TRANSFORMATION IN THE PRACTICE OF WIDOW GUARDIANSHIP
AMONG THE LUO OF KABUNDE, HOMABAY COUNTY, KENYA; 1920-
2014

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DECLARATION

I hereby declare that this thesis is my original work and has not been presented for a degree award in any other university or for any other award.

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I dedicate this work to my family members; my lovely wife Tina who stood by and encouraged me during tough moments and my son Levi who always gave me the zeal and impetus to forge ahead.
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DEFINITION OF TERMS

**Culture:** The term culture generally refers to the sum total of the learned behaviours of a group of people that are considered to be their traditions and transmitted from one generation to another. In this study however it is taken to mean the traditions of a community.

**Tradition:** Tradition is set of beliefs or behaviours passed down by a group or a society with a symbolic meaning or a special significance with origin in the past. For the sake of our study however, tradition refers to the culture of widow guardianship which has been practiced and passed down from generation to generation among the Luo community.

**Widow guardianship:** This is a social and cultural practice where a widow is required to be taken care of by a kinsman of her late husband.
GLOSSARY

*Anyuola*: People who share a common ancestor.

*Bilo*: A medicine made to avert curse.

*Chi Liel*: The term refers to the wife of the grave. However, in this study it has been used to refer to a widow.

*Chira*: A calamity that befall persons who violated taboos.

*Chola*: Contagious cultural impurity that is believed to be dangerous not only to the widow but also to other people especially close relatives such as children.

*Dawa*: Tobacco.

*Golo Kodhi*: An agricultural ritual done to enable the family begins planting. It is carried out through sexual intercourse between a man his first wife.

*Gweth*: Blessing.

*Jater*: A guardian.

*Jakowiny*: A social outcast from outside clan who is used to cleanse a widow before she gets a guardian.

*Joka*: It has been used to imply the people of.
**Jokitoko:** A group of professional guardians who move from one village to another especially after funerals to look for widows to serve as guardian.

**Jonam:** People of the lake.

**Kimirwa:** A child born of a woman outside wedlock.

**Luo Kitgi Gi Timbegi:** Luo customs and practices.

**Mzee:** This is a Kiswahili term it has been used to mean an elderly man.

**Raha:** This is borrowed from Kiswahili to denote a lifestyle characterized by love of women and sex.

**Ringruok:** Human body.

**Sewo Nyako:** Giving the daughter permission to go with the man in his homestead and establish her household.

**Tipo:** This term has been used to imply shadow.

**Tero Mon:** In the context of this study, it has been used to mean widow guardianship.
ABBREVIATIONS AND ACRONYMS

AIDs: Acquired Immune Deficiency syndrome

AIC: African Inland Church

AIM: African Inland Mission

AMU: Anglican Mothers Union

CC: County Commissioner

CGH: County Government of Homa- Bay

CMS: Church Missionary Society

DC: District Commissioner

DO: District Officer

DU: Dorcas Union

FAIM: Friends African Industrial Mission

FIDA: Federation OF Women lawyers

FGD: Focus Group Discussion

PC: Provincial Commissioner

HQs: Headquarters

HIV: Human Immunodeficiency Virus

IBEACo: Imperial British East Africa Company
KANU: Kenya African Union

KWFT: Kenya Women Finance Trust

MHF: Mill Hill Fathers

MP: Member of Parliament

MYW: Maendeleo Ya Wanawake

NACOSTI: National Commission for Science Technology and Innovation

UN: United Nations

SDA: Seventh Day Adventist
This study examined the transformation of the culture of widow guardianship among the Luo of Homa Bay County from 1920 to 2014. The study was guided by four objectives namely: to interrogate the importance of widow guardianship in Luo society, examine the extent to which colonialism and missionary activities affected the practice, analyze how the culture has been practiced in the post-colonial period among the Luo and investigate the extent to which it has been transformed in the context of HIV/AIDS. The study was based on the assumption that widow guardianship had psychosocial and economic importance in the Luo society however forces of colonialism and Christianity transformed the manner in which the practice was carried out in the colonial period and that the practice has continued to transform due to HIV/AIDS prevalence. The research was grounded on the social evolution theory which holds that culture generally evolves. The argument was therefore that since the culture gradually changes, the same is true to widow guardianship. The study involved use of various tools such as questionnaires and interviews to collect data. The research then employed qualitative method to analyze the collected data. The study established that widow guardianship had both psychosocial and economic importance in pre-colonial Luo society. However, due to the changing trends which have revolutionized the way people relate in the society, the practice has transformed beyond its cultural obligation. The research therefore recommended among other things that the government and other stake holders need to step up rigorous sensitization to highlight the dangers that this long held cultural practice poses on the society. Additionally, the state should develop measures of poverty eradication especially among the rural dwellers; the government should formulate and implement policies that fight inequality and more importantly, education should be made more affordable especially secondary and higher education. This would reduce the vulnerability of women which at times pushes them guardianship.
CHAPTER ONE: INTRODUCTION

1.0 Introduction

This study examines the transformation of the practice of widow guardianship among the Luo community in Kenya over time. I posit that “widow guardianship” has undergone changes due to the changing social experiences and lifestyle in contemporary society. The present chapter is the introductory chapter to the study and provides the background of the study, the statement of the problem, the objective of the study, the research assumptions, the significance of the study, the scope and the limitations, literature review and methodology are addressed.

1.1 Background of Study

Widow guardianship is a cultural practice where a widow is married to a kinsman of her late husband; especially the brother to the late husband. In the practice of this culture, the widow in certain cases is given authority to look for a kinsman of her late husband’s family or she is forced to contend with the one she has been provided for by her family (Wilson, 1968). Widow guardianship is based on the belief that marriage is not just a relationship between the husband and wife but also establishes certain rights and obligations between the respective extended families.

One obligation especially on the side of the man’s family is to provide guardianship when their son dies. In this case, the widow is obliged to cohabit with the kinsman of her late husband in order to perpetuate the husband’s lineage (Brown, 1987). This man is not regarded as the new husband and the children born out of this union are legally of
the dead husband and they do not call the genitor their father but rather by the relationship term appropriate to his original status such as father’s younger brother (Schapera, 1938). Thus, the widow remained the wife of the dead husband. The cultural practice was further grounded on the tradition that a married woman was not only the wife of the husband but also the wife of the household, the homestead and clan at large. In this regard, the death of a spouse did not dissolve marriage; the woman remained ‘chiliel’ and was not to remarry but have ‘jater’ (Nyaruath, 2012) from the man’s family or clan.

Widow guardianship is not only practiced among the Luos in Kenya but has been practiced by different societies worldwide for various reasons. In Russia, for instance, a Soviet historian, Khazon (1954, p. 82) observes that the practice was common among the Russian society where a widow was guarded by a brother of the diseased husband. Similarly in England, Paul (1996) argues that the culture was practiced for dynastic reasons to protect the marriage alliance and royalty. Paul gives the example of the Prince of Wales- Athur who married Catherine of Aragon. Unfortunately, the prince died a year later and the widowed Princess had to be married to Athur’s brother to protect the dynasty from outsiders.

In China, Hsein -Yi (1974) points out that after a man’s death, the man’s family especially his brother takes charge of the deceased’s family. Widow guardianship was also witnessed in Turkey in Kurdish culture which stipulated that if the husband dies when his children are young in terms of age, then it was the responsibility of the diseased’s brother to marry the widow and take care of her and the children
(Keynbroek, 1996). Among the Hebrew, if a man died and had no son and his wife was still of child bearing age, then it was the duty of his brother to cohabit with the widow to raise children, who would be counted as the children of the dead man (Brown, 1987).

In Africa the culture was and is still practiced by a number of societies. For example, in Nigeria the tradition was common among the Igbo, Yoruba, Hausa and Fulani. Among the Yoruba for instance, the oldest son would serve as a guardian to the youngest widow of his father; however the widow must not be his biological mother. In this instance, the practice would keep the children and wealth within the family intact and safe (Bamgbose, 2002, p. 13). In Zimbabwe, the practice was common among the Shona where the younger brother of the deceased man was expected to provide guardianship to the widow of the dead elder brother (Potash, 1986).

In South Africa the practice was prevalent among the Zulu, where when the husband died, an approved relative of the deceased takes the widow and her children. The relative then begets more children for the dead man. In this union the guardian was not to pay dowry for the widow which meant that the children sired out of this union remained the dead man’s (Gluckman, 1987). Brown (1987) observes that among the Tswana of Botswana, a man who was expected to serve as a widow’s guardian was to be the younger brother of the widow’s husband. In the case of absence of a young brother to the husband, then the junior paternal uncle or the son of the paternal uncle or remote relative of the same standing as the paternal uncle assumed the responsibility of a guardian. Similarly, the eldest son of a polygamist was allowed to serve as a guardian to a junior widow of his father so long as she was not his biological mother.
In East African, the practice was widespread. In Southern Sudan for instance, widow guardianship was widely practiced among the Nuer and the Dinka. In Nuer community, a widow was allowed to get a guardian from the husband’s village or outside the village however, the children that were sired in the union were for the dead husband not the man that lives with her (Denis, 2006). In Somalia, Anderson (1970) argues that the Somali customary law accepted widow guardianship.

Brown (1987) points out that in Tanzania, the culture was common among the Nyakyusa people where marriage did not end at death. Each man in this community was supposed to identify a man as his heir to serve as a guardian to his family once he is dead. The heir was to be chosen from the man’s lineage and the children resulting from such union remained the dead man’s. In Kenya, the culture is common among the Maragoli, Nandi and Luo (Webster, 1973). Among the Maragoli for instance, Zaedi (2006) asserts that the cultural practice was carried out in a manner that, if the husband died his widow would be guarded by his brother or a close cousin. He further notes that in some cases the eldest son would guard his father’s widow so long as the said woman was not his biological mother.

In the Luo customary laws, widow guardianship is locally known as ‘ter’, the origin of the practice is traced back to the time of the migration of the community in search of new areas of settlement. These migrations were characterized by wars which claimed the lives of males both young and old leaving widows with no breadwinner. As a result, widow guardianship was encouraged as it established the means through which widows would be cared for by the close relatives of the deceased husbands (Mboya, 2002).
In this case, marriage was not a husband and wife affair but rather an affair of the extended family and community. Thus the death of a spouse did not end the marriage instead the woman remained *chi liel* and was not allowed to remarry but have a guardian (Potash, 1986). This guardian was to be the kinsman of the deceased husband preferably a brother (Gunga, 2009). In some cases, the choice of the widow on who was to inherit her was respected. However, such choices had to be made within the confines of the brothers or she would be forced to contend with one provided for her by the family members (Malo, 1999).

The ‘‘brother’’ who takes up the role of the deceased is referred to as ‘*jater*’ (guardian) and the children born out of the union would be considered the children of the deceased man and not for ‘*jater*’. The children identify him with the title of his previous status such as the brother to our father or uncle and not the father (Nyaruath, 2012). Brother in this context has wider meaning as it is used to either refer to the brother of the deceased or a paternal uncle or a clan cousin or an adopted stranger (Wilson, 1961). The culture was grounded on the basis of social and economic protection of the deceased’s family and the continuity of his lineage (Mboya, 2002). It was also meant to guard the possibility of a stranger inheriting the widow thus introducing alien character traits by raising offspring whose character traits were perceived to be contrary to what is expected of the deceased’s lineage (Gunga, 2009).

Widow guardianship among the Luo took different forms depending on the age of the widow. For instance, a woman who was beyond child bearing age underwent non-sexual ritual where a coat, preferably of the deceased brother would be placed in her
house overnight to cleanse her (Malo, 1999). ‘Jater’ then either kept vigil until cock crown or gave the widow a roll of tobacco to redeem her from psychic pressure (Oluoch, 2013). The other form involves long term relationship with the deceased brother which culminates to marriage (Gunga, 2009).

In some cases, however, there was a combination of the cleansing and long term sexual relation where, a widow first engages in sexual act with a social outcast preferably ‘jakowiny’ who would be paid to have sexual intercourse with her and later she would get a guardian among the kinsman of the deceased’s husband (Cooper, 2002). This separated the widow from her deceased husband and made her free to have a guardian (Oluoch, 2013).

Despite the significant place of widow guardianship among African societies, scanty literature exists on the topic. Among the Luo in particular, research done has largely been descriptive and in many cases presented as sensational topic by the media. Most importantly, the information provided has hardly integrated the changes that this practice has undergone overtime. It is therefore against the above background that this study analyses the extent of how widow guardianship has been transformed from 1920-2014.

1.2 Statement of the Problem

Widow guardianship is a long held cultural practice among the Luo community of Nyanza region in Kenya. The culture was based on the belief that it was a taboo for a widow to stay without a guardian to take care of her after the husband’s death. In this
regard, the widow was obliged to look for a kinsman preferably the younger brother of the deceased husband to be a guardian. However, culture is not static, it is constantly transformed by the ever-changing socio-cultural conditions, political and economic conditions in the contemporary society. For instance, Ogot (1960) argues that colonialism impacted society in a variety of ways such that it brought with it urban centers and with the growth of towns, most Luo men moved there to seek wage labor. Town life was however challenging and unpredictable especially on economic matters. This not only made a majority of men to take long before marrying but also inflicted fear on the management of large families which widow guardianship was practiced.

Additionally, colonialism intensified the spread of Christianity which often taught against certain African traditional practices which they perceived unbiblical such as widow guardianship. With such teachings in place, one would expect a significant reduction in the practice of widow guardianship especially among the Christian converts. Similarly, with the advent of killer diseases such as HIV/AIDS, whose main means of transmission is attributed to sexual intercourse, a core component of widow guardianship, it would only be natural to believe that the disease would scare people from serving or seeking for a guardian especially from people whose sexual history is not known. Furthermore, women have been adequately empowered through education, sensitization and awareness on their roles. Such empowerment provides economic independence which often makes widows seek help of guardians. In this case, there is a strong basis to believe that the forces of colonialism, women empowerment campaign, HIV/AIDS prevalence and modern trends such as Christianity, western education, urbanization and economic hardship have significantly changed the manner in which
the practice was carried out and the reasons behind it. It is against this background that the study sought to document the significant role that marriage played and why women did not wish to remain widowed even after losing their beloved husbands furthermore the study sought to investigate the reason behind the transformation of widow guardianship among the Luo community of Homa Bay, and the extent to which it has changed over time.

1.3 Research Questions

The present research sought to find answers to the following questions:

i. What was the importance of widow guardianship among the Luo during pre-colonial period up to 1920?

ii. How was widow guardianship practice affected by colonial policies and missionary activities among the Luo community, 1920-1963?

iii. How is widow guardianship practiced among the Luo in the post-colonial Kenya 1963-2014?

iv. How has the practice transformed in the wake of HIV/AIDs and other socio-cultural changes 1984-2014?

1.4 Objectives of the Study

The study sought to:

i. Interrogate the importance of widow guardianship in the pre-colonial Luo society up to 1920
ii. Examine the extent to which colonialism and missionary activities affected the practice of widow guardianship; 1920-1963.

iii. Analyze how widow guardianship has been practiced among the Luo in the post-colonial Kenya; 1963-2014.

iv. Investigate how the practice has transformed in the wake of HIV/AIDs and other socio-cultural changes; 1984-2014.

1.5 Research Assumptions

i. Widow guardianship had psycho-social and economic importance in the pre-colonial Luo society up to 1920.

ii. Colonial policies and missionary activities significantly changed the way in widow guardianship practice was carried out 1920-1963.

iii. The manner in which widow guardianship is carried out among the Luo in post-colonial Kenya has significantly changed; 1963-2014.

iv. The practice has continued to transform in the wake of HIV/AIDs prevalence and other socio-cultural changes; 1984-2014.

1.6 Justification and significance of the Study

A number of reasons influenced the choice of the research topic. To begin with, a lot of the existing scholarly works on the topic are mainly descriptive in nature and hardly give in-depth analysis on the topic. Ndisi (1974), for instance, argues that the Luo had natural love towards women and children. Therefore, according to Ndisi (1974) it was out of this love for women that the widows were taken care of. In addition to this, Malo
(1999) points out that the cultural practice ensured that young widows got sexual satisfaction. Mboya (2002) on his part argues that it was a taboo for a young widow to stay alone without a guardian. Besides, Odhiambo (2000) simply describes the Luo as people of ‘raha’ (lovers of women and sex). This to him informed the Luo practice of widow guardianship. To this extent therefore, the study shall provide an in-depth analysis of the cultural practice away from the descriptive ones as demonstrated by most scholars mentioned above. Additionally, the period 1920-2014 was chosen for various reasons. For instance, 1920 was the year when the current territory was delineated to form Kenya as a colony of the British. This then intensified colonialism which significantly changed the African life style. The year 2014 marks the end of the study. This was adopted on the basis that it was at this period that there were a lot of media reports on the practice of widow guardianship in Homa Bay which was worth study. The period gap would also be useful in establishing how the cultural practice has transformed over the years.

