morally mature or deep as men. (4), that traditional ethics overrates culturally masculine traits like "independence, autonomy, intellect, will, wariness, hierarchy, domination, culture, transcendence, product, asceticism, war, and death," while it underrates culturally feminine traits like "interdependence, community, connection, sharing, emotion, body, trust, absence of hierarchy, nature, immanence, process, joy, peace, and life". (5), that it favors "male" ways of moral reasoning that emphasize rules, rights, universality, and impartiality over "female"

ways of moral reasoning that emphasize relationships, responsibilities, particularity, and partiality ( Jaggar, Feminist Ethics, 198:1.

## **Conclusion**

This chapter identifies and discusses main theories and articles which relate to women's human rights. These include Human Rights as presented in the Universal Declaration of Human Rights ( UDHR), Women's human Rights, and Feminism ( discussed in articles presented by a few feminist activists in this paper), which all relate to women rights. Also discussed theories are few related articles in the Kenya's 2010 Constitution. In all the discussions, there is clear evidence that women's rights are key features especially in the Universal Declaration of Human Rights, and feminist theories. The Articles discussed show interrelatedness / connection between human rights and women's rights in the claim that women's rights are human rights, advocating for gender equality. The 2010 Kenya's constitution like most of the articles under review is in support for the equality and treatment of women with men. On the same view, feminist activists discussed all claims that their main concern is to fight for gender equality of both men and women as human beings. The feminist theories and theologies discussed are all in support for the equality of both men and women. The feminist theology has similar views that since both men and women are created in the image of God; there is a need to act with respect and dignity towards each other as God's children.

The chapter also discusses that although in Africa and Kenya in particular, women are not accorded equal rights with men especially on the issues of property rights, this does not mean that no one speaks about the problem. There are some women who have openly condemned the act as evil by creating awareness to others. In Kenya among the women's rights activists discussed in this chapter include the late Professor Wangari Maathai, Honorable Charity Ngilu among other politicians. The Kenyan 2010 new constitution also has clauses that are in support for women's rights although the implementation seems to be just a nightmare.

## **Chapter 4.0 (Presentation of data materials)**

### **4.1 Introduction**

In the previous chapter 3, 2 main theories which are relevant to the study were identified and discussed. These includes Human Rights, (particular articles on women's human rights were considered), and Feminism. These 2 main theories discussed and pointed out key issues on women's rights.

Furthermore, these theories contain articles that act as guidelines on how women should be treated as human beings with dignity and respect. In this chapter 4, a presentation of data will be made. There were 4 categories of informants who were interviewed in both focus group and as individuals.

These were classified as categories A (women), category B (men), category C, (pastors), and category D, which comprised of the Meru Council of Elders (Njuri Ncheke). Some of these categories were further classified as either A (1), or B (1), as deemed necessary. It is worth noting that all the informants names were alphabetically coded e.g. A, B, C, D etcetera). They were interviewed in focus groups of 5s, while 2 pastors and 2 men from Njuri Ncheke were each separately. In total, 26 people were interviewed as follows: 5 women from the Methodist church in Meru, 5 men from the Methodist church in Meru, and 5 women from the Catholic Church in Meru, and 5 Men from the Catholic Church in Meru respectively. Others interviewed were 2 pastors, 1 from each Church, and 4 men from the Meru Council of Elders (Njuri Ncheke) (Also refer to Chapter 1, pages 3, & 4 of this study). I will now give a short preview of field work experiences. I also wish to note here that the question of gender equality was put into consideration during the method of data collection, except in some few unavoidable circumstances ( for instance in case of all male pastors in both congregations, and the Meru Council of Elders which all comprise of men and no woman is included ).

### **4.2 Field Work experiences**

The collection of data materials was done in the months of July and August 2015. There were some challenges and limitations during the process, although at the end it turned out to be successful. Among the few challenges and shortcomings that were experienced include the following:

### **A. Poor means of transport and communication**

Due to poor means of transport, most of the arranged meetings always began and finished late. In several occasions, the informants and the researcher had to walk long distances due to lack of transport means. There were also poor mobile internets, which made communication very difficult. Due to these 2 challenges, some meetings were postponed to latter dates, which inconvenienced some informants who were willing to help gather relevant information.

### **B. Stigma and lack of self-disclosure among some informants**

A number of informants were shy to disclose what they have been going through in their families. Some felt that their self-disclosure may lead to being confronted hence being expelled from their matrimonial homes.

### **C. Ridicule by some male informants**

Due to patriarchy dominance among the Meru community, there are some elders who belittle women and consider it as an abomination to give a hearing to a 'woman'. They prefer the opposite whereby, women sit and listen while men speak. It was therefore a very tough moment because when I planned to meet with the 'Njuri Ncheke' (Meru Council of Elders), the meeting twice failed. I later learnt that the main problem was associated with my gender, whereby the informants felt that they were being ridiculed and belittled. According to the excuse given by one of them, it was viewed as a taboo and a 'lack of manners' for a woman like me to address the elders no matter how educated I am. However though there were such hindrances, I was able to penetrate to these men through the help and company of my husband and another male clergy friend.

Among the strongest points that led to the success of the entire process includes the following:

### **D. Devoted church members who were key informants.**

Most of the informants were very staunch and devoted members of either Methodist, or Catholics who not only took seriously the entire process, but also respected the researcher as a clergy. These men and women always gave the researcher a lot of moral support even when some meetings failed/ or were postponed. It should be noted here that although sometimes planned interview meetings failed, they helped the researcher to organize for other meetings by lobbying with those they knew or thought about.

The church ministers /or the clergies who were in-charge of the 2 congregations interviewed were very cooperative and supportive too. They ensured that the church halls were always set for our meetings. Furthermore, they also ensured that there was clean water for people to drink. Besides that, there were tight security guards who ensured that there was a peaceful environment.

Having identified some weak and strong points, we now move on with the themes that were identified during the field work. During the entire field study, a number of issues were identified as they came out openly during the interviews. This information was collected with ease by the help of a list of interview guide questions in which questions not necessarily in the order listed were asked to the informants. Follow up questions were also made depending on the answers and discussions made by the informants. The interview guide questions were therefore discussed among different focus groups, while the researcher carefully recorded all that was said. The recorded materials were later coded and then transcribed into different themes as they appeared during the interviews. The researcher identified the following themes as those either describe the current situation of women's property rights, the negative impact the situation has, or / and projections on what could be the remedy for the situation. The same themes will only be presented in this chapter, and later be discussed in chapter 5. These include the following namely:

#### **4.3 The current situation is characterized by the following:**

1. Low standard of education among many women.
2. Discriminative cultural beliefs.
3. Lack of self-esteem among women due to differences in gender roles.

#### **4.4 Negative side effects.**

1. Displacement /loss of Church membership.
2. Street women prostitutes and homeless children.

#### **4.5 How the situation can be improved**

1. Educating women on their rights.

The above themes will be presented in the following paragraphs that follow.

#### **4. 3.1 Low standard of education among many women**

Poverty and illiteracy among many women may perhaps well explain the reason for the current situation. When asked to explain their current situation of rights to own properties, this is what many responded.

##### **Category A (1) (Current situation of Women's Rights to properties)**

**This category comprised of women A, B, C, D, and E from the Catholic Church).**

Woman D and E from the Catholic Church did not think women should be accorded the rights to properties. After all, they argued that those who claim to own properties disregard their husbands as the heads of their families, and who are rightly entitled to family properties. Woman B added saying: "But why should a woman compete with her husband on issues of property ownership?" She argued that as long as one's husband has properties, the wife should rest assured that all is well. However, Woman C, who was a high school teacher, had a different opinion pointing that women in this generation, needs access to family properties. Furthermore, she explained the risk that may arise due to limited or absolute denial of property rights saying:

... "if my husband dies today, the only thing am assured of is a portion of land to bury his body, and of course somewhere that I can also be buried... otherwise I cannot own anything". Woman C lamented.

Woman B echoed similar sentiments with C cautioning that although some women take pride in their husbands' properties, their lives have no security especially after divorce or death of their spouses. She also noted that in most cases women are discriminated upon despite of their hard work at home.

"My husband works in the city and he comes home after 1- 2 months.... However he demands the accountability of each and every coin spent in his absence.... I have to consult him every time I have to sell a goat in order to pay for the school fees for our elder son (sobbing).... He wants to control everything even when he is away"! Woman B lamented.

"This is the high time we women open our eyes and act against on such kind of discriminations!" Woman B lamented.

She was interrupted by a 58 year old woman A, who argued that traditionally women do not claim for the ownership of properties, because they in the actual sense do not own any.

Nevertheless, woman A, expressed what she termed as her ‘greatest fear’ arguing that in the current generation, their girls are getting spoilt by the upcoming theories which challenge their former good morals in the society. Furthermore she explained that in the olden days when they were younger, women could not challenge anything their husbands’ did ‘whether it was right or wrong’. She further lamented that things have now changed for the worse, and some even want to have rights over everything their husbands’ have.

Woman E who was a widow shared her experience saying that due to the fact that she had no rights to her late husband’s properties, she opted to be inherited by the deceased brother who later died.

“Life has not been so easy either.... Even after being inherited by his brother, I was not allowed to sell any farm products.... Life even became worse.... Instead I ended up working as a slave to my co-wife and her children, while I could not even afford to slaughter a chicken for my own children without consulting my husband”. Woman E lamented.

However she explained that besides having no access to the family property, she is proud to have someone to associate with as a husband after the death of her husband.

### **Category A (2)**

#### **This category comprised of the Methodist women F, G, H, I, and J**

While woman A in category A (1), challenged women’s desire to have the rights to properties, woman F in category A (2), condemned the current situation of limiting the rights as an abuse to many women, who are poor and illiterate.

“Furthermore, many women are currently suffering poverty due to limited access to properties they are stewards of”. Woman F noted.

Woman G and H added that despite of the women’s hard work, many women hardly afford nice dress, although they do not have any otherwise. She further explained that many have to persevere since their only hope is with their husband’s families.

“We have to be patient anyway because even if we go back to our fathers’ houses, we will not be welcome....everyone thinks we are a burden” Woman I noted.

“At times, inheritance is the best option anyway because there you get free shelter and food” Woman F advised.



All others in the groups supported the view that although in the actual sense, a married woman owns nothing, by the fact that she is owned by her husband, many women are currently suffering after they divorce or their husbands' deaths. Woman I ( a single mother of 2 boys), cautioned that due to lack of access to family properties, many women and children suffer a lack of housing and security and may end up either in the streets or in the slums.

**(The reasons explaining why many widows opt to be inherited)**

When asked why some of the women choose to be inherited by their deceased husband's relatives, they argued that it was a better option since they have nothing to call their own. Lady G, from the Methodist shared her experience arguing that since widow inheritance is rampant in the locality; she would opt to be inherited by her brother in-law than to be thrown out empty-handed. The others in the group lamented that some take inheritance as a final option instead of being mistreated as a deviant, although in the real sense it is not always the best option. Woman J said:

“Failure to comply with some specific obligations, like widow inheritance or cleansing after a husband's death, may lead to other related and even worse consequences like rape, and sometimes even re-circumcision”. Woman J cautioned.

“I do not think any woman enjoy such painful experiences either! “. Woman K added.

Woman K recalled an incident which followed after she divorced her husband saying that a group of women secretly stormed in her house threatening to re-circumcise her since she was considered a deviant. However although she was poor and hopeless, she did not give in.

“I managed to escape the snare....Although even after the area chief heard about the incident, he never took it seriously”. Woman K recalled.

Woman J also disclosed that although she is employed, she has to surrender all the money to her husband.“ In my case, though I work in a factory, I have to show my pay slip to my husband every month and occasionally give him my account number and the pin number so he can withdraw the money....I do not think this is right anyway ”. Woman J lamented

Woman G interrupted saying:

“I do not find anything wrong with that because we women are part of our husband's properties'...and that it is their rights to get access to their wives' bank accounts”.

Many women, who were interviewed, considered widow inheritance as a form of offering protection and love to the widow after losing her husband. However, some also considered it a better option, compared with mistreatments and eviction many go through like woman K. Others considered the practice of widow inheritance as a form of gaining access to their husbands' properties after they die.

Nevertheless, others considered widow inheritance as the only solution to their hopelessness due to the fact that they literally have nothing to call their own. However a few others swore that they can never be inherited, opting to go out and begin from a scratch.

Lady F, (in her 30s, then divorced) said:

“I do not think I can ever be cleansed or even inherited by another man, I better live as a street beggar than be infected with HIV/ AIDS”. Lady F lamented.

### **Category B (1), Men from the Catholic Church, comprised of Men A, B, C, D, and E**

Like women, Christian men from the Catholic Church who were interviewed had different opinions about women's property rights. Majority opposed and dismissed the entire approach as 'nonsense' and a mere manipulation by greedy and loose women. However, although not everyone supported the idea of women's rights to properties, some felt that to some extent, women need to have some rights. According to some, women need to be given very limited rights and not much. Man C from the Catholic argued that 'when women are given too much freedom to properties, they end up misusing them'. Man C lamented that one time he decided not to ask his wife to account for the total monthly income from the daily cattle, since the wife did not have any other source of income, and that he (the husband) was working. Man C complained that his wife started misusing the money and later became alcoholic.

“A couple of times I was called upon by neighbors to pick her along the streets while she was drunk, which was a great shame”! Man C explained.

Man A, furiously shouted that such a wife was worth thorough beating. Man A, also blamed the defendant man C, claiming it is a sign of inferiority to allow women too much freedom. Man B interrupted arguing that women are also human beings, who need to be treated with dignity and respect. However he also argued that at times, women lack some discipline, and like small kids, they too need to be monitored but always corrected in love. Man B, differed with the group on limiting women's access to properties noting that he finds nothing wrong

allowing his wife access to their family properties. He also pointed out that he and his wife have worked together to contribute to their family properties. The wife is a nurse, while he is a Military man. Nevertheless, Man B added that most of the time when he is away, the wife takes care of their family property.

When asked why he was not willing to have a joint Title Deed with his wife, Man A said: “I wouldn’t actually say there is any apparent reason.... But I think it is just a tradition”. Man A noted.

### **Category B (2), Methodist Men (This group comprised of men F, G, H, I, and J)**

Like some men in category A (1), Man F echoed similar sentiments about allowing women some rights to properties saying:

“I propose it would be nice to let women feel that they are people of worth ....” Man F noted. Man F complained that some men treat women as slaves, without giving them freedom to be themselves. “...Let her feel that you trust and love her with all that you have”! ...Let her know all what you own as a family. “Your riches and poverty should not be hidden from her, for no one knows what tomorrow may bring”! Man F advised.

He also reminded his colleagues that God created man and woman in His image; hence they should be treated with equality. Man G and I interrupted swearing that although they claimed to be practicing Christians, they cannot allow women to rule over them. Rising up his eye brows, man G emphasized saying:

“We cannot allow to be fooled by women as man F testifies. After all it is not our culture for women to inherit properties....They have nothing to own” Man G emphasized.

Furthermore the duo pointed out that, in the locality, some of their men have likewise been ‘fooled’ by the use of some dangerous love potion commonly known as *Kawiria*. Man K, also strongly opposed women’s rights to properties claiming that men use their properties to acquire (like in buying), their wives, hence there is no point of giving or sharing with her your properties again. After all, he complained saying:

“ I gave a lot of my wealth to her father in exchange of her as my wife... she is now mine and part of what I own....I used my own properties to have her as my wife”. Man K lamented.

Man G also noted that there may be a great danger in giving women freedom and the rights to inherit family properties, claiming that by so doing, the Meru men may lose their dignity as men. He said:

“The moment we men register joint Title Deeds or Log Books with our wives, we will definitely be finished”. Man G lamented.

This led to a heated debate in which many felt that the issue of women’s property rights among the Meru community has miles and miles before it can be actualized.

**Category C of the informants: (2 Pastors from the Catholic, and Methodist), A (Catholic, and B (from the Methodist respectively).**

The 2 pastors from both congregations were each interviewed but they too seemed to have some different opinions on the topic under review. However, as the people of the collar, and the custodians of God’s word, both argued that women should be accorded equal rights with men as human beings. Moreover, they also underscored the fact that as human beings, men and women are created equal beings before God. They therefore both argued that women like men needs to be accorded the rights to own properties. Emphasizing the need to own properties, Pastor A of the Catholic Church shared an experience about a woman who was a devoted member of his church, but was forcefully evicted out of her matrimonial home with barely nothing to call her own. He said that this resulted after the death of her husband who died of terminal cancer in 2012.

“After she declined to be inherited by his youngest brother in-law, she was thrown out with nothing, except her bag of clothes”. Pastor A, therefore emphasized the need for “women to have access to some properties,”. He argued that by having access to family properties, women will always have something when the worst time comes”. Pastor A noted.

Pastor B of the Methodist Church had a similar pastoral experience in which he said that after the death of his close friend and member of the church he was serving, the brothers to his deceased friend whom he knew very well, demanded that the widow be inherited. He explained that despite the fact that he tried to intervene, his efforts were futile since after the woman declined, she was later evicted out of her matrimonial home, (a house she and her deceased husband had built through a huge bank loan). The pastor lamented that since the

woman had no properties to either sell or sustain her life, and had no one to turn to; he (pastor) decided to host her for some days.

“However due to too much pressure from the outsiders, I advised her to find her own means of survival out of the manse” Pastor B said.

Like Pastor A, pastor B suggested that women should have access to family properties, which can help them continue with life even after divorce, or death of their spouses. Furthermore he added that life without a husband can be very difficult for many women who hardly have any property.

“Widows need basic human needs like food, clothes, and shelter...they also need money to educate their children” Pastor A argued. He further argued that it becomes very difficult for some divorced women and widows to educate their children because; they have no access to their former husbands’ properties.

#### **4.3.2 Discriminative cultural beliefs**

(Category A (1), and A (2), discussion on harmful cultural practices)

Among the 2 groups of women who were interviewed, majority agreed that the practices are very risky to their lives, but they have no control over them, since they are sometimes forced to undergo them. One woman from the Catholic Church noted that some of these practices are ‘like a thorn in the flesh’ since they cannot run away from them. She also added that they are practices that are within their culture.