Secondly, the choice of the Luo was based on the fact that the existing literatures on widow guardianship tend to indicate that the practice is common among the Luo. For instance, Karwen (1979) in *African Widows* describes some of the rites widows undergo and specifically isolate widow guardianship as one of the important rite Luo widows are subjected to. Similarly Lewis (2013) in his report *Wife inheritance in Kenya* admits that though some communities such as the Maragoli of Abaluya practice widow guardianship, the practice was more common among the Luo. This is further supported by Mboya (2002) in his book *Luo Kitgi Gi Timbegi* (Luo customs and practices) where he isolates widow guardianship as one of the adored cultures among the Luo.
The choice of Homa-Bay on the other hand was informed by the recent media reports which ranked the County as one of the highest HIV/AIDS prevalence zone in Kenya. HIV/AIDS prevalence in Homa-Bay was, according to media reports, a result of widow guardianship practice (Cherono, 2014). The choice of Homa-Bay was further informed by the unique form in which the people of the region carry out the practice thus, a group of guardians ‘jokitoko’ move from one funeral to another to look for widows to serve as guardians. This is largely uncommon in other regions inhabited by Luos. In this sense therefore this study provides insights into the relationship between HIV/AIDS and widow guardianship. This will help the government and other nongovernmental partners understand the Luo and formulate better alternative practice to the culture rather than dismissing the practice as primitive and backward.

Furthermore, the study is useful in understanding how the practice of widow guardianship has transformed in the context of modern changes such as western education, Christianity, women empowerment, and through modern laws which have often worked against it. Lastly, the study provides an objective study of the Luo long held cultural heritage, thus minimizing the gap which has been created as a result of subjective study of these kinds of commonly held cultural practices.

1.7 Scope and Limitations

The study was carried out in Homabay County in Kabunde Division. It, however, spilt over to the neighboring counties such as Migori, Kisumu and Siaya to obtain more information. While we sought to begin from 1920, the study explored the pre-colonial period in order to understand the significance of marriage and widow guardianship prior
to the advent of colonialism. Similarly, the study was limited to 2014 but we also sought to interrogate the events after this period which continue to inform changes in widow guardianship.

There were a number of limitations that affected the research process in this area. Central among them was the sensitivity of the topic. Due to its nature, it was hard for some of the respondents to participate fully since the study focused on cultural phenomenon such as sex which is usually considered a taboo or abomination to talk about among the Luo people. As such, most of the respondents were unwilling to be engaged in the discussion touching on guardianship. This was however addressed by assuring the respondents of the confidentiality of the information given. Respondents were also informed that the information given would be purely for academic work and not any other purpose. Moreover they were informed not to write their name anywhere in the questionnaire. The vastness of the county also posed a challenge in data collection. This was however addressed through the use of research assistant who assisted in traversing the County.

1.8 Literature Review

1.8.1 Introduction

This section presents reviewed literature related to the culture of widow guardianship in general and among the Luo community in Kenya. This analysis is presented thematically under subsections as seen in the discussion that follows. The chapter further examines certain theories upon which the study is grounded.
1.8.2 Literature Review

Research on widow guardianship among the Luo community has taken various perspectives. There are researchers who have purely focused on the historical aspect of the culture. For instance, Malo (1999) describes it as one of the age old cultures practiced by the Luo from time immemorial. In this respect, he identifies who was to carry it out, when and why. Others however have taken comparative approach by studying the culture verses the prevalence of HIV/AIDS. A good example here is Oluoch (2013) whose study preoccupies itself with the perception of the Luo on widow guardianship in relation to HIV/AIDS.

The literature review of this study begins by looking at the conceptual issues on the widow guardianship, it then points out gaps in the scholarship by highlighting and identifying the weaknesses of social cultural arguments of other researchers on the topic under study as discussed in the sections below.

1.8.2.1 Conceptual Issues

Before digging deep into the existing empirical data we begin by highlighting conceptual issues surrounding the term widow guardianship. There has been considerable debate regarding which term best fit the practice of taking care of a woman whose husband is died. For instance, Potash (1986) refers to it as wife inheritance. This however raises certain challenges regarding the intention behind widow guardianship as practiced among Luos. First, “wife inheritance” as used by Potash sounds dehumanizing as it connotes to inherit a human being in similar manner as any other material items that the deceased left behind. Secondly, the term is ambiguous as it does
not define the kind of ‘wife’ to be ‘inherited’ since the term ‘wife’ denotes a married woman whose husband may be alive or dead. This makes it difficult to gauge whether the woman to be inherited is a wife to a living or a dead man.

On his part, Brown (1987) calls it levirate marriage. He is however quick to observe that in levirate marriage, the kinsman only marries the widow if the dead husband died without living her with a male child. On this basis therefore, levirate marriage may not be appropriate in the case of the Luo. This view is informed by the fact that according to the Luo customs, a widow would be married to the kinsman so long as the husband was dead irrespective of her state in terms of children or age (Malo, 1999).

Another term synonymous with this institution is widow stewardship (Nyaruath, 2012). It sounds better, however, the term ‘Steward’ basically denotes managing a property on behalf of someone. This makes it sound derogatory since a widow is like any other human being, thus by managing her on behalf of another person amounts to interfering with her human dignity. Owing to the challenges related to the above mentioned terms, the research settled on ‘widow guardianship’ which basically implies to care of and protect. This is based on the fact that the core objective of widow guardianship as Mboya (2002) puts it was to protect the widow and her children and provide for her in the face of hard economic times.

1.8.2.2 Widow Guardianship in Africa

Africa is one of the continents where the culture of widow guardianship is deep rooted. However, most of the available studies have not provided in depth analysis on the
reasons behind its practice. For instance, Potash (1986) argues that the culture was common among the Shona of Zimbabwe where the younger brother of the deceased man was expected to provide guardianship to the widow of the elder brother. As one appreciates this standpoint, it is limited in explaining why the cultural obligation was only shouldered by the younger brother. Additionally, Bamgbose (2002) observes that the same was practiced in Nigeria among the Igbo, Yoruba, Hausa and Fulani communities.

Among the Yoruba for instance, the elder son had an obligation to serve as a guardian to the youngest widow of his father. This also suggests that the culture encouraged polygamy and is the reason for one to be the guardian to the youngest wife of the father. However, the widow must not be the biological mother of the guardian. This argument seems to be correct but, upon close examination, it contradicts the tenets of traditional African society’s values such as the obligation to not only respect but fear his parents. With such virtue in mind, enforcing such cultural practice would not be easy among most sons as they may deem it as disrespecting ones father.

In regards to South Africa, Gluckman (1987) observes that widow guardianship was practiced among the Zulu where an approved relative of the dead man such as the brother or cousin, took care of the widow and her children. It is also instructive to point out that the children from such a union were for the dead man and not for the guardian as his work is to ensure that the dead man’s lineage grows. Gluckman further emphasizes that in such union, the surrogate husband was not to pay dowry for the widow.
Among the Tswana of Botswana, Brown (1987) notes that a man who was expected to serve as the widow’s guardian was to be the younger brother of the widow’s husband. In the similar strength the eldest son of a polygamist man was allowed to serve as a guardian to a junior widow of his father so long as she was not his biological mother. This argument gives a reflection of the picture of widow guardianship in most traditional African societies. However, the same fails to factor in circumstances where the deceased man lacked a younger brother who would carry out the customary obligation.

In the East African region, the practice was widespread in Southern Sudan for instance. Mandit, (2006) observes that it was practiced among the Nuer and the Dinka. Among the Nuer for example, a widow was allowed to get a guardian from the husband’s village or outside the village. However, the children that were sired in the union were for the dead husband’s not the man that lived with her. This perception is in line with most African customary values which the Nuer are part of. It however leaves one questioning why the children sired in a new marriage become the children of the dead husband unanswered. In other words it does not bring out the importance of the children in this union.

Similarly, in Somalia Anderson (1970) argues that Somali customary law accepted widow guardianship. Anderson’s position is also inadequate in the sense that, it does not address the question of how and why the cultural practice was carried out. Additionally, Brown (1987) notes that, the culture was common among Nyakyusa of Tanzania where, marriage did not end at death. In this respect every man was obliged to
identify a man as his heir to serve as a guardian to his family in case he died. Such heir was to be chosen from his lineage. However the children sired by such heir remained the dead husband’s. This argument is a clear testimony that the traditional African societies always planned for unforeseen eventualities such as death. Brown’s argument however does not recognize the fact that the guardian so identified could die before the real husband. It thus fails to provide an alternative if such happens.

1.8.2. 3 Widow Guardianship in Kenya

This section will address itself periodically beginning from pre-colonial, colonial and post-colonial periods as discussed below.

1.8.2.3.1 Pre-colonial period

A number of scholars have written a lot on widow guardianship in the pre-colonial Luo societies. Mboya (2002) argues that it was a taboo for a young widow to stay alone without a guardian. In fact, Sishanya (2007) adds that ‘chira’ would befall a widow and her children who fails to be guarded. To avoid ‘chira’, the widow was obliged to choose one among the brothers of her deceased husband to be her guardian. Mboya (2002) further suggests that this culture was also an important sign of showing respect to the dead husband and also perpetuating his lineage.

Despite this historical knowledge, however; Mboya (2002) and Sishanya (2007) fail to point out why it was only the brother to the deceased husband who was the first option to be the widow’s guardian. The argument is further insufficient pointing out whether such taboos are respected in life styles where things are largely explained scientifically.
In addition to the above gap, Paul Mboya (2002) is not clear on how widow guardianship would perpetuate the husband’s lineage since in most cases, the widow became even poorer after being guarded by a man.

Besides these, Gunga (2009) is of the opinion that the culture was a preserve of the kinsmen of the deceased to guard the strangers from introducing unwanted character traits in the dead man’s family by raising offspring whose character were perceived to be contrary to what was expected in the dead man. This is the reason why a brother of the deceased would be considered as the better option. This kind of argument would be appreciated and applicable to young widows who are within the bracket of child bearing age. Gunga has however failed to explain why the practice was also common among the elderly women beyond the childbearing age and even the barren. The question in such a scenario is: is the guardian still perpetuating the lineage of the deceased man or is he engaging the practice for his own selfish gains?

In addition to these, scholars such as Malo (1999) observe that widow guardianship was an important cultural practice in that it ensured the young widow whose husband passed away got sexual satisfaction. As much as this argument is plausible, it leaves one question begging; why the same practice was still common even among very old women within the society who were sexually inactive? Is there any other cultural beliefs attached to the practice other than perpetuating the lineage?

Apart from these, social historians such as Wilson (1961) holds that the Luo have natural love towards women and children. He even asserts that it was the role of the whole community to ensure that women and children were taken care of. Whereas
Wilson’s argument is true according to most African traditional societies which the Luo are part of, he does not give an explanation on how taking care of women and children is associated with sexual intercourse which widow guardianship is known for. In other words, he does not bring out the role of sexual component in taking care of women and children. Indeed, he has largely failed to tell us the relevance of such a practice in modern society where women have largely been empowered and protected by numerous laws.

On his part, Okulu (1999) holds that widow guardianship among the Luo was mandatory and failure by a widow to be guarded amounted to being prevented from planting crops in her late husband’s farm. While one appreciates Okulu’s argument, his assertion is insufficient in explaining how the practice has transformed to accommodate the women who do not necessarily earn a living from farming but rather from other ventures such as trade, modern employment among others. The same study also fails to demonstrate the relationship between widow guardianship, sexual intercourse and farming and how the same is practiced in contemporary society where people live in urban centres where there are no farms.

1.8.2.3.2 Colonial period

The colonial era witnessed a number of foreign ideas and policies which significantly changed the socio-economic life of the Luo. This in the long ran had a bearing in socio-cultural practices and general writings around them. Ambe (1978) argues that with colonial rule, the missionaries were able to intensify their work of converting most Africans to Christianity. According to him, a significant number of the Luo embraced
Christianity which made majority of them to distance themselves from the practice as it was perceived to be against Christian code of morals. As one appreciates Ambe’s argument on how the culture transformed in line with the Christian doctrine, one wonders why sizeable number of the Luo still adore the culture in spite of being staunch Christians. In fact Nyenzi (2009) observes that Christians who fear being admonished by fellow believers undergo the ritual secretly.

In similar manner, Mbote (2010) holds that colonialism exerted a lot of pressure on the customary laws, practices and procedures relating to marriage with the intention to westernize or civilize it. According to him, colonialists did this by enacting legislations that encouraged western principles of marriage by allowing conversion of African marriage to the English type. One of the key provision of English law stipulated that if one was a Christian the spouse could not marry anybody else as long as the marriage was not dissolved. With this kind of legislations, marriage systems like widow guardianship which basically meant having more than one wife had no place in the colonial economy.

This line of thought is limited to legally registered marriages. It is therefore inadequate in explaining the existence of customary marriages which Africans were known for and held with respect and owe. In essence, the position may not be useful in providing grounds for delegitimization of African’s forms of marriages such as widow guardianship. Apart from this, scholars such as Michael Mboya asserts that from the onset of colonialism, a significant Luo population provided migrant labor especially in urban centres all over the country due to harsh colonial policies such as high taxation.
This enabled the Luo to interact with other communities and adopt certain marriage and sexual practices which were unfamiliar to the Luo nation. Similarly, colonial policies made life difficult for one to take care of a large family. All this according to Mboya made a good fraction of the Luo to shy away from widow guardianship which meant additional family responsibilities (Mboya, 2009).

Mboya’s argument on the Luo adoption of new marriage and sexual practices is true to the extent that communities traditionally borrowed aspects of culture from each other. This however did not mean that a community had to do away with its usual norms and practices but rather, the borrowed one would be practiced alongside traditional practices or the borrowed aspect would be used to enrich the existing ones. Similarly, his argument on the economic difficulties may not hold water since studies have often showed that it is the poor who have the tendency of having large families (Krishnaji, 1980). To this extent, Mboya’s idea of significant reduction of widow guardianship on the basis of adoption of new cultures and economic hardships may not be true altogether.

Other scholars however have a different view on the role of colonialism on the culture of widow guardianship. Hunt (1988), for instance, argues that colonialism encouraged African marriages which included widow guardianship for production of many children to address labour shortage in the colony. Such colonial policies provided a suitable environment upon which cultures such as widow guardianship could thrive. However, as one appreciates this argument, we must not lose sight of the fact that marrying or guarding many wives was not by itself a guarantee of having many children. In fact, in
most cases monogamous marriages tended to have more children in comparison to polygamous ones. This would therefore be a false basis of justifying widow guardianship.

1.8.2.3.3 Post-colonial period

During the post-colonial era, a number of factors influenced the way the practice was carried out. For instance, with independence new phenomena such as unrestricted entry to urban centers set in contrary to the colonial period which was characterized by restrictions of movements to the towns. Besides, western education and religion changed people’s perception towards the cultural practice as the educated viewed it as a backward practice and the Christians looked at it as unbiblical (Gunga, 2009). Above all, the prevalence of HIV/AIDS epidemics which claimed the lives of an appreciable number of Kenyans led to cultural practices such as widow guardianship being viewed as major cause. Though these factors influenced the writings of the contemporary scholars such as George (1997) who has written on wife inheritance and the spread of HIV/AIDS, one would have expected them to examine the reasons behind the persistence of the practice and how it has been transformed overtime; unfortunately this has been ignored. For example, Evans (1997) insists that practices such as widow guardianship has no place in the twenty first century. In fact, he has shown the extent to which the custom has undermined development, perpetuated poverty and increased HIV/AIDS prevalence within the Luo community. It is because of this that Evans (1997) terms widow guardianship as backward and primitive. With all these criticisms on the culture, Evans does not tell us the reason behind the Luo adherence to the
practice in spite of its adverse consequences. Furthermore, he does not provide an alternative approach to the culture instead of wholesomely criticizing it.

According to Afigbo (1989), in most African societies when a man dies his wife becomes the primary suspect in his death and is harshly dealt with by the husband kinsmen. The guardian then comes in with the mindset that the widow can bewitch him. This created a lot of mistrust between the guardian and the widow which at times resulted in domestic violence. As we appreciate Afigbo’s school of thought, we must not lose the sight of the fact that, in significant instances, it is the men who look for the widows to serve as guardians, it is therefore not true for a man in his right state of mind to go for a widow who is a witch.