Woman A, from the Catholic Church, recalled how she escaped death narrowly, after being circumcised, in which she almost bled to death. She testified that God had mercy upon her, since they were not even taken to the hospital and that the wounds were expected to heal naturally after circumcision. Woman C added that all girls within their locality were expected to undergo circumcision whether one liked it or not. She explained further that it was not a matter of choice for all girls were allowed to go through the initiation rite.

“In fact some even forced the girls and the uncircumcised women to undergo the initiation”! A and C emphasized.

Woman B also noted that circumcision of young Meru girls was/ is even today considered a requirement before marriage among many Meru clans. After all, she argued that unlike today, in the olden days, ‘no man could marry a *muthera/ or mukenye* (which literary translates to uncircumcised girl). This therefore explains why girls had no rights to express their views upon the practice. In fact it was even viewed as something to boast about.

Woman D and E also noted that even today, re-circumcision of married women is done as a form of reducing their libido, and controlling women by men.

“Most of married women are threatened with re-circumcision failure to obey their men” Woman D noted. Woman A also noted that circumcision of women could be very risky especially when a woman is circumcised at an old-age and may even result into death due to excess bleeding.

Women F and G also identified other harmful practices in Meru community. Woman F mentioned that among the worst experiences some women go through is widow cleansing after the death of their husbands. She pointed out that there are those who strongly believe that cleansing is essential and that failure to undergo it may have a negative impact on the deceased family.

She lamented that the cleansing process which involves “unprotected sex with a professional cleanser”, is the worst experience for them as women.

Woman G added that those “professional cleansers”, claims to cleanse all widows without any safe protection. She cautioned that the practice risks many widows’ lives, by exposing them to illnesses like HIV\ AIDS. Woman H therefore concluded saying that women have no option due to the impact such believes have on their families.

“I really empathize with my colleagues because by the virtue of having limited or no access to our own properties, we should not be treated the way men treat us”. Woman H lamented.

Woman I reiterated, arguing that she believes that God is more powerful and is able to protect women from any evils which may befall the families after their husband’s death, despite the fact that they have no access to any family properties.

Explaining this further, woman I shared a testimony of how God protected her against such harmful practices of cleansing and inheritance after her husband died more than ten years ago. She further said that she was forced to leave her matrimonial home barely a month after

her husband died since she declined to be cleansed and later be inherited by one of her deceased husband's brothers.

“The whole family hurled all sort of insults and curses to me swearing that I would not live long..... As if that was not enough, they even divided our family piece of land between themselves, sold the cows and the goats I used to milk, and threw me out empty-handed...today, it is more than 10 years and I am still alive and healthy,...am protected by the blood of Jesus”. Woman I testified.

Others in the group agreed that they have little or no access to family properties, disclosing that only few women share the problem with anyone due to fear of intimidation and ridicule by family members.

... “It becomes a great challenge to decline due to the implications there after” Woman H lamented.

She argued that although many widows opt to be inherited in order to get access to their deceased husbands' properties, there is a high risk of contracting sexually transmitted diseases and HIV/ AIDS.

Woman G also noted that most of the married women would not dare demand for a share in the family properties due to related oppression.

“If you demand to know how many acres of land he owns, and how much money he sold for a plot of land, he yells at you or even slap you.... it is like asking for problems”. Woman I complained.

Woman G said that Christian women are afraid of sharing with others what they go through in their families. “.... some are going through hell”! She said (with a loud voice). Woman G gave an example of her own daughter who lived in an abusive marriage for 5 years without sharing with her mother for fear of ridicule. She explained that divorce and separation among the Meru women is not common, and therefore many married women persevere with oppressive and abusive husbands. Explaining this further, woman G narrated that before they knew what their daughter was going through, she was already living in severe torture and oppression. However she narrated that it became even worse, after the daughter demanded the accountability on how her husband spent 200 Thousand Kenya Shillings, the money he had acquired as a loan.

“My daughter did not know that she had asked for the worst thing ever in her life....” Woman G lamented.

As a form of punishing what her husband referred to as “a lack of respect” to him, he tied his wife’s both hands and legs, covered her eyes with a piece of cloth and let her to die unattended. Luckily enough, only a few hours later while her husband was in the bathroom, he heard a gentle knock at the door, the mother to his wife had decided to pay them a casual visit, having not seen or heard from them for sometimes, though they lived few kilometers from each other.

“Immediately after opening the door, my in-law (husband to my daughter), fell down unconsciously and started shouting that my daughter and I were trying to rob him of his properties....after seeing my daughter in custody, I started shouting and soon the house was filled with many people”. Woman G narrated. It was affirmed by many in the group that such related violence goes unreported in many homes due to stigma and intimidation by the family members.

### **Category B (1), and B (2), responding on harmful cultural practices**

Some Christian men interviewed also noted that many women who inquire about their rights to family properties are threatened by harmful practices as a way for ridiculing them. The Methodist group for instance noted that although still some practices like circumcision of women, and women inheritance, are practiced, these practices are not healthy and may claim the lives of many.

Man A cautioned that women should be given access to family properties by being the caretakers of those properties.

“They have always been custodians of these properties anyway....they feed, milk the cows, the goats and even the dogs know them” Man A argued.

Man B concurred with A cautioning that currently the HIV/AIDS prevalence rate has been increasing especially among the married people, than those un-married. He emphasized that among the main causes is through wife inheritance as a form of providing security to the deceased wife and children.



“I think it is the right time we Meru people think about empowering women through rights to properties, instead of the outdated practice of widow inheritance.... When you inherit a woman whose husband has just died of a certain infectious disease, you are at a high risk of contracting the same”. Man B cautioned.

Man C also echoed similar sentiments noting that due to limited or no access to family properties, many women have low self- esteem, as many think of themselves as less human.

.... “After all no woman has the right to say no to what has been agreed upon by the community. They are not included in decision making, hence are just like useless”. Man C cautioned.

Man F of the Catholic however had a different opinion on widow inheritance. He argued that widow inheritance should not be viewed negatively, because it is a way of offering protection to the widows, and their children.

He also argued that, “if a widow is not inherited by one of her deceased husband’s brother, then it means that there is no one to take care of the deceased man’s properties”. Man F argued.

Furthermore, man F claimed that after the death of many married men, the un- inherited widows will only destroy their late husband’s properties with other men. Man G also noted that in case whereby the deceased had no children, ‘his name still lives on’ by the help of his brothers who inherit and begets children with her.

Man G and F also cautioned that through widow inheritance, the woman will not just move out with other men after the husband has died, but it will be one of the deceased relatives who will possess her to be his own.

Man I, and J differed with the rest especially on practices that accompany widow inheritance (for instance whereby before being inherited, widows must be cleansed). They argued that some cultural practices are not Christian and should be abolished.

“I think widows should be given rights to their deceased husbands’ properties instead of always thinking of inheriting them.... . This will save the whole family from dying” Man I and J cautioned.

“I think widows should have something small anyway”. Man J lamented.

Furthermore, Man I advised that it is wrong for Christian men to perceive issues like non-Christians on the topic under review (Women and property rights). Furthermore he echoed similar sentiments with man J claiming that women are human beings like any other, and that they should be given the rights to family properties.

Man H also cautioned that widow inheritance should be considered as the practice of the past which is outdated. After all he also argued that widow inheritance can now be very expensive considering the life expenses such as education, food and clothing.

“It would be a good idea for women to have the rights and access to their own properties because through this, they will be masters of their own, hence is responsible for their own children instead of carrying the burden to another man who may have his own family to look after. After all, in the current economic crisis, it is a burden to whoever inherits them” Man H reasoned.

**Category D of the informants: (This final group of the informants was the Meru Council of Elders, commonly known as the Njuri Ncheke). 4 men were interviewed as Njuri Ncheke A, B, C, and D.**

In his view, Njuri Ncheke B, for instance, argued against women’s rights to inherit properties saying:

.... “When every woman starts claiming the rights to own properties, then they will sit on men, and men will be powerless”. Njuri Ncheke B lamented.

Njuri Ncheke A also noted that it is un-imaginable to have a reverse order in which women start owning properties and men perhaps becomes the women’s properties.

“That is the worst thing I would wish to see while still alive”. Njuri Ncheke A swore.

He further explained that women themselves are properties to their husbands according to the Meru customs; hence they are to be taken care of by the entire clan other than aspiring to own properties.

Like the Catholic and Methodist men I earlier on interviewed, the Njuri Ncheke Council of elders was very skeptical about the plight for women’s rights to properties. However after a very long discussion, Njuri Ncheke C, and D differed with A, and B’s opinions, claiming that Meru women currently needs to be accorded rights to properties.

“Unlike before, many Meru women are the family bread winners..... They feed, clothe and educate their children without necessarily relying on anyone’s support” Njuri Ncheke C noted.

Njuri Ncheke D also gave a narrative of pending cases in court, in which many widows are left to handle land and other properties of their deceased husbands ignorantly. He further explained that it is always important to understand what many widows go through after the demise of their spouses, without making hasty accusations against them:

“Although the wife of the deceased did not know anything about the loans his deceased husband had from the bank, no one empathized with her situation and eventually she and her children were thrown out of their matrimonial home, after the family property was confiscated by the bank”. Njuri Ncheke A narrated. This group therefore was divided into 2 for they had different opinions.