Similarly, Ogot (2010) admits that this cultural practice is still upheld by the Luo despite the socio-economic burden associated with it such as supporting the widow and her children, fear of HIV infections, influence from religion and education. In fact those who do not want to practice it openly undergo sexual ritual with non-relatives. As one agrees with Ogot’s position, he has largely failed to point out the reason behind the persistence of the practice and how the practice has changed among the Luo amidst strong influence from Christianity, education and even women empowerment.

In a similar fashion Nyenzi (2009) holds that the practice was mainly meant to provide economic security to the widow and her children. She further asserts that the practice is ongoing even in situations where the relatives and well-wishers have offered to help the widow and her children in the face of economic hardships. This argument may be valid in respect to the economically challenged widows; however, it is inadequate in
explaining the prevalence of the practice among the women with economic means or how it has been transformed to accommodate women who have been economically empowered.

According to Zaedi (2006) widowhood entails emotional loss and change in life style, identity, social status and roles. In this regard therefore, social-economic and emotional support should be provided by the family members, community and society at large to enable her cope up with the change of life. In similar strength, Lopta (1979) insists that in order for the widow to be integrated in such a support system, they need a friendly culture which widow guardianship easily provides. Ssossou (2002) further emphasizes that support and empowerment should be both collective and personal to help the widow take care of her family. As much as socio-economic and emotional support for the widow is important, these scholars are silent on the necessity of sexual intimacy within the support system and how such intimacy empowers widows. They have further failed to bring out how this support system has been transformed in the view of the sexually transmitted diseases such HIV/AIDS and presence of abundant women empowerment in the society today.

In addition to this, Gunga (2009) adds that widows who accept guardians are those who have low education level and lack economic means. In fact he goes on to recommend that the best way to eliminate the practice is to provide general literacy and economic means to the widows. However Gunga’s argument is silent on how the practice finds its way among the educated widows who are economically well off. Furthermore, Ndisi (1984) in his study of socio-economic life of the Luo, laments how the culture of widow
guardianship drag the Luo into the corridors of poverty. He concludes that it is because of this practice that the majority of the rural population in Luo Nyanza are poor. Throughout his argument, Ndisi does not come clear on why the Luo persistently practice widow guardianship however much such cultural practice drag them into the corridors of poverty.

Odhiambo (2000) on his part observes that since the colonial times, the Luo have been described by other communities as people of *raha* (lovers of sex and women). To him if this claim is a true reflection of the Luo then, it must have played an important role in influencing the community towards holding on to its culture. In spite of Odhiambo’s claim, we can’t lose sight of the fact that other communities also marry which is a clear demonstration of love for women, but still they don’t practice widow guardianship. In view of this, Odhiambo’s claim would be best described as a stereotype with little or no historical and scientific value to support it.

Another argument that has been advanced is that the culture of widow guardianship relegates widows to dependency and robs them their rights and privileges especially in times of loss (Luke, 2001). This argument seems to be valid to some extent, especially where the guardian in question comes in with an intention to deplete the material possession the deceased man has left. However, it fails to factor in cases where the guardian offers a genuine assistance to the widow such as paying school fees for her children, providing for socio-economic support among others. It is on this ground that one would regard such an argument as aimed at completely terming the practice backward without giving it a necessary alternative.
Otieno (2003) also asserts that the culture was important in providing social security to the widow. He even claims that in traditional Luo society, women were looked down upon. This meant that a widow whose husband had passed away had to look for another man to help her protect the property left to her by her late husband. Otieno’s argument is very valid in the context of the traditional African set up. However, the argument is insufficient in showing how far the practice has been transformed into today’s security system. The position of thought is further limited in telling us why the practice is still common in contemporary society where there legal systems such as courts, human rights organizations which protect people’s social economic and political rights including the widow’s.

Moreover, according to Awuor Keya, there is overpowering belief in the ability of a dead person to come back to dispute and haunt all the relatives especially the brothers if they fail to enforce the ritual. According to Awuor, this is the reason behind subjecting the widows to what she describes as inhuman and subjective customary practices. She further claims that the cultural practice is key in ensuring that the deceased inherited property remains in the family (Awuor, 2013). Awuor’s line of thought could be true in reference to a group of the Luo who have not received the “light” of Christianity. Besides, the argument ignores cases where the guardian is sourced from ‘jokowiny’ (outside the family members). In this respect, it may be considered inadequate in explaining the prevalence of the practice among a group of Christians and individuals with considerable educational background.
1.8.2.4 Summary of the knowledge gap

While these arguments are important in showing the historical concept of widow guardianship and its significance especially in traditional African set up, they have one common limitation; they have largely failed to vividly show how the practice has transformed to conform to the new trends of the modern world such as western education, urbanization, women empowerment, Christianity, legislations and above all HIV/AIDs prevalence. This therefore provides a useful knowledge gap that this study has attempted to bridge.

1.8.3 Theoretical Framework

The research is grounded on the social evolution theory which holds that cultures generally evolve in a uniform and progressive manner. The work further borrows from Darwin's theory of evolution and natural selection which asserts that species evolved from simple creatures to more complex beings. According to the evolutionists the same changes applies to culture. Thus culture progressively evolved from simple state to a more progressive state (Chakov, 2010). According to this theory, societies passed through a series of stages to arrive ultimately at a common end. The proponents of this theory include anthropological scholars such as Tylor and Morgan.

Tylor, for instance, argues that culture evolved from simple to complex and that all societies 'pass three basic developmental stages, that is from savagery, barbarism to civilization. That evolution from one stage to another is relatively progressive depending with the society (Tylor, 2006). According to the letter therefore; different
societies are at different stages of evolution. He thus maintains that simple contemporary societies of the day have not reached the highest stages. He further asserts that in the next stage there are traces of survivals of the earlier culture as a proof of evolution. To this extent he gives an example of contemporary items made of clay such as cooking pots, eating utensils which are mainly a reflection of the earlier societies. Moreover he notes that, cultural traits may spread from one society to another.

In a similar fashion Morgan maintains, that culture is not static but instead is in a progressive gradual development. In his book *Ancient society*, he divides human evolution in three stages: savagery, barbarism and civilization where each stage is distinguished by technological development, political organization, patterns of marriage and family (Morgan, 1877, p. 3). According to him therefore, each stage was marked by cultural feature in the form of technological achievement where each had its identification benchmarks. For instance, the savagery stage was marked by acquisition of fish diet and discovery of fire, barbarism on the other had was marked by pottery and domestication of plants and animals and early civilization being identical with phonetic alphabet (Morgan, 1877, p. 7).

To further support the assertion, he demonstrates how this progressive development of human culture happened in the circles of the human family. He says, for instance, that at the first stage of human development people lived in groups with no sexual prohibitions and family structures. This however changed in the next stage where a group of brothers married a group of sisters and the brother and sister mating was allowed, in the following stage according to him, group marriage was allowed but brother sister mating
was not permitted. He holds that, this culture progressively changed to appoint where family structure became smaller where one male paired with one female to form a family as witnessed in the modern family structures (Morgan, 1877). In short these scholars are trying to demonstrate the view that culture is not static but rather in the progressive change where the ability of the culture to transit from one stage to another depends on the society.

This theory therefore provided a useful ground upon which the transformation of the culture of widow guardianship could be generally analyzed. Here the argument was that, since culture gradually changes depending with the stage of development of the society, the same is true to the culture of widow guardianship. It is on this basis that the study examined some of the changes that have taken place in the practice of widow guardianship. This theory however has been criticized as being inadequate in explaining why some societies regressed or even became extinct.

However, to deal with the weaknesses, social evolution theory was complemented by resilience theory. This theory suggest that, cultural systems have the ability to absorb disturbances and still retain its basic function and structure (Walker et al, 2006) In other words the ability of the system to change but still maintains the same identity (Folke et al, 2010). According to this theory, though the system may change due to the external shocks such as environmental variability, social economic and political upheaval the reaction to such change is crafted in a manner that is adaptable to the existing environmental variability (Adger, 2000). When this theory was applied to this study, the argument was that, as the culture of widow guardianship met opposition at different
stages of life and various aspects such as western education, women empowerment, Christianity, HIV/AIDS among others, the cultural practice has tended to change to the extent that it adapts to the changes in the environment but still retains its basic goal. This is because some aspects of cultures usually remain unchanged.

1.9 Research Methodology

1.9.1 Introduction

This section highlights methodological details which the study utilized as discussed below.

Research Design

The study was qualitative in nature and the study employed historical design to provide the chronology of the changing trends in the practice of widow guardianship among the Luo of Homa Bay. The choice of this design was influenced by a number of reasons; key among them is that it allows the researcher to gather information on the actual state at the time of study. It also allows the researcher to gather information from a larger number of respondents. Besides it provides a practical framework for collecting large sample of data from groups. More importantly it permits the investigation of topics that can be studied in no other way.

1.9.3 Study Area.

The research was carried out in Homa Bay County within Kabunde location. The area is in the south and a few kilometers from Homa Bay town. Due to proximity to the town
and airstrip, the region is relatively cosmopolitan in nature. In terms of economic activity, the region dwellers heavily rely on fishing and small scale farming as the main source of livelihood. Bellow is the map of Homa Bay county showing the study area.
Figure 1: Map of Homa Bay County Showing the Location of the Study Area.

(Source: Homa Bay County Government, 2013)
1.9.4 Target Population

During the study, the targeted population of respondents included clan elders, chiefs, church leaders, widows, nongovernmental organizations, development agencies in the region, and the members of the community in general within Homa Bay County. A number of factors were however considered in choosing the informants namely; one’s marital status, age (18 years and above) gender, level of education and religious inclination. Religious inclination for example would be useful in helping the study understand ones position of thought.

1.9.5 Sampling techniques

A number of sampling techniques were employed in this study. This was however done in such a way that the individuals selected represented the larger group from which they were selected. Examples of the sampling techniques employed were: purposive sample technique that was employed where a group of people to be sampled were selected based on their knowledge and professional judgment on the issues related to the study area.

Stratified random sampling was another sampling technique employed. This is where population was divided into different groups or strata then the final subject was randomly selected proportionally from different strata. This ensured that an appropriate sample from various sub groups was selected. Besides this, there was use of snowball sampling where the current respondent referred the researcher to other respondents who meet the criterion of the researcher. This was useful in identifying more respondents especially those with the relevant information on the widow guardianship.
1.9.6 Research Instruments

The study employed two main data collection tools: questionnaire and interview. Questionnaire for instance was systematically prepared with asset of questions deliberately designed to elicit response from the respondents during data collection exercise. In this case the questionnaires were both structured (closed) and unstructured (open ended) questionnaires. Its adoption provided a number of advantages since the researcher was able to capture a larger number of potential respondents. It also gave the respondents adequate time to respond to the items. More importantly, we realized that it could be answered at the convenient of the respondents and picked at a later time.

Interviews on the other hand were done through face to face conversation with the respondent. It was important in the research topic since through it, the research was able to generate information that was considered useful to the study area. Furthermore it facilitated collection of information from the illiterate people such as the old elders.

1.9.7 Pilot study

A pilot study was carried out in Mbita- Homa Bay in the month of March 2016 before the actual research. This facilitated smooth and efficient research process as it informed the research on the appropriate tool to adopt.

1.9.8 Data Collection Procedures

The data collection procedure went through various stages. First, the research official permission was acquired from Kenyatta University Graduate School and then the
National Council for Science, Technology and Innovation (NACOSTI). Other clearances were also obtained from the County Government of Homa Bay.

From here the study embarked on primary data collection from the field through interview and questionnaires. To achieve this, various factors were considered when choosing the respondents: age (eighteen years and above), marital status, gender, level of education and one’s religion. This ensured that a variety of information was gathered. In this respect there were a total of one hundred and thirty respondents as shown in the table below.

<table>
<thead>
<tr>
<th>Category of respondents</th>
<th>No of respondents</th>
</tr>
</thead>
<tbody>
<tr>
<td>Chiefs</td>
<td>10</td>
</tr>
<tr>
<td>Village elders</td>
<td>20</td>
</tr>
<tr>
<td>Church leaders</td>
<td>20</td>
</tr>
<tr>
<td>Widows</td>
<td>50</td>
</tr>
<tr>
<td>Non-governmental organizations</td>
<td>5</td>
</tr>
<tr>
<td>Other members of community</td>
<td>25</td>
</tr>
<tr>
<td><strong>Total respondents</strong></td>
<td><strong>130</strong></td>
</tr>
</tbody>
</table>

**Table; 01 A table showing the number respondents**

To effectively collect information from the respondents, a number of data collection tools were used as shown in the table below.

<table>
<thead>
<tr>
<th>Data collection tools</th>
<th>No. of respondents</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td>Oral interview</td>
<td>50</td>
</tr>
<tr>
<td>------------------------</td>
<td>----</td>
</tr>
<tr>
<td>Focus group discussion (five groups)</td>
<td>40 (8 people per group)</td>
</tr>
<tr>
<td>Questioners</td>
<td>40</td>
</tr>
<tr>
<td><strong>Total respondents</strong></td>
<td><strong>130</strong></td>
</tr>
</tbody>
</table>

**Table 02: A table showing collection tools in relation to respondents**

The primary data collection was also done through Kenya National achieves where more data were collected. Secondary data collection on the other hand was done by reading various books, magazines, newspapers and journals.

### 1.9.9 Data Analysis procedures

Data analysis was conducted through transcribing the recoded data then coding them according to themes. They were then analyzed according to the themes as per the objectives. The analyzed data was letter in corroborated with the secondary source.

### 1.9.10 Data management and Ethical Considerations

All research studies present a number of ethical and moral considerations which must be identified and addressed prior to the actual research study in order to protect all the participants from all potential harm. In the view of this, a number of measures were taken to ensure effective data management and ethical considerations.

First, clearance letter was obtained from the university, National Commission for Science Technology and Innovation (NACOSTI), the County Government of Homa
Bay (CGH) and the office of the County Commissioner (CC). This ensured effective movement during the research work.

Secondly, the respondents were informed of their rights and the confidentiality of their information. This enabled the respondents to participate freely in the data collection process. Indeed for those who participated, their inclusion in the research process was done through informed consent. In similar manner, those who wished to withdraw from the study process were allowed to do so. In addition to this, the research acknowledged all the literature reviewed on the study to avoid cases of plagiarism.

1.9.11 Data presentation

The data was presented in narrative form which involved a general description and explanation of the study findings. This helped in ensuring that information was presented in a form that was easily understood and utilized. It further gave meaning to data and enhanced conceptualization of the study finding.
CHAPTER TWO: THE IMPORTANCE OF WIDOW GUARDIANSHIP
AMONG THE Luo IN PRE-COLONIAL PERIOD UP TO 1920

2.1 Introduction

In the previous chapter, we outlined the objectives, theoretical foundation and the necessary methodological tools. This chapter primarily examines the central role of Widow Guardianship among the Luo. It is however difficult to study the importance of the practice without tracing the Luo socio-economic and political system. The study thus begins by looking briefly at the socio-economic and political organization of the Luo which is significant in understanding why the community engages in widow guardianship.

2.1.1 Economic Organization of the Luo

According to Ogot (1976), the Luo were predominantly pastoral society where livestock such as cows, goats, and sheep were kept. Birds such as chicken and ducks were also reared. Economically, a person who had a large herd of cattle was perceived to be rich and was respected. Such individuals often married many wives as a form of demonstrating their economic might. Besides pastoral mode, the Luo took part in other economic ventures such as fishing, bird trapping and hunting and gathering to supplement their diet. Fishing, for instance, was carried out along the lakes and rivers and love for fish especially by Lake Region dwellers earned them a unique name ‘Jonam’ (people of the lake). It is however important to note that most of this economic ventures were male-oriented. Women on the other hand took part in lighter economic
ventures such as weaving, pottery and local trade which helped broaden the economic base of the community.

With time, the Luo adopted the art of crop farming, possibly on the account of interaction with the Bantu. In this venture, Ndisi (1974) records that land was an important factor of production. Land was owned by the man in a family who would further allocate portions to his wives. He further notes that the land was acquired through clearing of bushes which was followed by effective occupation. As such, in order to own large portions of land; most men cleared and settled their wives in these cleared portions. Trade was another economic livelihood the Luo took part in. Indeed Lopta (1979) observes that they either traded amongst themselves or with their neighbors such as the Abaluhyia, where the Luo exchanged animal products such as milk meat and fish for agricultural produce such as millet and sorghum. He further holds that trade helped them acquire products which they lacked. It is however important to note that men played a key role in most economic activities. On this, Malo (1996) observes that the family could not begin farming activities before the man performed agricultural ritual known as golo kodhi translated as “releasing the seeds to the farm” with his first wife. This ritual was not complete without the sexual component. Similarly, in livestock domestication, it was the man to give direction on affairs pertaining to livestock. One of the respondents asserted that it was the man of the homestead that released the cow from the cattle shade to the market (Omolo, O.I. 8th July, 2016). Similarly, among Joman, it was the man of the homestead who carried out the fishing and handed over the catch to the wife for domestic use or market purposes. This therefore implied that the absence of a man in the family meant food insecurity in
the daily life of the family. Widows were therefore compelled to enter into a guardianship union to ensure economic survival of their children.

2.1.2 Political Organization of the Luo

Like most Kenyan societies, the Luo had a decentralized system of government. In such system, the family was the basic political unit headed by the father. As Ogot (1967) notes, the father was the highest political authority at the family level and could give direction or instruction to his wife/wives and children. Therefore the father formulated definite behaviors that he expected from his family members. In order to enforce his authority and hold family together, he held the power of Kuong (curse). This made him the most feared and respected member of the homestead. At the household level, however, the mother took charge and ensured daily household chores were performed. She further administered discipline to children on minor cases and referred complicated ones to the father.

Above the family unit, were semi-autonomous political systems called gweng (clan) headed by the clan elder. Malo (1999) points out that clan elder had the obligation to resolve land disputes and provide directions on matters of divorce. The membership of gweng mainly comprised of the anyuola (people who had a common ancestry). This provided a system of unity through which the clan members lived. In some cases however, clan membership would include jodak (foreigners). In such cases, jodak were incorporated in the larger clan membership and even allocated land for staying and cultivation.
The next political unit from the clan was Oganda (community). One of the village elders, Ogalo (O.I, 10th July, 2016) points out that the leadership of Oganda was the council of elders. This council served as the spokes men of the community and would be the final court of appeal where cases such as inheritance would be decided. He further pointed out that in cases of calamity such as famine, and drought, the council of elders would choose one of the elders among them to lead the community through the crisis. The chosen leader was ruoth (chief). For one to be chosen in the position of ruoth by other council members, he must have demonstrated wisdom in handling a calamity of such magnitude. Similarly, he must have demonstrated knowledge of history of the community. When the calamity ended, his role as ruoth also ceased. This view is supported by Ogot (1976) in his book History of the Southern Luo where he argues that the security of the Oganda lay in the hands of the skillful council of elders with a rich history of wisdom.

It is however important to note that like in the case of socio-economic lifestyle, a man’s role in political organization was indisputable, therefore within the family structure the absence of a man meant that such a family not only lacked legitimacy but also direction. This further enforced the practice of widow guardianship.

2.1.3 Social organization of the Luo

Socially, as Malo (1999) observes, the Luo nation (oganda) was organized into clans indigenously referred to as dhoot. Each dhoot claimed a common ancestry called anyuola. The anyuola was made up of several families which came together to form a social unit capable of carrying out economic duties. In the family set up however, there
were prescribed codes of conduct and behaviors. For instance, the children had to show respect to the elders and the senior members of the society. In the hierarchy of respect, the father was the most respected and feared within the family unit. This was based on the belief that he had the inherent power to curse. The Luo man was an important figure in the society and the patriarchal system could not operate without him. This is demonstrated in the discussion below.

**2.1.3.1 Kinship system**

This was a relationship defined by blood, marriage or adoption. In this sense, Ogot (1967) notes that the composition of the system not only comprised of the living but also the dead and those yet to be born. The members of the system were bound by blood marriage or adoption. As such every member had a special place in the system. The elders, for instance, served as the councilors and the custodians of the cultures and traditions of the community. The elders were therefore held with respect because of their age and general knowledge of the customary traditions which were gained through experience. Additionally, kinship relations defined how people related towards each other in the society. For instance, one of the clan elders of Kabunde, Owiso (O.I.2/7/2016) pointed out that people who shared blood relations were not to marry each other since they were members of the same family or clan. In this respect before one got married, the family relations would be examined to ensure that couples to be shared no blood relations. Indeed to affect this, both close and distant relatives were involved to assist in carrying out an inquiry into blood relations.
The kinship system further provided a platform upon which the members of the community were identified. Potash (1986) observes that members of a clan were identified through a common ancestor called *joka* (people of). This formed a common lineage upon which members of a clan were identified. It therefore implied that men were key in giving their family members a basis upon which they could be identified. Patriarchy was thus a respected institution. More importantly, kinship system defined the form of inheritance in the family set up ranging from property such as land and livestock to children and wives. Gunga (2009) succinctly points out that it was the responsibility of the brother to take care the widow of his deceased brother and children so as to provide for them the necessities of life. It is through the kinship system that the widow guardians were identified and given the customary responsibility to guard and protect the widow.

2.1.3.2 Religion

Besides kinship system, religion was another key part of the Luo social system. Okoth (2002) for instance argues that the Luo believed in the existence of a supreme God called *Nyasaye*. He was given several attributes such as *nyakalaga* (one who dwells everywhere) and was considered to be without matter, powerful and intervened in the daily human affairs. For example, he would bring *gueth* (blessing) to people and at times would cause disaster, punishment and sickness when angry. As Mugambi (1989) asserts, supplication to *Nyasaye* was done in the morning and evening hours through spitting towards sunrise and sunset respectively. This could then be followed by
magical words which could not be understood by a stranger. Such prayers were done in submission and reverence when there was absolute need.

Mboya (2000) observes that Nyasaye was prayed to in times of great difficulties while simple issues were addressed to the ancestors who were also believed to be existing in spiritual forms. Malo (1999) however emphasizes that in the family set up, for prayers to be conducted, the head of the family who happened to be the man had to be present since he was the only one believed to possess the inherent ability to intercede on behalf of his family. In cases where the family invited a religious specialist such as medicine men, diviners and seers who were believed to have spiritual power to foretell the future, such specialists could not perform their religious function in the absence of the head of the family - the man.

Furthermore, the Luo believed in the existence of the ancestral spirits. According to Ogutu (1981), this belief was founded on the view that a human being is made up of visible and invisible parts. The invisible is known as Tipo (shadow) while the visible ringruok (body). The union between the two forms life, at death however rungruok turns to dust while tiko transforms into spirit and retains the individual’s identity and becomes more powerful and intelligent than before death. Such spirits continue to exist as long as the generation that recognize it still lives and were thus regarded as ancestors. These ancestors were venerated and viewed as mediators between people and God. To enforce this belief system, the ancestor’s names would be invoked during prayers.

The relationship between the living and the living dead was further expressed through sacrifices which were made on special occasions especially when there was an
abnormality in the smooth running of daily life of members of society (Okoth, 2002). The belief in ancestral spirits was further reinforced by belief in the existence of ghosts. This ensured that people adhered to the acceptable codes of behaviors such as respect to the elders. It is however important to note that like in any other socio economic and political lifestyle of the people, the position of man in the Luo religious life was very important.

As noted earlier on in the chapter, prayers at the family level could not be conducted in the absence of the man of the homestead. Similarly, when the family wanted to offer sacrifice to the living dead, it was the man who led the practice. Opany (O.I, 15th July, 2017) one of the village elders, adds that it was the responsibility of the head of the family to choose the animal suitable for family sacrifice. This therefore implied that death of the man put the family in jeopardy in respect to religious obligations of the entire family.

2.1.3.3 Gender relations

Gender was a very important aspect of Luo social life. According to Opiyo (O.I. 17th July, 2016) a retired chief, such relations begun from childhood stage where children were encouraged to play according to their sex. In instances where boys and girls mixed, they did so under strict supervision from the elderly members of the society. Ogutu (1981) adds that division of labor was done according to gender where men performed masculine duties such as grazing, ploughing, fishing and hunting. Women on the other hand performed feminine chores such as fetching firewood and water,
cooking, cleaning utensils and nursing babies. He also notes that male children tended to relate with the male members of the society.

He, for instance asserts that young boys often accompanied the brothers and uncles in their activities such as fishing, grazing and hunting while girls accompanied their mothers, aunts and grandmothers in their daily chores. Because of this kind of relationship, losing the head of the family through death; in this case the man, meant some important daily chores of the family would easily come to a standstill. It also implies that the male children of the widow lacked a mentor to relate with and more importantly some of the masculine activities in the homestead would stall. As such, widow guardianship would provide a channel upon which the widow would get a man to fit in the shoes of her deceased husband.

2.1.3.4 Birth of a child

The Luo celebrated various stages of life such as birth, removal of six lower teeth, marriage and death through songs and dances. In child birth, for instance, the organization of the ceremony was determined by the sex of the baby. Akinyi (1986) asserts that, while a boy child stayed in the house for four days before being brought out of the house, a girl stayed for three days after which the family members and other relatives came and surrounded the baby while singing and dancing after which the naming of the baby would follow.

On child naming, Ogutu (1981) argues that the choice of the name would be influenced by several factors for instance the time when the child was born. For example, A name
such as Atieno or Otieno would be given to a baby girl or boy respectively born at night hours. Besides the season when the baby was born would be considered. For instance Okeyo and Akeyo would be given to a baby boy and girl respectively born during harvesting season. In addition, major events of the time would be considered in the naming ceremony for example, Olueny would be given to a baby boy born during the period of war, Akech or Okech would be given to a baby girl or boy born during the period of famine. Some children would be named after one of their great ancestors or prominent people in the society. Twins on the other hand would be given special names for instance Opiyo or Apiyo for a baby boy and girl respectively.

After naming, Mboya (1978) notes that the father would say a prayer to thank God for the gift of the baby and call on the ancestors to protect the child from all forms of danger and evil forces. The father would then hand over the baby to its grandmother who would then shave the child as a symbol of beginning of a new life out of the womb. All these activities would be crowned by feasting, singing, dancing and presentation of gifts to the new born by relatives and friends. In summary, while all aspects of birth rituals were important, one cannot underplay the role of the head of the family in dedicating the child to God and ancestors for protection as the baby grows to be a useful member of the community. This therefore meant that widows especially those still in the stage of childbearing stage had no otherwise but to get a guardian who would undertake this noble customary obligation for their children.
2.1.3.5 Initiation rite: Removal of six lower teeth

The removal of six lower teeth was an initiation rite that ushered one to adulthood. According to Akinyi (1986) it was carried out at puberty stage between the age of twelve and eighteen for both boys and girls during which the initiates went through a painful experience of extraction of six lower teeth. One was expected to endure the pain without crying or shedding tears. To the Luo, this was important in several ways. To begin with, Muga (1975) argues that it enabled the initiates to graduate to adulthood and the pain experienced during teeth extraction instilled courage to the initiates to face challenges that came along with adulthood. After initiation one would be allowed to assume adulthood responsibilities and privileges that came along with it. For example, one would be allowed to marry and have children. Besides these, the initiates would be taught the secrets of the community.

A part from these, initiation provided a platform for identification and a base upon which the unity of the members of the community was built. After the initiation, the initiates were taken into seclusion where they were taught about the responsibilities that came with adulthood. This type of education however was administered according to one’s gender. For instance Ojwang (O.I. 7th July, 2016) an elderly man argues that boys were taught duties which were culturally classified as belonging to men such as how to acquire wealth, treat their wives and relate with the in-laws. Girls on the other hand were taught responsibilities which were culturally believed to be feminine for example matters relating to nursing of children, how to take care of and respect husband, kitchen
chores such as cooking, fetching firewood and water. Such teachings were administered through stories, proverbs and general observation of the elderly members of the society.

The initiation process would be crowned by a ceremony in which a bull would be slaughtered and a communal feast prepared to celebrate the graduation of the initiates from childhood to adulthood. It is however important to note that those who failed to undergo the initiation process would be ridiculed by their age mates and would also ever be considered children even if they were advanced in years. Indeed they would be denied the privileges that came with adulthood such as marriage. Like other social ceremonies, the role of family head- the man- during initiation process was undisputed. Ogutu (1981) for instance observes that it was the father’s responsibility to determine the children who were suited for initiation and choose the kind of bull that would be slaughtered to crown the initiation ceremony. This therefore meant that a widow who had children whom she thought had attained initiation age could do nothing on her own to help her children undergo the required customary rite. As such widows were compelled to look for a guardian who would see her children go through the initiation process.

2.1.3.6 Marriage

The Luo took part in marriage as one of the central social circles; thus marriage was considered a social institution that united a woman to a man. This union, as Ouddho (1985) observes, generated a social relationship with the larger society. In this case, it not only united the couples but also their families and clans a like. In this respect therefore marriage was taken to be a communal affair in which each member of the
society was expected to take part. For instance, it was compulsory for every adult member of the society except in special cases such as mental illness and serious incapacitation to participate in marriage ceremonies within the community.

Similarly, Malo (1999) argues that payment of dowry was one of the key rituals in the Luo marriage system which was paid in form of livestock mainly cows to the family of the bride. The amount of bride wealth paid was however determined by the status of the girl at the time of marriage. A virgin, for instance, fetched more cattle (cows) in comparison to a girl who had lost her virginity. Besides, a girl with no child attracted huge amount of dowry as opposed to one who had given birth. He goes further to outline the importance of bride wealth which included appreciation to the bride’s family for bringing up a wife for them. Secondly, it gave the man the right over his wife and children. Thus in case the wife or the child died, it would be the man to bury them. In addition, if the woman left the man and married another man, she would not be allowed to go with the children. A part from this, it indicted that the man was serious in his intention to marry and more importantly, it cemented the marriage covenant between the couples and their families at large.

Upon payment of the bride wealth by the man, Mboya (2000) asserts that the father to the bride gave permission to her daughter to go to the man’s homestead and establish her household. This would later be accompanied by a ceremony known as sewo nyako. With this, the man was perceived to have been legally married. On reaching the bridegroom’s homestead, the man’s family would make a big feast to crown the marriage ceremony by slaughtering a big bull. In this ceremony, the man’s family
would invite the family of the bride and other relatives where they would eat and drink for twenty four hours with songs and dances to welcome the woman to her new home.

It is however important to note that there were other types of marital arrangements. Ojwang (O.I, 7th July, 2016) for instance, notes that if the wife died, then her sister preferably the younger one would be required to replace her. This was to ensure that the bride price was not returned to the man’s family. It was also based on the belief that the sister to the wife would take care of the deceased’s children with love and sympathy as opposed to a different woman. Another type of marriage was where the wife would request her husband especially if the wife was barren to marry another woman who would bear children on behalf of the first wife. In such arrangement, the children would belong to the first wife and not the biological mother. In this marriage, the man would be required to pay bride wealth for the new wife.

Besides this, there was elopement where a girl or a woman would run with a man and stay with him. After a given period of time, the man’s family would approach the girl’s family to arrange on the payment of bride price. This kind of marriage arrangement is notably common in today’s marriage set up. Additionally, another marriage arrangement was where a man would go to the market and then choose a girl he would wish to marry. He would then organize young men of his age to forcefully carry the girl to his house. Here the man who was the prospective husband would break her virginity and since it was a taboo for such a lady to go back to her father’s homestead, the man’s family would organize for negotiation for bride wealth.
Apart from this was polygamy where a man would marry more than one wife. This was one of the most common marriage arrangements especially among the rich members of the society as it was considered, prestigious and a symbol of high status. Akinyi (1986) for instance asserts that in a situation where one had a large piece of land and a large herd of cattle, it certainly made sense to have a large working force which many wives and children provided. But more fundamentally was the widow guardianship marriage arrangement, where a widow was expected to cohabit with the kinsman of the dead husband, preferably the brother and raise children who essentially belong to the deceased man.

In all these types of marriage arrangements children took a central part in a marriage relationship since it was perceived to be a channel through which the community’s lineage was perpetuated. In this respect, when a man died without a child, his widow was obliged to find a guardian through whom she would get a child to perpetuate the lineage of the dead husband as custom demanded. In a nutshell, the existence of a solid social system created a belief that acting against the provision of the societal norms would possibly result to a deadly calamity (*chira*) which had no known remedy. With this belief, people religiously adhered to cultural practices such widow guardianship. Ironically, despite being blamed for faster spread of HIV/AIDS, pressure of modern trends such as women empowerment, western education, urbanization, Christianity among others, widow guardianship has recorded no significant change in nature and practice.
2.2 Importance of widow guardianship among the Luo

The Luo attach great importance to widow guardianship. In a study where the respondents were mainly village elders, widows and the general public, a majority appreciated the importance of widow guardianship in the Luo society. To those who do not see the need for the practice gave a variety of reasons that bordered around Christianity, western education, modern lifestyle, laws and the prevalence of HIV/AIDS. For instance, according to one of the renowned village elders, Opiyo (O.I.17th July, 2016), the culture was based on the provision of security to the widow and her children owing to the patriarchal nature of the Luo society. To him, therefore, such cultural practice has no place in the modern society characterized by good laws that protect everyone irrespective of his or her status. He further insists that the prevalence of the deadly sexually transmitted diseases such as HIV/AIDS does not provide a good environment for practicing this culture, making the entire practice lose its place in the modern world.