#### **4.3.3 Lack of women’s self –esteem due to differences in gender roles**

During the interviews carried out, the issue of patriarchy dominance among the Meru people came out clearly as the main hindrances to women’s rights to properties. Some still look at women as inferior to men, and the fact that they should always come second after men. Most of the Christian women from both Catholic and Methodist agreed that they are not treated with equality with men. When asked why they do not see anything wrong, many confessed that ‘it is the way they have been cultured’. Woman A, and C (Category A (2)), for instance argued that they grew up believing that men are more superior to women simply because they are men.

Woman F and H also like in Category A (1), confirmed that gender roles were taught to both girls and boys when they were still young. Furthermore she added that even before the marriageable age, women know what is expected for them as women, which are also different from men. The Christian men also held similar views that boys grow up knowing their limits as men that is different from women. Furthermore, they also argued that they learn when young that girls and women are ‘weak and unreliable’ especially when it comes to war, and protection of properties like land, car and other physical assets.

A few of church men interviewed in category B (1), and (2), admitted that there must be a change in the way the Meru people have been perceiving things. Man D argued that there is

currently a change of gender role, in which many women are heading their families without necessarily having to rely on men.

“In such instances, people need to think otherwise” Man D cautioned.

#### **4.4 The negative impact on Church and Society**

##### **4.4.1 Displacement / and Loss of Church Membership**

When the women were asked whether they have any access to the church service later after relocating from their matrimonial homes, many said YES, but felt ashamed following their current situations as either divorcees, or widows. However, still others noted that it was indeed a great challenge due to distance.

“It is very difficult to join another church different from the one you used to attend....everyone including the pastor wants to know your history.....” Woman C lamented.

Others also noted that in large congregations like the Catholic and the Methodist, everyone just looks at them with suspicion.

“They will look at you from the head to the toe to see what kind of dress and shoes you put on....as a poor woman you feel very ashamed of yourself....” Woman B lamented.

Woman E also reiterated saying: “ Sometimes the pastor of the church would wish to pay a visit to a new member.....who does not have somewhere to live, leave alone afford food and clothes for herself and the children” Woman E noted.

Other women interviewed also noted that there is a challenge due to stigma following their former lives. Many also noted that relocating from one place to another is a great challenge due to distance and disorientation of their former lives.

##### **Pastor A and B on displacement and loss of members**

Pastor B of the Methodist lamented that there has been a mysterious decline of membership in his church following deaths and dislocation of members.

“It is indeed very painful to lose an active member, and sometimes a church leader either through death, or dislocation”. Pastor B lamented.

... “If a man dies for instance due to HIV/ AIDS related illnesses, there is a high probability of contracting the same to the deceased brothers through inheritance, and the whole family is swept”. Pastor A therefore cautioned that the church has experienced great loss in both ways.

#### **4.4.2 Street Women prostitutes and homeless children**

Among all the groups that were interviewed, many noted that eviction of women from their matrimonial homes has led to the increase of women prostitutes along Meru town.

“I know many of my former friends, who refused to come here today to be interviewed due to trauma and shame....they, live in the streets as commercial Sex workers”. Woman G reported.

However woman H also noted that there are a few other women who live in oppressive families.

“..... Due to fear of ‘exposing’ their Christian families, they opt to remain silent”. Woman H noted.

Responding to the question as to why many divorced or evicted women choose to live in the streets, woman J explained that after a woman is married from her paternal home, she is not expected to go back. She also elaborated that no properties are allocated to them as girls and women in their fathers’ homes.

‘If she goes back after divorce, it is her own problem because no one will accommodate her in their house.... After all, she has no land to till and call her own.... how then does she survive?’’. Woman J lamented.

Woman C and D echoed similar sentiments arguing that a woman who returns home to her father’s home after separation or divorce may be more stressed than when she lived with her oppressive husband. They therefore concluded that such instances explain why many choose to live in the slums even as prostitutes because they are poor with nothing.

Woman D recounted an incident that occurred after she was separated from her husband resulting from a domestic violence (which arose after she slaughtered and prepared some chicken- soup for her visiting parents one day in the absence of her husband. Her husband complained that he must have been consulted before cooking). She explained that she expected to be received warmly by her parents and siblings. However, woman D lamented

that even after her parents knew what the problem was (and expecting to be welcomed home warmly with sympathy), she became like the source of all problems in the family. Furthermore, she lamented that even her own siblings and parents whom she expected would tolerate and welcome her, turned to be problematic.

“They hurled all sorts of insults on us complaining that we own nothing in the family.....After a week of mental torture and stress, we couldn’t take more.... my kids and I decided to move to the nearest shopping Centre where we were housed by an old woman who was then living alone, before meeting my current husband”. Woman D narrated.

#### **4.5 Informants’ proposal on how the situation can be improved**

##### **4.5.1 Educating women on their rights**

The following were proposals from the informants on what can be done to improve the current situation. Both women in categories A (1) and A, (2) agreed that there is a need for women to be taught on their rights.

“We need someone to explain to us clearly on what we are required to do” Woman A noted.

Woman C and E also reiterated saying that there is also a need to have the government intervene in their favor as the marginalized/ and oppressed group.

“If the government does not intervene, then it will be wastage of time because we have no power over our men” Woman E emphasized.

##### **Interviews with men (categories A and B) on women empowerment**

Although some men strongly opposed the idea of empowering women, a number of them supported the idea after a long debate.

“Giving them some rights to properties will lighten the burden for us....at times it is very hard to support a family of 10 or more alone without the help of the wife”. Man F advised.

“If giving them some rights to own properties will help them to be more responsible, then it would be a good idea”. Man B.

### **Interviews with category C (1), and C (2), on what should be done to improve the situation of women and property rights.**

“I think there is a need to educate the whole congregation on the importance of women’s access to properties....the church is the light of the world hence through educating her members, the community will all be educated” Pastor A noted.

Pastor A cautioned that some beliefs and practices have been used to oppress and abuse women, who out of their naivety, suffer silently. In his view, pastor B explained that many women do not know that they have any right to decline or express their views against their husbands. Such cases, he argued would be viewed as disobedience which may attract punishment even from the entire community. Pastor B also noted that many times women are not allowed to be away from their homes. He said that many have to ask permission from their husbands even when attending Church services on Sunday.

Nevertheless, he gave a narrative of a known incident in which a certain woman who was the chairperson of the women fellowship used to attend the service late and sometimes was absent. The pastor called the woman and the husband in his office to inquire why she was always late for service and she was the chairlady. The woman explained that her husband exempts her arguing that she is always away from the family on ‘church issues’, hence has limited time to cater for other home responsibilities as a wife. When they later went back home, the woman received thorough beatings from her husband and swore that he would never again let her attend the service. Furthermore, the pastor explained that the husband to the woman swore to kill her in case she attends the church.

“The husband also suspected that I had an affair with his wife. ... This shows that means that a lot needs to be taught to the members and the families in general”. Pastor B lamented.

Furthermore, he also argued that since that time the woman stopped attending the service and withdrew from the Church leadership. Nevertheless, the Pastor said that due to fear of more suspicion, he did not follow up with the woman’s membership.

### **Conclusion**

This chapter comprises of narratives of all the interviews collected from the informants during the field data collection for this study. The interview was guided by an interview guide questions through which all similar questions were presented to different groups at different times. The four categories of informants had different views concerning the topic and the

themes reviewed. Furthermore, most of them participated in deliberating views on different themes provided. Nevertheless, some had various issues that provoked other followed up questions. Most of the informants were men by the virtue of dominating among the groups that were interviewed. For instance, among the Meru Council of Elders) in which only men were members. The greatest number of informants that opposed the idea of women's rights to inherit properties was therefore among the dominant group. However there were others from the women interviewed who were also in opposition probably due to their low standard of education or because of poverty.

All in all, from all the 4 categories of the informants, it was noted that many women have very limited access to family properties by the virtue of either being educated, employed, or are young and married to educated men who perhaps understands the concept of property rights and human rights.



## **CHAPTER 5.0 Discussion**

### **5.1 Introduction**

In the previous chapter 4, the field data was presented as gathered from various informants. This was done in different themes as they arose during the interviews. In this chapter, a detailed discussion of some major themes in chapter 4 will be made in relation to the theories (Human Rights and Feminist theories) discussed in chapter 3 of this study.

The themes which were coded during the interviews will be discussed under the following sub-topics here below:

- (1) The current situation of women property rights
- (2) The negative consequences
- (3) What can be done to improve the situation?

### **5.2 The current situation of women Property rights among the Meru women**

The current situation of women and property rights among the Meru people is characterized by the following issues which narrow the possibilities and the rights of many to own properties, namely:

- 1) Illiteracy and poverty,
- 2) Harmful cultural practices and beliefs,
- 3) and the influence of patriarchy dominance among the Meru men.

A detailed discussion of each will be given in the following paragraphs that follow.

#### **5.2.1 Illiteracy and poverty**

From the interviews with most of the informants, it came out clearly that currently, women's rights to property ownership is viewed with a lot of mixed feelings by many, and especially by women who are expected to be the forefront activists. The reason may perhaps be due to

illiteracy and poverty among many women, and men whose basic education is mainly informal, based on cultural beliefs and superstitions. While culture is believed to be dynamic, its impacts on peoples' lives may take longer than expected. Needless to say, the quest behind the current women's pursuit for gender equality is something many people are still wrestling with in Meru community.