Similarly, Achieng one of the widows (O.I.12th July, 2016) in an FGD felt that since the area is inhabited by a population largely subscribing to Christian faith, such cultural practice has no moral significance since Christianity dictates fidelity to one partner. To the young working class, widow guardianship has been overtaken by time hence insignificant. Another widow Pamela Achieng (O.I.11th July, 2017) also adds that apart from being the main propagator of HIV/AIDS, the cultural practice provides a basis through which men who have lost human sympathy rob unsuspecting widows the little wealth left for them by the departed husbands. She pointed out that “I refused to have a
guardian not just because of the fear of HIV/AIDS, but also because nowadays guardians have lost the sense of humanity. They use such opportunities to grab the little material possession left for a widow to take care of the children....”

To the proponents of the practice, widow guardianship is of paramount importance and cannot be wished away by the modern trends. The significance of the practice ranges from socio-economic to psychological aspects. For example, one of the renowned Kabunde elder Owiso (O.I, 2016) in an FGD notes that the death of a spouse often leaves the widow with certain impurity that cannot allow her to comfortably coexist with other members of the society. To him, the only known and surest means to cleanse the widow out of this impurity is through guardianship. Owiso further asserts that the practice is key in protecting the widow against diverse consequences of ‘Chira’ that befalls any member of the Luo society who disregards well established customs of the land such as widow guardianship.

On this, Mboya (1997) argues that it was a taboo for a widow to stay alone without a guardian. She was thus obliged to look for a kinsman preferably the younger brother to the deceased husband, or be forced to contend with the one provided for her by the family members. Mboya further observes that failure to adhere to this age old custom could result to ‘chira’ that would not only affect the widow but also her family members such as children, grandchildren, daughter-in-law or even co-wives. She was therefore compelled to have a guardian even if not for her sake but for the sake of others. Similarly, Okeyo (1994) admits that the death of a husband often leaves the widow in an impure state and even prevents her from fully participating in the activities
of the community. He therefore recommends sexual ritual to remove the impurity as the custom dictates. To him, this can only be achieved through widow guardianship.

In addition, Ambasa (2007) holds that the custom was useful in that it helped perpetuate the lineage of the deceased man especially where the husband died without siring male children. The children begot from the union would be the children of the deceased man and they would address the genitor with the appropriate title appropriate to him prior to the union such as the brother to my father. In fact Gunga (2009) insist that the man to serve as a guardian to the widow must be a kinsman of the dead.

This view was supported by a member of the Luo Council of Elders- Nyaruath Arwambe, who argued that the custom is important in protecting widows from persons with unknown sexual history who would easily introduce sexually transmitted diseases and sexual behaviors that otherwise the deceased man would have not condoned in his life time (Arwambe, O.I, 4th July, 2016). One young widow, Jane Aoko, in an FGD argues that sometimes death robes women their husbands when they are young and sexually active. This is worsened by the fact that sometimes they are left with the young children to take care of. This to her leaves such widows with guardianship as the only culturally acceptable way of taking care of the children and getting sexual needs. She testifies that:

I accepted to be guarded for two reasons first, my husband died when I was barely twenty two years, this left me with guardianship as the only culturally acceptable institution to sustain my sexual needs since I could not be allowed to remarry. Secondly, being left with the little children to take care of with no
meaningful work, I had to seek for a guardian who would help me bring up the children… (Aoko, O.I.10th, July, 2017)

According to Manala (2015), the traditional African cultural customs was grounded on ‘Ubuntu’ principle which emphasized on communality, mutual respect, love and caring especially for the vulnerable groups such as the widows, orphans and marginalized in the society. To him, the practice of widow guardianship was carried out to provide a helping hand and a caring heart for the widows and their children in order to resonate with the provisions of the ‘ubuntu’ principle. Tosie (2008) also adds that widowhood rites such as widow guardianship were not primarily designed to dehumanize women or impoverish and oppress women nor were they part of the so called male chauvinism; rather they were well intended for the overall good of the widow and her children. For instance, the custom gave the widow a shoulder to lean on when faced with the economic challenges that death of the bread winner exposed her to. To him, this was the best available way of the time society could extend a helping hand to widows. Tosie further asserts that the cultural institution ensured that there was no vacuum in terms of family leadership since the man was believed to be the head of the family. Thus the death of the man often exposed the family to leadership problems.

To this end, he gives the example of important matters such as land and discipline of children to mention but a few which often required the direction of the family head- the man. He therefore disagrees with the view that widow guardianship was conceived with an aim of robing widows. Furthermore, it was the most convenient way of reclaiming
the benefits that came with marriage life after losing a partner. Masango (2006) observes that enjoyment of marriage life is part of humanity. To him therefore even death of the one partner should not have limited the other partner from enjoying the worth of marriage life.

Another significant of the cultural practice was the demonstration of love. As Wilson (1961) notes, the Luo had natural love towards women and children. Out of this love, the community was obliged to take care of the widow and her children and provide them with all the needs that the deceased head of the family- the father would have provided. Today among the Luo of Homa Bay, Cherono (2014, 19th August) observes that the practice has taken a “benevolent” form thus, a group of men move from one funeral to a another to look for widows to take care of. This group of people have locally called themselves jokitoko (professional guardians) who have claimed to have received a revelation from the ancestors to perform that noble duty. To them, no widow should find herself in the state of “loneliness” and inability to obtain “daily providence” on the mere account of losing the husband through death. This showed the extent to which the society is willing to go for the sake of its women. It further explained why a man would travel as far as another clan to serve as a guardian to a widow who was miles away from his clan.

A part from these, Malo (1999) adds that the practice was done for social and economic support to the widow and her family. Socially, he argues that it was necessary in providing a platform through which the young widows would get sexual satisfaction which was their marital right like another woman. On matters of economics, he
observes that in the Luo society the men were the main bread winners of the homestead. This implied that he initiated and organized economic practices which ensured that the family was provided for. In the agricultural field for instance, it was the role of the man to ensure that farms were cultivated and ready for planting. The economic significance of the man was more pronounced among the clans residing next to the lake where fishing which was a major economic venture was largely a taboo for women to engage in. The family therefore had to rely on the man to fish and provide for its essential needs. The death of the man therefore sounded a death sentence for the whole family. It’s against this background that the practice was formulated to enable widows and children to get daily providence.

Zaedi (2006) further assert that widowhood entails emotional loss and change in lifestyle, identity, social status and roles. In this regard therefore, social, economic and emotional support should be provided by the family members, community and society at large to enable the victim cope with the change of life. Manyedi (et.al, 2003) however emphasize that support from the deceased man’s family was highly valued. In similar fashion, Lopta (1979) insist that in order for the widow to be integrated in such support system of their community, they needed a friendly culture which widow guardianship provided. Ssossou (2002) further emphasizes that support and empowerment should be both collective and personal to help the widow take care of her family. To this extent therefore widow guardianship provided a useful practice upon which emotional support for the widows could be sourced.
CHAPTER THREE: MISSIONARY ACTIVITY, COLONIAL POLICIES AND THEIR IMPACT ON THE PRACTICE OF WIDOW GURDIANSHIP AMONG THE LUO 1920-1963

3.1 Introduction

In the previous chapter we examined the importance of widow guardianship among the Luo in pre-colonial period. This chapter attempts to establish how the extent to which missionary activities and Colonial policies affected the practice of widow guardianship among Luos. The chapter begins by tracing the entry of missionaries and British colonialists noting the social cultural and political policies that were imposed on Africans and how theses affected the practice of widow guardianship.

3.2.0 The Coming of Christianity in Luo Nyanza

According to Opwapo (1975) Christianity in Luo Nyanza can be traced with the arrival of Church Missionary Society (CMS) in Maseno where they built a mission station. The CMS were later followed by the Mill Hill Fathers (MHF) who built a mission station in Kisumu. These missionaries were followed by the African Inland Mission (AIM) who established mission station at Maseno. Six years later, the Friends Africa Industrial Mission (FAIM) arrived in Kisumu but later moved to Kaimosi. Indeed with the construction of Uganda railway, Adongo (2015) observes that various missionary groups sprung up in Luo Nyanza such as African Inland Church (AIC), Seventh Day Adventist (SDA) among others.
3.2.1 Christianity in South Nyanza

According to Akinyi (1986), Christian gospel reached South Nyanza around late 1930s through the efforts of CMS African convert Rev Ezekiel Apindi who was among the Maseno missionary school graduates and as such was given the responsibility by the church to spread the ‘light’ in areas which had not been reached. Akinyi further asserts that upon reaching south Nyanza, Rev. Apindi settled and established a station at Pe-Hill Akoko from where he could move from one village to another preaching the gospel and establishing churches. Muga (1975) observes that by 1940s, Apindi had established churches and schools in places like Pe-Hill Akoko, Kisii and Maraga. This opened up South Nyanza for other missionary groups and by late 1940 the MHF and SDA had arrived in South Nyanza. Maagi (2014), however notes that though many missionary groups arrived and established stations in the area, it was the SDA group that fully penetrated into the region and established several stations in places such as Gendia, Rusinga, Wire Hills, Kanyidoto, Kamagambo and Karungu. As such their teachings influenced the inhabitants of the region which was by then called Homa Bay District.

3.2.2 Christian Missionary activities in South Nyanza

Once missionaries settled and established themselves in south Nyanza, Maangi (2014) records that they began preaching the gospel. However at first, majority of the people were skeptical about their teachings and some Luo even mistook them to European colonial administrators. Akinyi (1986), for instance observes that when the missionaries told the Africans to close their eyes for prayers, the Africans would ran away to
different directions thinking that the missionaries would shoot them with their eyes closed.

Furthermore it appeared that the Africans were unwilling to abandon some of their long held cultural practices, such as polygamy, widow guardianship and removal of the six lower teeth which the missionaries’ often preached against. As a result of this, the missionaries’ changed tact of reaching out to Luo and this was through education. To affect this new approach the missionaries used the mission centers as schools and pleaded with the African chiefs to enroll their children to school, a call which a significant number of chiefs responded to positively. In school, the children were mainly taught the Bible, basic hygiene, reading, writing and arithmetic. Muga (1975) further adds that the curriculum also included the dos and don’ts of life such as drinking of alcohol, liking of girls, lying, disrespect to authority among others.

With this approach, Nyaundi (2013) observes that the missionaries were able to win a good number of converts through children of chiefs. This success was however short lived since most parents begun to view school process as a means of making their children lazy. Furthermore, the children who went through missionary education begun to disregard the long held customs as primitive. Some boys even refused to undergo initiation rite (removal of six lower teeth) because they had received alternative rite (baptism). As such, many parents withdrew their sons from school. To combat this, Amayo (1973) notes that the missionaries built boarding schools to shield pupils from what they termed as ‘local primitive cultural influence.’ This is confirmed by Rev.
Ezekiel Apindi in a letter dated 19th February 1945 to the area DO, where he observes that:

…there is an agent need to protect the young school going boys from the humiliation from the larger community who have not accepted Christian faith… in this respect, I seek permission from the government through your office to be allowed to build a boarding facility for the children and upon closer of the school, the children will be protected by the authorities from the harmful cultural influence…. (KNA DO/NZA/2/1/490/1945)

They also established mission hospitals such as Gendia where Africans were treated and then preached to. These efforts yielded results as a significant number of Luo joined the Christian faith. Similarly, most of the boarding students embraced Christian faith since they were shielded from home cultural influence and upon returning home for holidays they were also able to influence their parents to accept Christianity (Ogutu, 1975).

Despite this success, Alymond (1973) laments that soon a good number of followers backslided and went back to their old cultural practices. Even the boarding students could not stand the challenge that came with their new faith as they could be ridiculed by their peers. To this end, though the missionaries managed to spread the Christian faith among the Luo of Homa Bay, Opwapo (1980) notes that a majority of Africans did not show the commitment to the new religion and its values since missionaries placed a lot of emphasis on fighting what they perceived to be primitive cultural values such as polygamy, widow guardianship and removal of six lower teeth at the expense of teaching and demonstrating love which was the core foundation of Christian faith.
Christianity as presented by the missionaries was clothed in European cultures and attitudes which were not compatible with African cultural traditions. As such, a significant fraction of people were not able to establish the difference between the Christian missionaries and the European colonialists who were fond of brutally mistreating the Africans. This could have been the force behind the evolution of African Christian independent churches in the region such as Nomiya (was given a vision) of John Owalo which taught Christianity in relation to African cultures. Irrespective of this, the activities of Christian missionaries in the region admittedly had a profound impact on the Luo long held cultures such as polygamy and widow guardianship.

3.2.3 Impact of Christianity on widow guardianship

With the intense missionary activities in South Nyanza, ranging from building of churches, schools, hospitals to administering western medical care with an aim of spreading the gospel of Christ, it was evident the activities would possibly impact on peoples’ lives in one way or another. Indeed as a sizeable number rejected Christian message due to its incompatibility with the Luo cultures, Akinyi (1986) observes that Christian gospel was clothed with complex European cultures such as education, medical care and western mannerisms which created a lifestyle that appealed to a fraction of the Luo which made them disregard some of the long held African cultures such as widow guardianship as primitive. Amayo (1973) for instance argues that some of the young men who had graduated from Kamagambo Mission School easily abandoned their deceased brother’s wives whom they were culturally obliged to guard
and stuck to their wives claiming that the Bible did not allow having more than one wife.

This was based on the Christian teaching they had received at Kamagambo mission center which emphasized monogamous marriage and fidelity to one wife. As such widows begun to look for jokowiny (foreigners) to guard them, instead of the close Christian relatives. Similarly, a retired teacher Mzee Owino (O.I, July, 17th 2016) laments that the Christian missionaries often preached against the Luo long held practices such as polygamy which widow guardianship was part of. For instance, in a letter dated 4th September 1941 to Pe-Hill faithful, Rev. Apindi advices that, marriage is only possible between a single man and a single woman. Such people must have not been married sometimes back before. To him therefore monogamy was the only acceptable form of marriage every man should practice (+). This was contrary to the Luo customs which provided for a man to marry more than one wife. The doctrine further insisted that marriage lasts until death after which a spouse was free to remarry. This was contrary to the Luo traditions which held that marriage continued even after death, therefore a widow must be guarded by the kinsman of the dead man especially the deceased’s brother to perpetuate the lineage of the dead man’s family. Besides, the Christian teachings held that, marriage arrangement was purely based on the free consent of the people involved (Kaland, 1975). This was in total contrast to widow guardianship which confined the widow to the kinsmen of her husband either willingly or unwillingly.
Moreover, Philip (1969) in defense of Luo customs argues that marriage was a communal affair, thus the marriage relationship not only existed between the husband and wife but also the members of the community. In this case therefore when the husband died, his widow had to be taken care of by the members of the clan through a guardianship arrangement. This was against Christian missionary teachings which asserted that each person must have his or her own wife and husband not on communal terms. Indeed arch Bishop Owen confirms similar view in his letter dated 15th 1940 to the native council where he advised that widow guardianship was incompatible with Christian morals and therefore had no room among the Christian community. Widows are to remain single and take the demise of their husbands as God’s will. However young widows are accepted to enter into new marriage sacrament (KNA PC/NZA/3/2/24/1940).

As a result of the missionary firm opposition against widow guardianship, the Luo especially the Christian converts begun to shun the practice. For example, a church elder; Kaloo (O:I, 7th July, 2016) narrates that most Christian converts who participated in guardianship arrangement begun to ask for forgiveness and the members were forgiven so long as they were ready to part ways with the widows under their guardianship. He further explains that, in cases where the widow was a converted staunched Christian, such a widow often resisted to be given a guardian and instead opted to remain single in obedience to the scripture. Indeed Mzee Opany; a village elder, observes that a widow would report to the missionaries when they were being forced to be guarded (Opany, O.I.15th July, 2016). In a letter dated January 1934,
Bishop Owen appeals to the D.O to look for ways of protecting widows from their in-laws who refuse to enter into guardianship union. He goes on to explain that such marriages turned tragic forcing widows to run to him for protection which he could not adequately provide (K.N.A PAC/NZA/3/24/1934).

Similarly the brothers of the deceased who were staunch Christians also tended to ignore their customary obligation of being guardians to the widows on the belief that it a violation of the bible; 1Corithians 7: 2 which demands that every man to stick to his own wife and each wife her own husband. Nyaose, a staunch SDA member confirms this in a response to the question paused in FGD on why he failed to take his brother’s widow whom he was culturally obliged to guard, he said that “God in the scripture demands that every man to stick to his wife, by guarding a widow, I will be going against the wishes of my Almighty creator” (Nyaose O.I. 10th July, 2017). With this kind of reluctance especially among the kinsmen of the deceased men, widows are forced to look for a man from a distant clan to meet the customary responsibility of serving as a guardian. He however notes that a widow who refused a guardian would be either forced to leave with a guardian or the husband’s property taken from her and later sent away for fear that she would bring chira.

Despite the negative impact the Christian teachings had on the culture among converts, the study reveals that some Luo converts took the opportunity to study the scripture and interpreted it in line with their cultural demands. Hale (1996), for instance, records that the members of Lejo Maria Church used the Holy book to justify the institution of
widow guardianship through carefully interpreting the scripture which provides useful
ground upon which the Christian widow guardianship is anchored. Key among these
scriptures is 1Timothy 5:3 which provides that, “proper recognition should be given to
the widows who are in need”. Verse 8 further warns that “if any one fails to provide for
widows, such a person has denied the faith and is worse than a non-believer.” To them
however, the provision for widow can be best achieved within the institution of widow
guardianship as provided for in the Deuteronomy 25:5-6 which states that, “if brothers
live together and one of them dies without a son his widow must not marry outside the
family, her husbands’ brother shall take her and marry her and fulfill the duty of the
brother in law to her and the first child she bears shall carry on the name of the dead
brother…” Indeed to them this was the true form of worship as recorded in James1:27
which holds that “religion that God our father accept as pure and faultless is this, to
look after orphans and widows in their distress…” In fact this group of Christians held
that such individuals are assured of God’s blessing as implied in Jeremiah 7:5-7. All
these show the extent to which the institution of widow guardianship was transformed
to be accepted within the Christian confines.

3.3 British colonial policies and their impact on Widow Guardianship

British colonialism in Kenya, according to Ogot (1960), dates back to Berlin
Conference when the region was recognized as the British sphere of influence. Being
reluctant to take an active responsibility over her sphere of influence, the British
assigned a home commercial company, Imperial British East Africa Company to
administer the region on her behalf. The British later however took an active role in administering the colony with the collapse of IBEACo.

Since then the African cultures have had socio-economic and political transformations. Mbithi (2002) observes that slowly and steadily the transformations in African cultures has taken effect. Abongo (2014) on his part attributes these transformations to colonial policies such as land alienation, African taxation, forced labor, western education and health care. This was further enhanced by urbanization, faster spread of Christianity and western mannerisms.

Like any other Kenyan community, the Luo were subjected to colonial policies and the new ideas and culture that came with colonialism. This significantly transformed long held Luo cultures such as widow guardianship. Githinji (2016), for instance, argues that British colonialists came up with ordinances such as Land Acquisition Ordinance, Crown Land Ordinance, crown land ordinance, and Kenya native area ordinance. To him, these ordinances may have had different provisions but he is quick to note that their central similarity was that, they were formulated to alienate land from the native African population. As such Africans were often moved to the reserves which were generally infertile, overcrowded and characterized by abject poverty and constant food shortage. This compelled the Africans especially men to resort to foreign activities such as wage labor in the European white settlers’ farms or urban areas.

This change of lifestyle had a lot of bearing on the practice of the traditional African customs. For instance, among the Luo, Malo (1999) observes that wage labor especially in urban areas took away able bodied men who were central to the practice of the
community’s long held cultures such as widow guardianship. *Mzee* Omolo (O: I, 2016)
observed that urban wage labour changed the view of young men on important cultural
practices such as marriage. This is because, upon reaching town, the young men found
town life too challenging and unpredictable especially on the economic sphere. These
economic challenges not only made a majority to take too long to marry but also filled
them with fear on the management of large families for which widow guardianship was
known for. The young men realized that unlike in the countryside where many wives
and children were viewed as a source of labour, in town they meant many mouths to
feed. Consequently, the kinsmen who could serve as guardians begun to shy away from
their noble customary obligation. On this, Brett (1991) notes that African women and
Kenyan women in particular contributed about 60% to 80% of the agricultural
production, He however observes that like in the pre-colonial period, the colonial land
tenure system did not allow the women to own land but instead gave them the right to
use land through their husbands. Bergman (1985) further maintains that the access to
resources of production was directly linked to land tenure system. This is a clear
demonstration that for a woman to participate in agricultural production which was
perceived to be the backbone of the economy, then she had to do so through a man. This
therefore left widows with no option but to get guardians.

A part from this, colonialism brought with it western education which significantly
transformed the Luo socio economic lifestyle. Such transformation also had a bearing
on the manner in which the Luo practiced their culture. As Owiso (O. I, 2016) explain,
the educated elites often received missionary type of education which was mainly
against some of the Luo cultures which were perceived to be primitive in nature. Some
of the cultural practices perceived to be primitive was widow guardianship and the removal of six lower teeth. This to certain extent made the educated elite to shy away from the long held traditional practice. He further adds that the educated elite often went to towns to look for white collar jobs, urban set up was however cosmopolitan where the Luo elites met people from other communities besides other races with different cultural setting all together. To Owiso therefore, the interaction in this kind of cosmopolitan environment made educational elites to abandon some of the cultural practices such as widow guardianship which was seen as backward and uncivilized.

On similar strength, Mboya (2009) observes that from the onset of colonialism, a majority of the Luo community provided migrant labor especially in urban centers all over the country due to harsh colonial policies such as high taxation. This enabled the Luo to interact with other communities and adopt certain marriage and sexual practices which were unfamiliar to the Luo nation. Similarly, the colonial policies made life hard for one to take care of a large family. According to him, this made a significant number of the Luo men to fear widow guardianship which meant additional family responsibilities. Additionally, Lewis (et.al, 2013) argues that the Luo migrant laborers who lived in urban centers interacted with people of different tribes and races. This interaction to him had a number of implications; it could lead to intermarriages between the Luo and other communities who knew little or nothing about widow guardianship. In this case if the spouse who was a Luo died, his widow easily hides behind her custom to escape from widow guardianship.
Ambe (1978) further argues that with the colonial rule, the missionaries were able to intensify their work of converting Africans to Christianity. Accordingly, a good number of the Luo embraced Christian faith which made them distance themselves from the practices such widow guardianship which were perceived to be contrary to the Christian’s code of morals. Mbote (2010) also holds that colonialism exerted a lot of pressure on the Africa customary laws, practices and procedures relating to marriage to westernize or civilize it. To achieve this, the colonialists enacted legislations that encouraged western principles of marriage. He identifies one of the colonial legislation as a law that defined marriage as monogamous. In theory and practice this basically ruled out the Luo forms of marriage such as widow guardianship which was polygamous by nature. This legislation further provided that, if one was a Christian, the spouse could not marry anybody else as long as the marriage was not dissolved. With this kind of legislations, marriage systems such as widow guardianship which basically meant having more than one wife had no place in the colonial economy.

Ayoo (1968) further asserts that the colonial courts held that African traditional marriage were not marriage but rather a form of wife purchase. To this extent, the colonial government gave little or no respect for the African forms of marriage but rather advocated for civil and Christian marriages which were by design monogamous. In this type of marriage, the spouse could not marry anybody else so long as the marriage was not dissolved. This basically implied that a widow whose husband died before legal dissolution of marriage remained single and without a guardian.
Abongo (2014) also laments that colonialism introduced money economy among African societies. This gave birth to individualism and materialism which replaced egalitarianism or what he calls ‘collective social living’ which was once treasured by the Luo. As such cultures such as widow guardianship which were anchored upon such principles of collective living begun to fade away. Furthermore Ayot (1978) argues that colonial laws gave women leverage on the ownership of property within the marriage set up depending on what one brought to the marriage. This to a reasonable extent gave women especially the few who had acquired western education some courage to stand alone and make decision whether or not to have a guardian. Ambe (1978) further observes that with the colonial rule, the missionaries were able to intensify their work of converting most Africans to Christianity. Accordingly, a good number of the Luo embraced Christianity which made a majority distance themselves from practices such as widow guardianship which were perceived to be contrary to the Christian’s code of morals.

Moreover, Englishmen had a different view towards marriage, as Claire (2013) records, once couples were married, they would set up their own home where they would live together as an independent family. In this respect, neither their parents nor relatives would have any control over their affairs. He further adds that even after the death of one spouse, the remaining one would still have the control over the properties the two gathered together during their marriage life. This however was contrary to the African traditional system of customary laws. For instance, among the Luo, Ojwang (2005) observes that marriage was not an affair of the couples but rather clan’s. To him,
therefore, the decision made by couples not only affected them but also other members of the clan.

In this respect therefore, it was the responsibility of close relatives to provide a suitable guardian in case of the death of the male spouse. Unfortunately, the British colonial rule was largely premised on the civilizing mission by instituting reforms that portrayed the English way of life as the model. More often than not however, such reforms were formulated without recognizing the African cultural systems. To this end, though their attempt to instill the doctrine of independent marriage institution among the African was destined to fail; it left a mark that things were no longer done the same way.

Despite this stiff opposition to African culture there were instances where the European colonialists gave a soft stand on African cultural heritage such as widow guardianship. For instance, in a letter dated 15th November 1953 to the Native Court Advisor, Gordon Wilson advices that, if chi liel taken by a kinsman to raise children for her deceased husband proves to be barren or gives birth to only daughters then the guardian may use cattle for the dead man to marry another wife from the same anyuala (clan) as the chi liel in order to raise a son. In such a case, the child raised in such union becomes the son of the dead man and has a right to inherit the property of the deceased man. Such property however are held by the guardian in trust of the male child until he marries after which he hands them to the child. He however warns that if a widow refuses to be guarded by a man appointed for her by the elders and elopes with a stranger, then the children born out of such union are regarded as kimirwa (illegitimate child) and cannot have the right over the deceased man’s property (K.N.A OP/EST/1/454).
Besides, the Nyanza PC in a letter addressed to the DC Central Kavirondo, Kisumu on 12\textsuperscript{th} March 1941 points out that a widow should not be subjected to hut tax but rather be counted under the kinsman of whom the society entrust to guard and take care of her (K.N.A PC/NZA/2/7/128). This is a testimony that to some extent, the colonial officers would support African cultures such as widow guardianship especially if such cultures had little to do with their daily operations in the colony.

In a nutshell, colonialism had a profound impact on the nature and the manner in which the Luo customs such as widow guardianship were practiced. Such effects lived with the Luo even in the post-colonial era.
4.1. Introduction

The previous chapter was a critical analysis of the impacts of Christianity and the colonial policies to the institution of widow guardianship. This chapter however extends the discussion to the postcolonial era by examining emerging trends such as women empowerment, growth of western education, availability of modern laws and how such trends have influenced the practice of widow guardianship.

4.2 Women empowerment in the post-colonial Kenya

The oppression of women dates back to the patriarchal pre-colonial society where leadership from the house to the community was a man’s affair with women having no input whatsoever (Ogot, 1976). This view was further extended to the colonial era where men dominated almost all spheres of life. Bate (2015), for instance, notes that the British in their way of operation and behavior religiously observed “Victorianism” which held that women were private and domestic beings. As such, the British colonial officers hardly appointed women in any administrative positions. Based on such discriminatory appointments pegged on gender, men occupied all administrative offices from governor, Provincial Commissioners, District Commissioners, District Officers, and Chiefs to headmen.

The missionaries even worsened the already bad situation through their activities and teachings. A retired teacher, Opiyo (O.I, 17th, July, 2016) in an FGD observed that in teaching family life among Christians, European missionaries often taught that the man
is the head of the family as illustrated in the Bible. Wives on the other hand were expected to submit to their husbands as captured in Colossians 3:18. They went further to caution women against talking where men were as this would go against the provisions of the Holy writing (1Timothy 2:11). Men on the other hand were warned against treating women as their equals since women are “weaker vessels” (1Peter 3:7). This attitude towards women was also demonstrated in their activities such as teaching and preaching in which Opiyo admits that they would hardly see a woman on the pulpit. To this end women occupied positions that were far from any form of influence. It was not until 1960s, as Kanogo (2005) observes, that a woman rose to a meaningful position of influence with the appointment of Precilla Abwao in the British colonial administration.

4.2.1 Jomo Kenyatta Era and Women Empowerment in Kenya from 1963-1978

Independent Kenya, led by President Jomo Kenyatta presented a ray of hope to the women empowerment both in the socio- economic and political spheres. Indeed women hoped to attain equal opportunities with men. This however was not the case as leadership was influenced by colonial legacy of Victorian view of women backed by the African patriarchal system. Bate (2015) for instance gives an example of the Kenyan post-colonial administrative structure where the country was divided into Provinces headed by Provincial Commissioner, Provinces divided into districts headed by District Commissioners and Districts into division headed by District Officers and district divided into locations lead by chiefs and locations into villages headed by village elders.
In this he observes that no woman featured in any position as positions were occupied by men.

With such disappointment in appointed positions, women saw the 1963 general election as an opportunity to make their voices heard. As such many presented themselves as candidates in that election. On this, Kamau (2010) observes that the polls served as a perfect indicator of their subordinate position in the Kenyan society by making all women contestants loose with some withdrawing their candidature due to violence that was intentionally carried out against them. Due to failure to acquire women empowerment through elective positions, some group of women embarked on agitating for the nomination slots in Parliament; unfortunately such requests fell on deaf years. Women agony was further worsened by the existing constitution. The independent constitution from the onset, as Munene (2002) records was meant to be biased against women; first it was formulated and passed without their input. Besides, it had general provisions which could easily be misinterpreted to deny the vulnerable such as women their rights. Furthermore, on marital matters the constitution was too general in addressing the issue of marriage thus, it simply categorized marriage as customary marriage, Christian marriage, civil marriage and Hindu marriage, as such most men settled for customary marriage which often saw women as people whose place was in the kitchen (Mwangi, 2004). Moreover such marriage denied the women opportunity to inherit property of their husband in case of his death which left the widow with only one option; accept to be guarded in order to continue benefiting from the property left behind by the husband.
In view of this, Bocheberi (2013) observes that Kenyatta in 1987 appointed two commissions to examine laws concerning divorce and marriage and check into matters of succession and the women right in marriage in a free democratic society respectively. The commission recommended among other things the right to acquire and own matrimonial property and maintain patrimonial property before and after the death of the husband. These recommendations were forwarded to parliament for passage. However, the bill was shot down on the basis that it would give room for the state to interfere with family matters that were well addressed in the African culture.

To this end Kenyatta’s era did very little in empowering womenfolk in all spheres of life. Kamau (2010) laments that women issues were not factored in the national agenda. In political matters, for instance, they were relegated to the periphery. With lack of adequate empowerment, women easily fell prey to what Mailu (1988) describes as cruel forms of cultures such as widow guardianship.

4.2.1.1 Women’s Decade 1975-1995

According to Morgon (1984), the Women Decade was an opportunity to strengthen linkages in the work on women’s human rights and integrate women social, political, economic and cultural rights in a single agenda. To him, such conferences provided an opportunity to demonstrate the multiplier effect that achieving all the women rights has for the women and the society in general. In respect to this, United Nations convened four major conferences between 1975 and 1995 to discuss matters of concern to women. Accordingly, Freser (1987) observes that the first conference was held in Mexico City in 1975 and five years later the second conference was held in Copenhagen in 1980. In
the similar sequence another conference was convened in Nairobi in 1985 and the fourth one being held in Beijin in 1995.

The Mexico conference was convened by the United Nations to focus international attention on the need to create a foundation for future oriented goals, effective strategies and plans of action for the advancement of women. To do this, the conference produced two major documents: the declaration of Mexico on the equality of women and their contribution to development and peace and the plan for action of implementing the objectives of women’s year. The documents offered a guideline for governments and international community to follow for the next ten years in pursuit of the decade’s objectives and called upon the governments to formulate national strategies and identify targets and priorities in their effort to promote equal participation of women. Indeed by the end of the decade, a significant number of member states had established national institution dealing with the promotion of women welfare (Marcella, 2009).