It therefore becomes very difficult to understand the entire concept although many women experience hardship due to limited access to family properties. From the interviews in the previous chapter 4, this aspect is clear where some women informants expressed their desires for widow inheritance as a better option after the demise of their husbands. However, although not all who preferred to be inherited, the few who disputed were those who were either young, or/ and educated, and have some employment (See chapter 4.3.1 Category A (1), and A (2) of this study). Nevertheless, according to the data, perhaps there could be possibilities that the few, who understands, dismiss and ridicule the whole process as entirely feminist. The few who understands were either the educated, and have had external exposure either by living or working in large cities outside their homes. Unfortunately, such few learned are also ridiculed by their men colleagues.

The situation is therefore that is characterized by a lack of understanding the importance of women's rights, not only by women, but also by many others who may perhaps be illiterate, or poor with no other option. The Meru people are cultured to think that property ownership belong entirely to men and that women are just among the properties men own. This mentality put women in an awkward situation whereby they feel that all is well. However, on the contrary, it is not well since the women own literary nothing and run at a great risk after their spouses' demise or divorce them. Furthermore, ignorance of legal rights and a lack of access to legal services in many parts of Kenya remain enormous obstacles for women in vindicating their rights to inherit property. Since many women are illiterate and poor, they may perhaps not be aware of formal inheritance laws. This therefore explains why many remain in such conditions for long. In the following paragraphs, a discussion on some harmful cultural practices which are among the key issues that cripple women's property rights will be made.

## **5.2.2 Harmful cultural beliefs and practices**

Women in Kenya like many others in Africa go through many cultural beliefs and practices, which can be fatal. These harmful beliefs and practices includes: widow cleansing after the death of her husband, widow eviction, widow inheritance, and women genital mutilation (FGM), commonly known as clitoridectomy- (the partial removal of the clitoris). Some of these practices can be dangerous and in most cases may cause death to the victims. However, despite that, there are those who strongly feel that they cannot be overlooked and women must undergo them without any option. According to the data in chapter 4.4.4, the following cultural practices were identified as harmful to the health and the general lives of women among the Meru. They are therefore some of the harmful practices that are dearly treasured in the name of culture which also sabotage the women's pursuit for gender equality, and property rights. These include the following:

**-Widow cleansing,**

**-Widow inheritance, / Widow Eviction,**

**-Female circumcision and rape.**

### ***5.2.2.1Widow cleansing***

Widow cleansing is a practice that is very common among many communities in Kenya. It is a cultural practice through which the widows are “cleansed” of their deceased husbands’ spirit by a man who is either paid, or volunteers to have sex with her”( International Women’s Human Rights Clinic Georgetown University Law Center and The Federation of Women Lawyers in Kenya 2008: 147). Through the process of widow cleansing, the widows are believed to obtain protection against any evil spirits after the demise of their husbands.

According to the informants in chapter 4.3, those who go through such practices have no option simply because the practices are considered as essential hence are taken seriously. In other words, the women have no option other than to follow what is considered legitimate in the society.

However, although these practices are done under the cover of culture, they are against human rights. When for instance a woman is forced to have sex with a stranger, in the name of ‘widow cleansing’, her health is risked by the fact that she may contract sexually transmitted diseases or HIV /AIDS (see chapter 4.3.2). ‘Professional cleansers’ are people

who are believed to be experts in having sexual intercourse with widows whose husbands have died.

The worst thing about them is that they perform the act with no protection, and that widows are forced to undergo the practice under strict supervision, failure to which leads to eviction (see chapter 2.4, on Marriage..., divorce and inheritance among the Meru people and 4.3.2, discriminative cultural beliefs respectively, in this study). Moreover, widows are not given the rights to choose what they prefer. Whether they like / or not to be cleansed, or inherited, they have no choice and it is considered a taboo not to adhere to the rules and the regulations of the society. In the African society, deviant to such practices is considered as a serious abomination and an offense which is punishable by the entire clan. After all, there are some who believe that failure to adhere to some cultural practices may bring about serious consequences like curses among the entire family. This is against the human right article which states that all people are free to make choices, regardless of their sex, and the feminist theory which advocates for gender equality and equity (See Universal Declaration of Human Rights, and Feminist theories respectively in chapter 3.2 on Human Rights, and 3.4.2 on Gender inequality / Liberal Feminist Theory of this study).

Furthermore, the practices of widow cleansing, and widow inheritance violates several rights guaranteed to women under international and regional law, which includes women's right to be free from gender – based violence, and the rights to be free from harmful cultural practices. After all, according to the international Law, women have the rights to be protected from violence, particularly family and domestic violence (The International Women's Human Rights Clinic Georgetown University Law Center and The Federation of Women Lawyers in Kenya, 2008:147).

#### ***5.2.2.2 Widow inheritance and Widow Eviction***

Widow inheritance is the practice of inheriting widows after their husbands' death. It is a very common practice among many communities of Kenya. It is culturally believed that after a married man dies, his wife should be inherited by one of his close relatives. It can either be one of the deceased brothers, or in absence of any brother, a cousin or any other close family member. Inheritance of widows is believed to be a form of maintaining and taking care of the deceased family (the deceased properties, including his wife, and the children). Widows have therefore no options rather than being inherited because they are convinced that through it,

they will get access to their deceased husband's properties, which are strictly guarded by his brothers or other close family members.

As the informants explained, those who refuse to be inherited are forcefully evicted out of their matrimonial homes without anything (see chapter 4.3.2 of this study). Furthermore, it is not the responsibility of the widow to choose who should inherit them. This is because it is the clan that decides the fate of the widow. By so doing, widows are denied freedom to choose what they want or do not want, and instead, they are treated as objects, or children who cannot think for themselves. This is a form of domestic violence which is also opposed to the United Nations 'General Assembly Declaration on the Elimination of Violence Against Women which states that :

“ States should pursue by all means and without delay, a policy of eliminating violence against women and, to this end, should ...exercise due diligence to prevent, investigate and, in accordance with national legislation, punish acts of violence against women, whether those acts are perpetrated by the state or by private persons”( *ibid*).

### **Widow eviction**

Widow eviction may be understood as the permanent or temporal removal against the will of married women from their matrimonial homes, after the demise of their husbands. Furthermore, this eviction happens without the provision of or access to appropriate forms of legal or other protection.

The widow eviction for instance violates widow's rights to equal rights in marriage and adequate living conditions that everyone is entitled to according to the International and Regional Law (See page 46, chapter 3.5.3 (Article 15 (4), on Freedom to choose Residence and Domicile, in this study). While for instance the Law of Succession Act states that “no person shall, for any purpose, take possession or dispose of, or otherwise intermeddle with, any free property of the deceased person” and even criminalizes such action, the Kenyan government seems to have either overlooked, or failed to take steps that alleviate the problem of widow eviction (Law of Succession Act, *Supra note* 14 § 45 , quoted by The International Women's Human Rights Clinic Georgetown University Centre and The Federation of Women Lawyers in Kenya 2008: 141).

Moreover, according to CEDAW, ICCPR, and the African Charter (Banjul) Charter on Human and Peoples' Rights, the CEDAW Committee's General Recommendation 21 and the

Human Rights Committee's General Comments 19 and 28, married women have equal rights in marriage and when marriage ends. Eviction in marriage or after the marriage ends is therefore wrong and should be considered as a violation of law that is punishable. Details of such violations are explained further (ibid.... Also refer to chapter 3.4.4 on Gender oppression/ Radical feminism, in this study).

Forced eviction of widows from their maternal homes after their husbands' death violates women's equal rights to adequate living conditions, as required by CEDAW, the International Covenant on Economic, Social, and Cultural Rights, and the Convention on the Rights of Child (ICESCR), 2008:142). The women who were interviewed explained that many are forced to live either as street beggars, in the city slums, or result into prostitution. In such cases, their former living conditions and that of their children is interfered with, leading to the worse life ever on the streets or in the slums where there is little or no sanitation and clean water or electricity.

Furthermore, deprivation of widows' property rights leads to increased poverty especially among female-headed households. Many married women are evicted from their families with children whom they are expected to feed, clothe and educate. This responsibility is shouldered on them without any other help. According to Kenya's government report to CEDAW, there is a higher incidence of poverty amongst female-headed households, which accounts for 31.7% of all households, such that 79.5 % of female households live below the poverty line (CEDAW Report, *supra note*, Para 130, quoted by the Federation of Women Lawyers in Kenya (FIDA), and the International Women's Human Rights Clinic, Georgetown University Law Centre, Washington, DC, USA 2008: 19).The practice is again against Human Rights and Feminist Theories of Gender and equality of men and women ( Also see Chapter 3.5.3 of this study).

### ***5.2.2.3 Women circumcision (Clitoridectomy) and rape***

According to the women informants in chapter 4.3.2, (on Discriminative Cultural beliefs and practices), the practice is even done by force and in most cases; women are not consulted for the practice. Circumcised women may also be threatened for a re- circumcision, as a form of punishment to the women who may be considered as deviants (see chapter 4 of this study). Such deviance include: widows' refusal to be inherited, or cleansed, or other behaviors that may be considered rude and unbecoming (ibid), also see (The International Women's Human

rights Clinic, Georgetown University Law Centre, Washington, DC, USA, and the Federation of Women Lawyers – Kenya (FIDA), 2008: 21).