Kumar (2001) on the other hand observes that the 1980 Copenhagen conference was held to report on the progress made in the implementation of Mexico resolutions. The Nairobi conference, on its part celebrated the achievements of the women decade and established an agenda that was meant to give direction to future efforts aimed at promoting equality of women worldwide. The Beijing conference on a similar strength was convened to promote faster implementation of the policies outlined in the women decade documents by ensuring that it removed all forms of obstacles to women’s active participation in all sphere of public and private life with an equal share in socio-cultural, economic and political decision making.
These conferences were useful in promoting women’s welfare. Marcella (2009), for instance argues that the conferences helped to legitimize women’s issues especially those regarding their roles in homes and workplaces. Hemment (2004) admits that though the conferences were characterized by ideological differences between the West capitalists and the East socialists, prior to women decade it was very difficult to speak about women issues in the international arena of UN standing. As such, the conferences established a foundation upon which women problems would be discussed on the international stage and solutions for such problems sourced out. For example, the conferences brought out many inequalities women face in various fields such as education, health care and work to the attention of national leaders, general public and international stage and as such the conferences came up with resolutions to promote equity between men and women and fight all forms of discriminatory behaviors directed towards women worldwide.

According to Chen (1995), there was also a view that woman problems could not be divorced from political, economic and social realities in the areas where they live. He cites poverty as one of such socio-economic challenges that women face globally. To him, these problems not only stem out of the patriarchal system and the systematic inequalities between men and women but also from the exploitation and violence waged against the weak such as women in resource acquisition. In view of this, the conferences addressed a number of topics which were often seen as a recipe for poverty among the women for instance discrimination in employment opportunities, education inequalities, women representation in political offices and the maintenance of peace with an aim of empowering women economically.
Kenya being one of the key participants and a convener of one of the major conference was obliged to implement the resolutions of the women decade. In light of this, there was high expectation on the side of government in the implementation of the resolutions of women decade in establishing an equal society between men and women and fighting discriminatory practices and cultures such as widow guardianship which evidently undermined the welfare of women. Ayot (2007), however, notes that the post-colonial regimes largely ignored women in political affairs as they were relegated to the periphery. In doing so, Ayot observes that it was very difficult to implement the provisions of women decade since political positions provided an avenue through which such resolutions could be easily implemented.

Despite this failure, Bocheberi (2013) notes that the decade provided a platform through which women issues reached the national political leaders and though there was lack of political will in implementing the conference resolutions, it was just a matter of time before the implementation was achieved. To Bocheberi, the decade provided the necessary pressure to the political class that made it easier for women welfares to find a significant space in the Kenyan’s constitution. He further adds that women decade enlightened women on the need to resist cultures that discriminate against them such widow guardianship. To this end, it would be safe to conclude that, though the decade did not eliminate cultural practices that dehumanized women such as widow guardianship, it provided a good foundation upon which such cultures were progressively eliminated.
4.2.1.2 Maendeleo Ya Wanawake Organization and Women Empowerment

Maendeleo ya wanawake is notably the oldest women organization in Kenya. According to Biegon (2016) the organization traces its roots to colonial era as a welfare organization set up in 1952 as a country wide club that would introduce women to western methodologies of preparing food and taking care of children. In this respect therefore, the main aim of the organization was to help women adopt modern techniques of carrying out domestic chores. However, being led by European women who decided the kind of activities the organization would take part in, more often the organization engaged in political events besides the core goal of domestic tasks.

As a result, the organization provided a training ground for women who later took a key role in Kenyan politics. One of such women was Phoebe Asiyo who later headed the organization. With this position, Asiyo found ground upon which she would later begin a political journey and in 1979 she became the first woman Member of Parliament in Kenya. By the mid-1970s, Ayot (2007) narrates that under her leadership the organization had a nationwide presence inspiring other women movements such as Young Women Christian Association (YWCA), Dorcas Union (DU), Girl Guide and Anglican Mothers Union (AMU). Though these organizations were limited in objectives, they formed a critical basis upon which women were empowered from the social-economic sphere to the political sphere.

Economically, Bocheberi (2013) admits that through such organization, women were able to contribute money for each other in a secular manner for economic development. One of the known evidence of such little contributions from women is Maendeleo
House which is estimated to have cost about fifteen million Kenya shillings. Similarly in political life, they formed an avenue through which the women vied for political offices. With this kind of empowerment programme, the organization significantly reduced the vulnerability of women especially widows to be subjected to what Mailu (1988) calls humiliating cultures such as widow guardianship which a majority of widows found themselves in due lack of proper economic base.

4.2.2 Moi Era and Women Empowerment; 1978-2002

Like Kenyatta’s regime, Nyayo era did little to empower women. Kibira (2011, p. 48) for instance, argues that Moi’s government did not condone any motion geared towards amending the constitution to include women into leadership positions. In this respect, Kibira gives an example of Moi’s cabinet minister quoted saying “...there was no need for this motion because male Members of Parliament (MP) represented everyone including women and women are doing a wonderful job of bringing up children which is a very important role.” He further adds that Moi would argue that the constitution did not prevent women from vying for political offices and as such there was no need for a formative action. In similar manner, Ndegwa (1996) asserts that women organizations such as MYW which were initially formed for the noble aim of empowering women, were turned into campaign machines for the KANU regime through their leaders. As a result of this, the organizations lost direction altogether. With lack of empowerment systems, women especially widows, became vulnerable to age-old and to long age outdated cultures such as widow guardianship for their economic survival.
Ndewa (1996) further observes that the situation begun to change towards the end of the Moi regime due to pressure from the international community. A number of women organizations emerged which were dedicated in the course for women empowerment. To this end, he cites the Green Belt Movement of Kenya whose primary aim was to organize women to plant trees and also link tree planting and environmental conservation to women empowerment. Indeed by 1992 as Nzomo (1997) notes that, the movement managed to organize women of all statuses even to oppose KANU government which could not be easily done by people who were perceived to be a weak group of people such as women. A good example of the might of women was seen in 1992 when the organization mobilized women to oppose the construction of KANU headquarters at the middle of Uhuru Park through parading themselves naked to prevent the police and constructors from gaining access to the park.

This action inspired other women groups giving rise to other groups such as Young Women Christian Association (YWCA) which primarily emphasized on women socio-economic empowerment besides religious matters. Such groups as Bochaberi (2013) indicates, gave birth to informal saving and lending schemes among women which have been commonly referred to as merry go round. A woman who is a small scale trader, Nyakasingri (O.I.4th July,2016) narrated how merry go round has changed her economic wellbeing. She observed that ‘kane pok merry go round obiro ne tek kano pesa kaluore gi chal mar oandwani lakini sani keno yot anyalo kano kata mana fis mag yawuota ariyo mathi skul’ (before the advent of merry go round, it was had to save because of the nature of our business, this has however changed and today I’m able to save even for my two boys’ school fee…) In fact with time as Kariuki (1980) narrates,
the elite women especially from legal and financial management professions managed
to mold and transform the idea of *merry go round* to a micro credit scheme which came
to be known as Kenya Women Finance Trust (KWFT) which empowered women financially through women groups.

This was further boosted in 1985 with the formation of Federation of Women Lawyers in Kenya (FIDA) with an aim of championing for a society free from all forms of discrimination against women. This was done through a creation of awareness among women on their rights and increasing women access to justice. As a result of their efforts, the organizations managed to empower women both in social-economic sphere and political matters. Although they have not been able to fully achieve equal status with men in terms of societal privileges and expectations, through these empowerment schemes the number of women who fall a prey to degrading cultural practices like widow guardianship have significantly reduced as a good fraction have been empowered economically and are also aware of their rights.

### 4.2.3 Women Empowerment in Kibaki and Uhuru Regimes (2003-2014)

The beginning of Kibaki era presented a lot of optimism to the women fraternity in ending their long struggle for gender equality and empowerment in social, economic and political spheres. As Achieng (2005) observes, this hope was at its best with the convening of Bomas Constitutional Conference in April 2003 to draft a new constitution for Kenya. Being one of the groups represented in the conference, the women hoped to entrench gender equality in the supreme law by ensuring that all public offices are not dominated by the same gender. The conference however ended in
disarray characterized by mass walk out especially by women out of serious reservations with some clauses which clearly discriminated against them especially clauses that touched on land and property rights. At the end the conference ended up being a low point for the women struggle for social-economic and political empowerment.

Ndeda (2011) however notes that the collapse of the 2003 Bomas conference did not kill women activism for social economic and political empowerment and on 4th August 2010 an end of this journey was quite clear with the voting of a new constitution in a referendum. This constitution was later promulgated on 27th August 2010 under the regime of Kibaki. The new constitution brought a lot of hope to women due to the radical changes it presented. Nzomo (2014) for instance, points out affirmative action as one of the key features of the new constitution especially Article 27 and 81 which provides that not more than a third of elective and appointed posts should be of the same gender. This therefore implied that a third of the appointed and elective posts had to be set aside for women since such positions have been historically dominated by men. The constitution further set aside a whole chapter-Chapter Four, for human rights which are to be enjoyed by all irrespective of one’s gender.

Unfortunately, the implementation of the key provisions in this constitution such as two third gender rule has been a challenge especially on the elective positions which is predominantly patriarchal and characterized with violence deliberately directed towards women. Worse still, even the courts have not been of much help in terms of interpretation. Wanjala (2016), for instance, laments that the courts have given a general
interpretation which does not enhance quick implementation of affirmative action. He
for instance, says that the court ruled that parliament and the executive need to arrive at
a formula that ensures realization of the gender rule.

With such ambiguity, the interpretation gave rise to retrogressive bills such as the
infamous Chepkonga Bill of 2015 which sort to undermine article 81(b) of the
constitution by providing an open ended implementation program through affirmative
action as enshrined in article 81(b). With the absence of a definite time limit, it was
clear that the implementation of this constitutional provision would be a tall order.
Despite these challenges, Nzomo (2015) Observes that a significant number of women
have been elected and appointed in various positions between 2003 and 2014.
Additionally, Uhuru regime has been able to develop legislative framework through
which the marginalized group such as women, those with disabilities and the youth are
empowered. He goes further to cite Uwezo Fund as an example of such supportive
programs initiated by the government. Besides this, the government has come up with a
policy that preserves 30% of the government tenders to women, the disabled and the
youth.

With these constitutional provisions and legislative programs, women have risen to the
decision making positions in the society such as Parliament, Commissions, and
Judiciary among others. This has given women a platform upon which to reject and
campaign against some of the humiliating cultures such as widow guardianship.
Similarly, women have been empowered economically through job opportunities and
numerous credit facilities designed to benefit them. Moreover a majority have been
enlightened on legal matters especially those that touch on their rights. As such, a significant number of women have resisted any attempt to subject them to what most of them describe as “backward cultures”. More importantly, with the economic empowerment most women have been shielded against vulnerability which makes widows fall a prey to cultural practices such as widow guardianship.

4.3 Other Emerging Trends in the Post-Colonial Kenya and their Impact on Widow Guardianship

Other than women empowerment, the research revealed that, post-colonial Kenya has witnessed a number of issues which have impacted the practice of the long held culture in one way or another. These issues rage from modern education, growth of urban centers, increase in intermarriages, decline in traditional moral values among others.

Achieng (O:I, 12th July, 2014) in an FGD for instance notes that, though some of the educated brothers respect the sanctity of the custom, they themselves shy off from the practice and instead look for jakitoko (a professional guardian) to perform the obligation of guardianship on their behalf. This is a clear departure from the past where guardianship responsibility was the primary obligation of the kinsmen of the deceased man. Similarly, educated widows tend to search for a jater (a guardian) either among the brothers in law or an outsider to make love with them as a symbol for guardianship ritual after which the widow sets the guardian free.

On his part, Odhiambo (2000) argues that modern education has equipped young Luo men and women with a critical mind thus; they no longer easily give in to the dictates of
the culture before questioning its relevance to them. As such, the rationality of old age traditions such as widow guardianship has been largely met with criticism. Owino (2000) however holds the view that, the kind of elaborate education system that instilled moral behavior among the young so that they become responsible people in the society is no more as a result of this, most young men leave the widows of their diseased kinsmen unguarded. This subjects such widows to the cruel hands of *jokowiny* (foreigners) who hid behind guardianship to loot the resources of the deceased man leaving the widow in abject poverty.

The study further reveals that in the contemporary Luo society, widows are forced by circumstances to enter into the guardianship institution and not out of will like it occurred in pre-colonial era. Owen (1996) for example notes that, though a significant number of widows perceive the cultural norm as outdated, they are however forced to observe the cultural rite in order to protect their property such as land from the kinsmen who tripped them off such properties and even send them out of their home in case such practice is not adhered to. Similarly some widows are compelled to accept the guardianship arrangement in order to set their children culturally free to construct houses, marry and even carry out agricultural activities such as planting. In fact it reaches a point where some widows are persuaded by their sons or daughters to look for a guardian as much as it may be against their wish (Kaloo, I.O, 2016). All these scenarios are contrary to the indigenous Luo society where the institution of widow guardianship was generally embraced by widows and not based on circumstantial forces. Indeed as Mboya (2005) observes, it was the widow who willingly searched for
the guardian among the kinsmen of the deceased husband. This is therefore a departure from the intent and purposes of this noble cultural norm.

Similarly, some widows admit that they do not practice this long held practice out of respect for traditions but rather due to difficulties in coping with the challenges that come with widowhood. Ojwang (1989) identifies loneliness as one of the key challenges where he argues that, most widows find it hard to revert to a single life after a long period of marriage. He further asserts that the widow finds it hard to make decisions which were originally the husband’s. As a result of this, most widows resort to the guardianship as a remedy to the problems and not out of cultural observance of the practice as was intended in the indigenous Luo.

According to Kalanda (1975), Christianity is another factor which has influenced the change of heart towards the traditionally adored practice. To him, Christian teachings provides widows with a certain degree of freedom which was rare in traditional African society and as such, widows are today either choose to remain unmarried or opt to remarry men of their choice after the death of their husbands as opposed to getting guardian as required by the culture of widow guardianship. One of the community elder Opiyo (O:1:6th April,2016). However blames lack of adherence to the practice among the young mean today not on the widespread of western education or Christianity but rather on the economic pressure on the side of kinsmen who are obliged to carry out the noble practice. Thus the current generation is already burned by their small families, therefore adding other family in the name of abiding to the customary demands amounts
to committing economic suicide. He further adds that most of the marriages among the young people today are basically casual in an arrangement he describes as, come we stay. In this system, it is almost practically impossible to enforce the guardianship arrangement upon the death of the man since culturally the man is deemed unmarried.

Additionally, unlike the traditional set up where the practice was primarily meant to take care of the widow and her children, today as Omen (2001) points that, men who take part in the practice as guardians do so with an intention of acquiring material resources such as land, money, estates left to the widow by her deceased husband and to enjoy the sexual intimacy. Similarly, the parents of the dead man encourage their daughter in-law to enter into a guardianship basically for greed; to retain the perceived wealth of their son. Miruka (2015) further adds that such men are only seen in the widow’s homestead during meal time where in most instance he demands fleshy meals completely free from vegetable, this basically implies that the widow has to work extra hard to maintain the guardian’s diet.

As such the guardian turns to be a total burden to the already suffering widow instead of being an economic saviour to the family. This behavior can be best described as an insult to the socially sacred institution. Owen (2001) further argues that the institution whose primary role was to provide comfort and protection to the widows and her children, today more often than not has turned to be the biggest source of the widow’s pain and agony. He, for example, identifies some guardians who rob widows all their
material possessions left for them by their departed husbands. This has a time instilled fear among some widows making them refuse to be guarded.

Others like Kotze et al, (2012) allege that while there are perceived benefits of widow guardianship, the problem of this culture is that it does not resonate with human dignity and decorum. For instance, before a widow is guarded, she has to go through some cleansing processes such as having sex with a social outcast who is believed to be capable of doing what a normal human being cannot do. Such cleansing procedure alienates the widow from her human respect and dignity and reduces her to a mere sexual object. Furthermore in some instances, if by bad luck the guardian dies, the total blame is shouldered upon the widow as the sole cause of his death.

This is conceived to confirm the view that she killed her husband even if such death has obvious natural origins. With these kind of views, post-colonial Luo society especially the elites have treated this practice with skeptical mind. Nevertheless as Makato et al, (2008) notes, some people today have continued to observe the practice not out of cultural obligation but rather on the belief that it possess therapeutic value that assists the widow in moving on with life after losing her beloved husband. Indeed Nowye (2005) insists that such therapy may be more effective for a mourning woman than professional advice.

A part from this, urbanization has also changed the manner in which the cultural practice is carried out. For instance the study revealed that adherence to the cultural norm was mainly common in the rural areas due to low literacy, economic hardships
and lack of exposure. A respondent attributes the prevalence of the practice in Kabunde village as emanating from illiteracy and lack of exposure, he says that “in Kabande village this practice is normal and common because most people are illiterate and the few who are semi illiterate are not exposed and therefore do not understand the danger associated with the practice” (Ogalo, O.I, 2015). This is contrary to the urban set ups where Luo widows tend to shy off from the practice and even among the few who carry it out, do so on temporary basis mainly for sexual satisfaction. Besides, most urban centers are cosmopolitan as such, Luo urban dwellers interact with people from different cultural settings who at times make them to have a skeptical view of some of their cultures such as widow guardianship. Moreover some Luo men end up marrying women from other tribes who they meet in urban centers. Unfortunately when such men die, their widows completely refuse to be guarded (Oruka 1994).