In a nutshell, female circumcision which is also known as clitoridectomy may be understood as the process which involves either partial or entire removal of the genitals. In some communities along North Eastern Province of Kenya, the entire genitals are removed and then the area is thoroughly stitched, leaving a small opening for the urine and menstruation pass out. Female genital mutilation (FGM), as it is also commonly known, is a very controversial cultural practice in many parts of the world. In 2002 for instance, it was noted that 2 million girls were mutilated every year through female genital mutilation (FGM), with most African countries like Egypt, Ethiopia, Kenya, Nigeria, Somalia and Sudan leading in 75 percent ( “The Progress of Nations”, p.7. Sources FGM, Nahi, Toubia. January 1996 update from her study, *Female Genital Mutilation: A Call for Global Action*. Revised ed. New York: Women Ink, 1995. (United Nations Population Division, “World Population Prospects: The 1994 Revision,” 1997), quoted by Action Plan for the Churches 2002:29). While there are some who consider it a human rights infringement, others view it as an integral part of their culture. This perhaps explains the reason why it has remained unchallenged for centuries.

Among the communities that practice female genital mutilation, there is a strong belief that the practice helps women to be submissive to their husbands. Furthermore there is a belief that, uncircumcised women never stick to one man and instead, they will move out with any man. So it is argued that culturally, circumcision reduces the sexual activeness of women by reducing their libido (ibid). Among the Meru people, it is also believed that a woman should not show a man (or her husband), that she wants sex. In fact it is viewed as being ‘morally loose’ for a woman to show interest on sex. This explains why many Meru girls are never taught about sex, except on how to cook and take care of their children (See chapters 2, and 4 of this study). In other words, women should be passive in sex, rather than participating actively in it.

## **Rape**

Rape may be understood as a form of sexual activity in which the victims are forced. In most cases, the victims happen to be women or girls. According to the informants in chapter 4.3.2 on Discriminative cultural beliefs and practices) , widows who do not comply with practices like cleansing, circumcision, or widow inheritance, are most likely forced to have sex. This is

a form of sexual violence against women because; they have no rights to decline. They are only used as sex objects. I think it is also wrong to force someone into sex, simply because they refuse either to be inherited or cleansed. Among the Meru people, there is a misconception about rape in which it is justified as a normal approach to sex. Nevertheless, it is believed that the Meru women hardly say yes to sex, hence their denial may perhaps be interpreted as a 'pretense', or in most cases an approval for sex.

However, whichever justification, forced sex is a wrong approach to sex. Moreover it is also against human rights to punish women by raping them simply because they either refuse to be inherited or cleansed. Finally, the act of rape is wrong because it interferes with someone's privacy and rights. The practice is also against human rights and the rights of women by feminist theories in chapter 3.4.4 (Gender oppression/ Radical Feminism) of this study. In my view, Kenya's system of property and land access and ownership discriminates against women. This has created social inequality and serious economic disadvantages among many women. In the following paragraphs, we will also discuss patriarchy dominance and how it has influenced the current situation of women's property rights among the Meru people.

### **5.2.3 Patriarchy dominance**

Patriarchy dominance may be understood as a cultural and societal situation, or condition in which men are believed and considered to be better and above women, simply because they are men. It is also a condition that perhaps can better explain the existence of gender inequality in many countries. Patriarchy dominance in many communities begins as early as childhood when boys are taught that physically they are stronger in comparison to girls. This implies that they can do what girls cannot do. As they grow, gender roles become explicit as they are cultured to believe that certain roles and responsibilities like family properties are only reserved for them and not for the girls. Such a view denies them equal access to properties with their male counterparts (see also chapter 2.3.2 on 'women as properties with very limited rights to family properties' in this study). Furthermore, this encourages gender inequalities among them.

According to the groups interviewed in chapter 4, it is evident that among the 16 men interviewed both from the Catholic, and the Methodist Churches, and the Njuri Ncheke council of elders, only a few of them argued in favor of gender equality, and equal treatment of women with men. Furthermore, as I began reporting some of the field experiences in chapter 4.2 ( on Field work experiences) , I noted that quite a number of the male



interviewees were a bit nervous and somehow inhibited some kind of biasness, when it came to giving audience to the researcher who in this case was a woman. Instead, many are cultured to believe that it is a taboo for a woman to speak before men (See chapter 4.2 on field work experiences in this study).

Nevertheless, the plight for women's property rights is received with lots of mixed feelings especially among men who think that by the virtue of marrying their wives through the payment of dowries (which in most cases is mistaken as 'buying'), women becomes part of their properties ( see chapter 2 and 4 of this study).The influence of patriarchy dominance has far reaching effects, not only on the men, but also on the women themselves, who believe that it is not necessary to pursue equality with men. In their view, men should own properties while they (women) take pride in their husbands' riches. This feeling of inferiority to men is an aspect that is perhaps influenced by culture and which cripples the current pursuit for women's rights to own properties.

According to the interviews on the situation of women and property inheritance, many male informants were in opposition claiming that women may be irresponsible to own properties. Nevertheless, others misinterpreted women's plea for equality as a form of ruling over them. According to the human rights, men and women should be accorded equal rights as human beings. No one should be treated as a less being or as inferior to each other (Consider Human rights and feminism in chapter 3.2 on Human Rights, and 3.4.2, on Gender inequality / Liberal Feminist Theory, respectively of this study). The influence of patriarchy dominance among the Meru community is therefore against the law of gender equity and equality, and human rights, in which all people should be treated equally irrespective of their differences in gender.

Having discussed harmful practices that explain the current situation of women's rights to properties, in the next paragraphs, a discussion of some negative consequences from the current situation will be done.

### **5.3 Drawbacks**

Among the negative consequences resulting from the current situation of women's property rights among the Meru people as identified during the interviews ( in Chapter 4.4 ) includes the following namely:

1. Homelessness and di-Christianization
2. Diseases and deaths resulting from widow cleansing and widow inheritance.
3. Influx number of street women prostitutes and destitute children resulting from poverty and hopelessness.

A discussion of each of the above will be done in the following paragraphs below.

### **5.3.1 Homelessness and di-Christianization**

According to the informants in chapter 4.4 on (Negative side effect), there is an increase in number of women who are internally displaced out of their matrimonial homes. Such are forced to live either in the streets or in the slums because they have no place to go after divorce or eviction. The research shows that majority of those evicted out of their homes are disadvantaged because they are not welcome in their fathers' homes. Instead of being welcomed home, their brothers and sisters in-laws see them as burdens and problematic. This arises because they have no rights to their fathers' properties like in their matrimonial homes.

Furthermore, internal displacement of women who are church members, or belonged to the Meru community, to other places and areas in the country, was among the challenges many Churches face with the eviction of women who are members of churches, either after divorce, or following the deaths of their husbands. The Church women who were interviewed noted that those who are married from other communities have no choice of 'going back' to their paternal homes after divorce, or eviction following declining to be inherited. The men interviewed argued that they have lost many good friends and neighbors in their churches due to eviction or divorce. The pastors also lamented that majority of those who are internally displaced are mainly those devoted church members.

The current Kenya system of property and land access and ownership, discriminates against women hence creating serious social inequalities and economic disadvantages. According to the ICESCR, women have the rights to adequate standard of living, including housing, and property, health, work, and the protection of family. This is therefore violated when the country either overlooks, or totally fails to protect women against such evictions that lead to their internal displacement from the homes they once called their own. While the laws of Succession Act grants widows a life interest in their matrimonial home, the government seems to have failed to adequately enforce this protection especially in the rural areas. It is

therefore true according to the Federation of Women Lawyers in Kenya, and the International Women's Human Rights Clinic in Georgetown's report that, customary law in Kenya also excludes women from inheriting, owning, and possessing land, including their matrimonial homes, which they have worked on, and in many cases, helped purchase (Federation of Women Lawyers, & International Women's Human Rights Clinic, 2008:2).

I would also argue that, without adequate laws to protect the equal rights of women to housing and property, including during marriage and at its dissolution, both at divorce and death of a spouse, women will continue being strangers in their own country.

On the loss of membership, the pastors (in chapter 4.4.1), noted that there has been a decline in membership due to displacement of members to other places. When for instance married women are divorced, or evicted from their matrimonial homes, many cease to become members either due to dislocation, or the trauma following their change of family situation. Others are forced to live far from the church which they were members and again due to stigma, following the belief that divorce is a 'sin' and against the bible, many cease to become Christians. The pastors also noted that other losses are caused by the untimely deaths of many innocent and active church members who may contract some dangerous diseases resulting from harmful cultural practices. This problem of loss of membership, also affects children who used to be innocent members of Church Sunday School, or junior Church youth. This is therefore a great challenge the churches.

### **5.3.2 Diseases and deaths resulting from Widow cleansing and Widow inheritance**

According to the informants in chapter 4.4.1, diseases and death resulting from cleansing or inheritance of women may perhaps explain the loss and decrease in church membership. Furthermore, these practices violate women's property rights laws which protect women from such dangerous practices. These practices therefore, undermine their capacity to avoid risky practices such as wife inheritance, ritual cleansing, or transactional sex. According to the informants in Chapter 4.3.1 ( on Low standard of education among many women in category A (2) ), some women opt for some harmful cultural practices like wife inheritance, widow cleansing, and some end up as street prostitutes, because they have no other choice and means of survival. Such kind of behavior exposes many women to the risks of sexually transmitted diseases, and mainly infection and transmission of deadly diseases like HIV/AIDS.

In many instances of widow cleansing, inheritance, circumcision, or rape, women risk contracting and spreading diseases like HIV/ AIDS. This is because, after their spouse death, women are forced to be cleansed, a very risky practice that is done without any protection as already discussed in this chapter. The worst bit is that, those who do the cleansing moves from one woman to another without protection, hence increasing the risk of infection and transmission. As it is argued by many, Kenya has not significantly addressed violence against women as a systemic injustice that deprives women of their economic, social, and cultural rights. In most cases, many women either remain in physically and sexually abusive relationships that may expose them to life-threatening injuries, and diseases, or they must leave the relationships with nothing, and risk being forced to engage in survival sex, which expose them to high risks of infection (Federation of Women Lawyers in Kenya, and International Women Human Rights Clinic Georgetown Washington 2008: 22).

It is also noted that Kenya's highest HIV/ AIDS prevalence occurs in the regions where widow inheritance and ritual cleansing are most common (ibid). These practices therefore not only affect the integrity of women and their physical health, but also they violate the human rights of all, in which case, also the male relatives who inherit their deceased brother's wife also risk contracting the disease. It is a violation of Article 12 which obligates the government to "take all necessary measures to safeguard persons within their jurisdiction from infringements of the rights to health by third parties" hence, Kenya's failure to discourage the continued observance of such harmful traditional medical or cultural practices, constitutes a violation of the Covenant (ibid). Through such diseases and deaths, great challenge is posed to the community, and many churches leading to decline in membership instead of numerical growth.

### **5.3.3 Increase of Women Commercial Sex Workers (W.C.S.W) and destitute children**

While interviewing the Njuri Ncheke council of elders, they noted that there is an increase in the number of women prostitutes along Meru town. Among the causes of rise in numbers noted includes: displacement after divorce, or eviction followings the demise of their husbands (see Chapter 4.4.2 of this study). It was noted that most of the women who are internally displaced following other gender related violence also end up in the streets as prostitutes, as they struggle with poverty and hopelessness. According to the Federation of Women Lawyers, and International Women's Human Rights Clinic , 2008:2, many widows who are evicted from their homes along with their children have nowhere to go, and they end

up migrating to urban “slums”, where they eke out sub-standard living, and often must resort to sex for necessities for themselves and their children. The number of street children has also increased. These are children who are supposed to be in school. However, many drop out of schools due to lack of school fees following instability in their families which is either caused by their parents’ divorce, family violence, or widow eviction as previously discussed in this chapter.

In most cases, children who are evicted with their mothers end up getting spoilt morally since some learn about sexual engagement as a form of earning their living. Others may become thugs due to hopelessness and poverty. According to human rights, children are entitled the rights to and access to studies. However, when they are forced out of their families following marital violence, they become disadvantaged and their rights are abused together with those of their mothers.

#### **5.4 What can be done to improve the current situation of women’s property inheritance in Kenya?**

As discussed in the previous paragraphs of this chapter, the situation of women’s rights to property in Kenya and especially among the Meru people is clearly a recent one. This is evidenced by the number of those who opposed the idea during the interviews in chapter 4.3.1 of this study. Among all the groups interviewed, there were few who advocated for women’s equal rights to properties with men. The situation is also characterized by lots of opposition, discrimination and stereo-types. Furthermore, the situation of women themselves is disadvantaged by the presence of poverty and illiteracy among many women. Patriarchy dominance and the existence of many harmful cultural practices, sabotage the women’s pursuit for gender equality especially in the field of inheriting family properties.

According to the comments made by both group of women from the (Catholic and the Methodist), those who move to the streets should not necessarily be condemned as ‘immoral women’, for they are forced by circumstances. They argued that many faithful women opt to go out to the streets, than live in oppressive and discriminative relationships where they have no access to family properties. Woman C and D ( 4.4.2 – On Street women prostitutes and homeless children), noted that many are also forced by circumstances to become prostitutes due to poverty and hopelessness, since when they move out of their matrimonial homes, they are not allowed to take anything with them except their own clothes. However she also noted that many consider breaking the long silence of abusive Christian marriages, by openly

protesting on the streets. The Church women interviewed therefore observed that they go through very nasty experiences, and later are forced out empty handed. They therefore suggested that the women situation needs to be reconsidered by the government through a revision of customary law.

The pastors also noted that the eviction of many women who are former church members has not only affected the lives of women, but also their children who are now living in the streets. Pastor A suggested that one way of helping the church and the entire community, is coming up with a community rehabilitation Centre, in which women and the children will be rescued and rehabilitated. He further suggested that the Churches can also set apart some special funds for women's empowerment. During field data collection through interviews, there were some projections on what the Church and the society can do in order to better the situation. In the following paragraphs that follow, an identification and discussion of them will be done. The following were identified as ways of improving the current situation of women's rights to properties among the Meru women of Kenya namely:

- 1) Educate Christians and the community on gender equity and human rights**
- 2) Create awareness to women in order to help them to build their capacity and self – esteem.**
- 3) Church –based community rehabilitation centers**
- 4) Women/ Widow Empowerment**

A discussion of each of them will be done in the following paragraphs below:

#### **5.4.1 Educate Christians and the community on gender equity and human rights**

From the previous chapter 4.3, we noted that the current situation of women is characterized by limited rights to inherit properties. However, we also learnt that the limitation of rights is precipitated by many issues related to culture. This therefore means that a lot needs to be done in order to harmonize Christianity and culture which current run at par.

Some of the informants interviewed in all the 4 categories in (4.3.1-Low standard of education among many women), expressed their lack of knowledge on equal rights to own properties for both men and women. They either know very little or nothing about their rights to inherit properties. This therefore calls for a dare need to educate not only the women in

the church, but also all members on human rights and gender equity. The Church may do so through leasing with Human rights and Gender equity activists. These are people who advocate for the rights and equality of all people. Through education, all the members in church whether old or young, women or men, will get to learn more about the importance of both gender equity, and the rights of all people irrespective of their sexual differences.

Furthermore, the church pastoral team can also come up with biblical themes about equality of men and women which will help people change their cultural perspective especially on women. According to a report on Women's rights by the Federation of Women Lawyers in Kenya and Georgetown, USAID study found that 90 percent of poor people are not aware of Kenya's formal inheritance laws, and as a result, this widespread ignorance renders the critical provisions of the Law of Succession Act meaningless, giving room to the continued use of cultural practices and customary law to determine succession matters which almost universally deny women equal rights in inheritance ( International Women's Human Rights Clinic Georgetown University Law Center and The Federation of Women Lawyers in Kenya 2008: 154). Universal Declaration of Human Rights is designed for all human beings. It is therefore the responsibility of those who have the access to them, to ensure that the rights are clearly made explicit to all without any biasness.

#### **5.4.2 By creating awareness to women in order to help them build self-capacity and self-esteem.**

From the previous chapter, it was noted that many women have low self-esteem. They lack the capacity and the motivation as women. In most cases women feels that they are un-capable of doing some things which they sometimes think are designated for men who are believed to be stronger than them. This comes as a result of gender roles in which women are cultured to believe that certain roles like property inheritance is designated for men. According to Feminist theories in (3.4.2, on Gender inequality / Liberal Feminist Theory), women have equal rights and capabilities with men, although due to influences of patriarchy, women think they are inferior. Furthermore as Christians the Bible teaches that men and women are created through the likeness and the image of God.

Through seminars and women rights campaigns, women will realize that they have more capabilities and potentials than they think. This will also help them build confident with themselves hence become enlightened. Furthermore, the community and other Christians should know the risks and the dangers associated with some outdated practices and rituals

like widow cleansing, widow inheritance among others. The chief Barazas (Chief's meetings), can also organize meetings in which people in the locality are educated on the importance of changing their attitudes towards property inheritance. Through these meetings, people can also be mobilized to raise funds, food and clothes to the widows and children in dire need.

#### **5.4.3 Church based community rehabilitation Centers.**

The Churches which are faith based organizations can come up with rehabilitation centers which acts as rescue centers for evicted women and children. These will act as homes for many women and children who become homeless as a result of divorce or widowhood. Moreover through such centers, the church can still nurture, and make some follow-ups to their members, hence save them from backsliding and apostasy. The rescue centers can also act as training centers where the women and children are taught about God and how to be self-reliant.

Furthermore the church (es), can donate food, and clothes to those in the centers, and also partner with other organizations for funding.

#### **5.4.4 Widow empowerment**

The church and the society should come up with ways and strategies of empowering widows in the community. The county and the churches can set aside some special funds for this noble task either through asking for donors, or fundraising. This will save many from the slums and street prostitution. Through such funds, widows can be encouraged to start small business which will help boost their living. Widows can also be encouraged to start 'merry go round' through which they can make little contributions to help boost each other's' income. They can also be encouraged to start networking with others in the county. Through such networks, widows can organize themselves into small groups which can be funded by the county either through bank loans, or other sources.

#### Conclusion

In this chapter, we have identified and discussed some of the main themes that arose during the interviews in chapter 4 of this study. The themes in chapter 4 were coded and later transcribed, and then discussed in details in this chapter. The discussion has been based on 3 main parts namely: The current situation of women and property rights among the Meru



community, how the situation has negatively affected the church (es), and the community, and how the situation can be improved.

According to this discussion, the current situation is characterized by limited or less access of properties by women. This is may be explained by the following reasons namely: poverty and illiteracy among many Meru women, existence and the practice of some harmful and outdated rituals, and the influence of patriarchy system in the locality.

The situation has negatively affected not only the church but also the entire community. This is by internal displacement of many women and children who result into slums or street life as either prostitutes (Women Commercial Sex Workers), or street (destitute children who lack access to school among other essentials). Loss of many lives is evident due to engagement into dangerous cultural practices like widow cleansing, widow inheritance, and also prostitution.

Apostasy and di-Christianization of many Christians happen as a result of displacement and stigma. The church and the community can come up with ways of improving the situation by the following namely:

- Educating the women and all members about human rights and gender equality. Also create awareness to all on the risks and dangers of some cultural beliefs and practices.
- Creating awareness to women in order to build their capacity and self-esteem.
- By building rehabilitation Centers for widows and children who are evicted from their homes.
- Empowering widows in the community.

## **CHAPTER 6.0- General conclusion and the limitations of the study**

This study is an investigation of the situation of women and property rights among the Meru people of Kenya. It starts by giving an overview of the study in the first chapter, before giving the general situation of the women's rights to properties in Kenya, before exploring some main theories that helps to understand and interpret the situation in review. The 2 main theories are therefore identified in chapter 3 as Human Rights, and Feminism theories. These 2 theories help the reader to understand the problem under review. They also provide the basis in which the problem is interpreted. In this regard, the articles in human rights discussed in this paper provide the guidelines on how human beings should be treated without partiality (whether male or female). Feminism as already discussed in this paper also exposes the fact that gender equality should be considered when dealing with daily issues and the life of all human beings. Furthermore feminist theories explain that it is wrong to discriminate women on the basis of sex differences. It therefore advocates for equal treatment and regard for both sexes.

In chapter 4, a comparative presentation of data gathered is made. The data was collected between the months of June- August 2015, whereby everything was coded and later transcribed into different themes. It was therefore discovered that in both churches (the Catholic and the Methodist), similar issues arose implying that the church members had similar problems perhaps because they all come from the same locality. This evidenced by their similar opinions influenced by similar issues like patriarchy dominance, poverty and illiteracy among women and other issues related to harmful cultural practices in the locality.

In chapter 5, a discussion of the main themes in chapter 4 is made. It is therefore evidenced from the research findings in chapter 4 that women's rights to properties among the Meru community like many other communities in Kenya has a long way to go. This means that the idea is a bit recent and new in the fact that many people still have the feeling and the belief that women should be 'inherited' rather than thinking about inheriting properties. In other words, the notion is that women themselves are properties to be inherited by the community and not to inherit any property. The cultural influence among the Meru people and a strong believe that a woman is purchased during marriage, and the whole concept of dowry payment, all have impacted negatively on women and the claim to have rights to properties.

As a result to some cultural influences, many women have suffered oppression through rape, widow cleansing, widow inheritance, eviction, among other risky practices due to their

hopelessness and poverty. Many women have nothing to call their own by the virtue that they are properties to their husband. After divorce or death of their spouses, they end up in dire poverty and hopelessness. As depicted in this study, many end up in slums and streets as street prostitutes. In such a view, it becomes very hard to convince the people that women are capable of inheriting and being responsible for properties.

The situation is therefore similar among the members of both churches and there seems to be little or negligible differences if any. However on the contrary, it has been noted that a few of the women who are educated and of middle aged, view the situation differently perhaps due to exposure and education.

The situation can be improved by creating awareness to women and the whole community on human rights and gender equality. This can be done through pulpit ministry, or open air campaigns, and seminars. The society can also enhance this through chief baraza (Local meetings organized by the area chiefs to create awareness to all people. Furthermore, the women can also be encouraged to attend women meetings and forums that advocate for their rights. This will help them meet other women in similar situations and discuss various issues affecting them.

The churches can also come up with a home or a rescue/ rehabilitation centre for the widows. These provide shelter and act as a home for many homeless and hopeless widows. The centers can also provide counseling which will help deal with the trauma, shock and denial, resulting from deaths and eviction. This will also help them revive their faith in God. The community can also work closely with churches in providing food and clothes to the widows and their children.

Churches can come up with churches' special funds which can be used to cater for widows in severe situations. The community can also team up for this noble task. Furthermore, they can also solicit for funds for Non- governmental organizations which are faith based. Through this, widows can be encouraged to team up in groups so they can also start small businesses.

Generally, the whole idea of women's rights to property inheritance is a great challenge and may only be a nightmare if the community through the government does not work closely with churches to help their people. After all, it has also been discovered that unlike many years ago, when used to cook and stay home while men look for food, in the modern society, many families are headed by women who shoulder various responsibilities alone with no one

to help them. Many women are either single mother, divorced, separated, or widowed. They therefore act as bread winners in their families. Therefore in such a view, if they are not empowered, the whole society will be messy especially considering the fact that women constitute the majority in the society. They too contribute immensely in the farms, and in the agricultural sector.

Finally, I also suggest that currently as per the interviews in 4.4.4, many women are struggling with tradition and modernity in which case both forces are of great impact. This means that there are those women that do not clearly understand the need for property inheritance as women, and to them, being stable in marriages, and getting security through the entire community; is more valuable than acquiring properties in their own names. There is therefore a need for women to be encouraged to articulate their experience, needs and hopes for a society where their interests are safeguard, since many too consider stability as more important than equality.

### **Limitations for the study and recommendations for further research**

During my research for this study, I noted a number of limitations that I would mention here below namely:

1. The number of men who were interviewed was more than women. This I guess may perhaps have created gender inequality especially in such kind of a study in which more information would perhaps have been expected from the women. However this was not done deliberately but it just happened by coincident. It was actually expected that the number would be equal; however, it was not possible because, the 2 pastors who happened to be in- charge of both congregations happened to be all males. Nevertheless, the Njuri Ncheke council of elders too has a strong reservation and perhaps biasness for women in their constitution. No woman belongs to the council by law. Despite that, this group was considered very relevant in this study due to their position and the responsibilities of dealing with land and property. This is therefore the reason why they were considered. On the other hand, it was necessary to have a view from the males in order to have a diverse opinion from them as the opponents.
2. The number of informants was big and sometimes it was not easy to follow up all questions with all the informants. In some groups only a few members dominated by

asking questions and contributing to the discussion, while other members remained silent probably due to stigma and fear of self- disclosure.

### **Recommendations for further research**

In future I would wish to research more on the following topics:

- Gender inequality and oppression as a Human rights challenge to most Kenyan societies, without specifically considering property rights.

Also, we may consider -African culture and the limits of Human rights.

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## **8.0 LIST OF APPENDICES**

### **Appendix 1 ( Interview guide questions )**

RESEARCH TOPIC: WOMEN AND PROPERTY RIGHTS: A HUMAN RIGHTS AND GENDER CHALLENGE TO THE CHURCH AND SOCIETY IN KENYA (With reference to the Meru community of Kenya).

### **INTERVIEW GUIDE QUESTIONS**

1. How would you describe the women's rights to property in your community?

(a). To what extent do you think women are/ and should be accorded rights to own property in your community?

(b). Why do you think there should be some limitations in (a) above?

(c) How do you describe an incidence you have witnessed?

(d) How would you tell that many more women have the same problem as described in (c) above?

2. What impacts do you think the problem has in your community?

(a) Why and how do you think families are affected more?

(b) Can you explain (giving examples), of particular people who are more affected in (a) above?

(c) Why and in which ways do you think the problem also affect men as the heads of the families in your community?

(d) Why and in which ways do you think women's rights to properties interfere with the ethics of your society/ community?

3. To what extent do you think the problem has affected the Church?

(a) Which particular areas do you think the Church has been affected?

(b) Why and how do you think the membership of the church is mainly affected?

(c) In which ways do you think the problem affect the entire church fraternity in (b) above?

4. How do you think the Church should handle this problem?

(a) Why do you think preaching alone is inadequate for the problem?

(b) Can you explain in which ways you think some texts in the Bible create more problems than solving it?

(c) Can you suggest and explain ways in which some texts can be helpful in dealing with the problem?

(d) Why and in which ways do you think the church can be involved in advocacy for the rights of women?

5. Why and how do you tell that women's right to property is a national wide problem?

(a) Why and in which particular clauses of the Kenya's Marriage Bill do you think should be amended?

(b) Why and in which ways do you suggest the violation of women's rights affect the entire country's economy?

**Appendices 2 ( List of informants/ interviewees)**

Category A (1), -Catholic Women, (interviewed in focus group of 5).

Category A (2), - Methodist Women (Interviewed in focus group of 5).

Category B (1), - Catholic Men (Interviewed in focus group of 5).

Category B (2), - Methodist Men (Interviewed in focus group of 5)

Category C - Pastors A, and B (Catholic and Methodist respectively), interviewed in focus group.

Category D – Meru Council of Elders (Njuri Ncheke), interviewed in focus group of 4