On the similar ground, Oluooh (2013) argues that a lot has changed in the practice of the cultural traditions. For instance, he holds that marriage in most cases is a casual contract between the husband and the wife in a setup he terms as “come we stay”, where the two live together as husband and wife without formalizing their relationship according to the demands of the tradition. In this case if one spouse passes on especially a man, it becomes hard for the kinsman of the dead man to find culturally acceptable ground to compel the widow to be guarded by one of their own since the widow is deemed to be a foreigner to that homestead.

Awuor (2013) also admits that the cultural practice is still common in today’s Luo society however; he is quick to note that there is emerging views among people that the
practice is one of the greatest injustices that promotes inequality. For example in the case of a widower the marriage is terminated by the death of the wife and upon the end of mourning period the man is culturally free to marry woman of his choice. This is contrary to the widow who is not only forbidden from remarrying but also confined to a guardian from among the kinsmen of the deceased husband. She is culturally obliged to remain the wife of the dead man’s. To this end, most people and especially women have begun viewing the practice as a scheme by men hidden around tradition to oppress and humiliate them and consequently some shied away from it.

The research also found out that, currently some widow resort to the guardianship institution not because of cultural observance but rather due to existing inheritance laws of the land. As Sarwalf (2015) notes, the current laws instruct the clan leaders to meet and appoint a trustee who holds the property on behalf of the beneficiary. However, it is unfortunate that the widow is not given the right to be the trustee of such property. In the case where the widow is given authority to be a trustee, she only does so on behalf of her children and when they reach the age of eighteen then she hands over the property.

Furthermore, Lewis (2013) argues that at post independent period, widow guardianship was practiced under customary laws which formed part of the country’s constitution. He however notes that due to existence of numerous norms that formed African culture, it was extremely difficult to isolate a clear demarcation between gender based discrimination and an acceptable cultural practice. As such people continued to practice widow guardianship even in the relationships that were perceived to be abusive to the
widows. Nyenzi (2009) adds that women had very little say during the dissolution of marriage and often stripped off the property acquired through the union. This was worsened by the fact that women were themselves deemed a part of the property and therefore not entitled to inherit the husband’s property after his death. This left such widows with nothing to depend on. As a result, widows were compelled to accept to be guarded by the deceased kinsmen in order to get an avenue through which they could benefit from such property left by the dead husband.

Shisanya (2007) adds that, though there has been protest against gender based discrimination from cultures such as widow guardianship, many women are unable to resist the practice due to certain perceived benefits that come with it. For instance, protection from *chira*, sexual fulfillment within acceptable societal standards and protection from economic challenges that often comes with widowhood. He however admits that there are significant number of widows who terminate guardianship relationships. He cites behaviors such as alcoholism, abuse, misuse of finances, lack of assistance by guardian, HIV/AIDS and other STIs infections as some of the key reasons behind such termination.

In this regard, Shisanya blames the persistence of the cultural practice on what he calls endurance of patriarchal system in modern Kenya. Gunga (2009) in a similar fashion argues that some widows enter into guardianship because of lack of an alternative. The failure to be guarded means lack of access to the deceased’s assets such as plots and estates. He however observes that there is a group of widows who have successfully
resisted the culture. To him, this group of widows are well educated and have a strong sense of belief in gender equality and strongly opposed to oppressive patriarchal systems.

It is however important to note that, the 2010 constitution has provided a clear framework through which cultures such as widow guardianship are to be observed. For instance while article 11(1) of the Constitution (2010) recognizes cultures as foundation and accumulative civilization of the Kenyan people, it warns in article 32(4) that is an offence to compel someone to practice culture that is contrary to the person’s belief. Article 45(2,3) goes further to explain that, every adult has a right to marry a person of the opposite sex based on the free consent the two parties and the parties in marriage are entitled to equal rights at the time of marriage, during marriage and at the dissolution of marriage. More importantly article 2(4) makes it clear that ‘’any law including customary law that is inconsistent with the constitution is void to the extent of inconsistency….’’ (Constitution; 2010). When these constitutional provisions are applied to widow guardianship, there are a number of ideas drawn; first widow guardianship being a cultural heritage, it is protected by the constitution, however the parties involved must freely give consent without undue pressure from any party and all the parties that is, the widow and the guardian have equal rights in the marriage arrangement. In this respect, it makes it illegal to force a widow to be guarded by relatives without her consent. Besides it makes it unlawful to subject the widow to guardianship rituals such as being compelled to have sex with a social outcast in the name of cleansing her but without first seeking her consent. To this end when widow
guardianship is not carried out within these constitutional principles, then it is rendered null and void.

This has been supported further by the 2013 Marriage Act which Mureidhi (2013) says made all the customary laws to be recognized by the state. To this end, it accorded protection to the widows entering into polygamous relationships such as widow guardianship. Similarly, those who are opposed to widow guardianship are protected from being denied an opportunity to inherit their husband’s property. Based on these laws, it is important to note that the cultural institution has significantly transformed as the two parties (the widow and the guardian) have been made equal as opposed to the traditional set up where the widow was inferior to the guardian and would be forced to abide by the guardian demands. Furthermore, widows have been given the authority to give consent to the practice or reject it all together. This is contrary to the traditional society where the widow would be forced by the in-laws to marry the brother to her dead husband even if such marriage was against her wish.

Poindexter (2005) on his part argues that the institution of widow guardianship accorded widows support of the best option at the time especially owing to the fact that women did not own economic means of production. In the contemporary Luo society however, this research finds that the institution has subjected widows to suffering. A widow for instance narrated that “some men come to serve as guardians with a hidden intention for example, to get material wealth, or simply because the widow looks pretty. Upon achieving their goal, such men leave widows and their children in abject poverty” (Aoko, O.I. 6th July, 2016). This is contrary to what the practice was traditionally
intended to achieve: to protect and provide for the widow and her children. In a similar fashion Onyango (2004) observes that Luo widows never felt lonely and isolated in the past so long as brothers-in-laws were alive. She was listened to, respected, cared for and above all protected from any form of harm. The widow entirely depended on the guardian for provision, protection and sexual needs. Today, however, widows swim in the tide of life alone. In fact they realize that their in-laws were more of their people when their husbands were alive.

Amollo (1999) on his part laments that the decline in traditional Luo cultural values in today’s society is to blame for the manner in which the noble cultural norm is practiced. In what he calls an embarrassing trend, he claims that children have the guts to force their mother to be guarded after the death of their father. In fact some go as far as looking for a guardian to fulfill this cultural rite for their mother out of fear of chira. To him, this is a total departure from the past where it was a taboo for children to discuss their parent’s marital affairs leave alone imagining them. Therefore, it is unacceptable for children to look for their mother a guardian since such mandate is a preserve of elders.

On a similar trend, Shisanya (2007) admits that sexual intercourse was a major aspect of the guardianship relationship. However it was not mandatory in all cases especially when the widow was at her sunset years. In such a case, a brother-in-law would give the elderly widow tobacco so that both would sniff the dawa (tobacco) together with the widow to symbolize the sexual union. This has however changed in the contemporary Luo society; where reports have indicated instances where young men who hide behind
guardianship force elderly widows into sexual intercourse in the name of fulfilling the cultural demand. This is in total contrast of the cultural expectation. To Shisanya, he blames it to decline in traditional Luo cultural values and calls it rape which was absolutely unacceptable. To this end, the study concludes that today the culture has drifted from its original intentions and what is seen today is merely an abuse of what was once a noble practice to the extent that, some individuals in the name of guardians take advantage of the custom to rob the widows the family wealth left by her late husband leaving her in a state of unimaginable poverty.

4.4 Widow Guardianship in the wake of Hiv/Aids in Kenya

4.4.1 A History of HIV/AIDS

Human Immunodeficiency Virus (HIV) is type of virus that enters the human blood cells through body fluids after a close contact or mixture with infected body fluids. This occurs especially through the blood transfusion, mother to child transfer through breast milk, use of unsterilized sharp objects such as a knife, blade, and sexual intercourse with an infected person (Egbo, 2015). According to Mukuranzita (2007) however, the most common means through which the virus is transmitted is sexual intercourse with an infected person. Upon reaching the blood cells, the virus compromises the immune system of the body leaving it prone to the slightest infections which otherwise could be fought easily by the body defense system. This gradually makes the body develop Acquired Immune Deficiency Syndrome which is medically abbreviated as AIDS.
Egbo (2015) points out that the origin of HIV/AIDS can be traced back to the 1920s in what is now known as Democratic Republic of Congo. He suggests that this occurred when chimpanzees carrying Simi Immune Deficiency Virus closely related to HIV AIDS entered people’s blood streams due to regular hunting and eating of chimpanzee’s flesh by the people living in this area. This virus attacked the immune system of chimpanzee and monkey in similar way HIV attacks people’s immune system; indeed by early 1980s it had spread to many continents. By early 1980s as Ogot (1990) observes, there were reports that the diseases had stormed the neighboring country Uganda where it was claiming the lives of many people. In kenya however as Mugambi(2009) reports, the first case of HIV/AIDS was reported and confirmed in 1984 prompting establishment of National Aids Committee do look into ways it can be prevented from spreading further. Since then the diseases has claimed the lives of majority in the country.

4.4.2 Perceptions of the Luo on HIV/AIDS

Like other Kenyan communities, the Luo who mainly lived in what was previously known as the Nyanza province came into contact with the diseases in the late 1988. During early years, Mboya (2001) observes that people associated the disease with chira owing to the outward characteristics it presented in those who were believed to have been attacked. Such symptoms were believed to be similar to those of chira for instance, diarrhea, and emaciation (being thin and skinny), lack of appetite, persistent headache and loss of hair. As such those who were attacked by the diseases faced a lot of stigma of the equal measure to those of chira.
Agot (2010) for instance enumerates such stigma to include; people not shaking hands with them, people not sharing foods, clothes, utensils or any other material with them and not being allowed to mix with people freely for fear of contacting the ‘curse’. Indeed some went to the extent of secluding their close relatives who were believed to be having the disease. A retired chief Mzee Oluoch (O.I, 18th April, 2016) adds that the family looked for the best medicine men of the time to help them neutralize the effect of the curse as it was known.

Unfortunately the medicine men could not establish the cause or the remedy of the perceived curse. In fact it reached a point where elders took the responsibility upon themselves to re-impact the required societal norms among the youth on the belief that the alarming increase of the HIV/AIDS infections among people especially the youth was out of disobedience to taboo. With time however, people realized that the disease even attacked the taboo abiding individuals especially those who subscribe to guardianship the guardianship custom. A widow named Pamela (O.I.11th July, 2016) in an FGD confirms this by testifying that,

‘kane chuora otho ne aluo chike duto mag liel kendo notera kaka chik Luo nedwaro tokata kamano gama ne otera noduogo otho gi ayaki bag hinga achiel kaato ambe achako tuo...when my husband died I followed all mourning rituals and I was guarded has the Luo customs demanded. However after one year my guardian died of HIV/AIDS and left me with the disease...’” This progressively changed people’s mind set as they begun to understand that this was a foreign diseases not a curse and had nothing to do with cultural norms.
4.4.3 HIV/AIDS and transformation of widow guardianship

The advent of HIV/AIDS in the country has had far reaching effects on the socio-economic lives of Kenyans especially in the regions where the infection rate is perceived to be high, for instance in western Kenya Nyambatha et al, (2013) argues that the epidemic has given rise to an alarming demographic patterns in western Kenya especially Nyanza where he assert that one out of three children below the age of 18 has lost a biological parents. These statistics are further confirmed by the National Aids Control Council (2015) which holds that, the four counties mainly inhabited by the Luo which were was previously called Luo Nyanza; namely Siaya, Kisumu, Homa Bay and Migori are the most affected in terms of HIV/AIDS prevalence in the country with Homa Bay taking the lead. This to larger extent is blamed on socio- cultural practices held by the Luo such as widow guardianship. Because of this, the disease has significantly changed the manner in which Widow Guardianship is carried out. Indeed today though the culture is still being practiced, the study reveals that it has undergone a significant transformation.

Shisanya (2007) for instance argues that today some widows propose to the guardians to adopt the use of condoms during sexual part of the ritual out of the fear of contracting HIV/ AIDS. A young widow Celestine Akoth confirms this position by noting that before she accepted the guardian proposed to her by the kinsmen of her late husband, she gave him the use of condom as a condition for guarding her which he accepted (Aoko,O.I.10th July 2017). Despite the fact that the condom use has not been received well especially by men, a significant fraction of guardians have accepted the condom
remedy, more so when they believe that the widow’s husband died from HIV/AIDS related complications. Though both traditional and contemporary practices of widow guardianship agree that sexual intercourse took a central place in the cultural practice, the adoption of condom use is a clear departure from the indigenous way of carrying out the age old cultural norm. In fact according to Ndolo (1995), the tradition was not complete without penetration of male semen in the widow’s vagina. To him therefore, the adoption of the condom has interfered with the primary intent of the ritual. He goes further to note that the use of the condom would imply no infant conception. This move to him would completely block propagation of the deceased’s lineage, which was the core duty of the institution.

Besides, Oluoch (2013) also observes that, today the educated kinsmen are declining to guard widows of their deceased brothers out of fear of contracting HIV/AIDS. However, out of reverence to the culture, they hire a jakowiny (a foreigner) to perform the ritual on their behalf. A widow affirming the view lamented that the brother to her deceased husband whom she thought would ‘take care of her’ and her children since he was well educated with well-paying job deserted her after the burial of her husband but would later surprisingly propose to her to look for jakowiny to be with her (Auwor, O.I.12th July 2016). This has given rise to jokitoko (professional guardians) who move from one funeral to another especially after the burial of a married man to look for suitable suitors to guard.

Another notable transformation in this cultural institution is the adoption of HIV tests. As Okech (2016) records, widows have begun asking the suitable guardians to go for
HIV test before the two formalize their relationship. Though majority of the guardians have not positively accepted the new practice, he holds that this is a step in the right direction in stepping up the fight against the killer diseases HIV/AIDs. A young widow Adero (O.I. 14th July, 2017) confirmed this new development in an FGD where she reported that “…kane pok otera ne anyiso jalmane onengo otera ni nyaka pimwa kode mondo wange chalmarwa dipo kawangengo tuo, change nepek to bang paro ne odok oyie…” (before I was guarded I told my guardian to be that we have to undergo HIV test to enable us know our condition and prevent anyone of us getting sick…).

Anyango (2012) on the other hand argues that though a majority have changed the manner in which they carry out the practice, a good fraction still carry it out the way it was done culturally with no significant alteration. This she blames on the language used by the people who campaign against the diseases. She gives an example of certain words often used by the anti-AIDS campaigners; nyaka walok timbewa… timbewakod kitwa (we must change our deeds acts and practices). In this example she points out the choice of the word Timbewa which can be loosely translated to mean our deeds, behaviors or acts. In other sense it can also mean our custom and practices.

It is however important to recognize the fact that in the context of HIV/AIDs, both meanings are valid and therefore the fact that the meaning of timbewa is not clear creates confusion and ambiguity to the listeners. The audience therefore finds it hard to isolate which part of timbewa between our deeds and customs they are to change to avoid HIV infections. As such a larger majority finds themselves avoiding some of their
actions such as shaking hands with people perceived to be infected but continue with some of their long held cultural practices like widow guardianship. She further gives example of words such as ‘*ngamanigi tuo ni onego oringi oyud konyruok*’ (a person who is sick should run and seek help). This further present people who are seek especially with AIDS as helpless individuals who must get assistance to survive, as such most widows whose husbands died of HIV/AIDS related complications tend to run to the widow guardianship for assistance.
CHAPTER FIVE: SUMMARY AND RECOMMENDATION

5.1 SUMMARY

Widow guardianship among the Luo community of Homa Bay County was one of the best Widow cares any society would give to its widows at the time. However, owing to the changing trends which have revolutionized the way people relate in the society, the institution has transformed beyond its cultural obligation. To this end, the society needs to come up with new strategies commensurate with the changing circumstances and social environment which are not similar with the ancient society. This is based on the belief that the indigenous solutions to problems may be inadequate in addressing today’s challenges. Indeed such solutions may also turn to be life threatening problems. For instance, serving as a guardian in this age may expose the guardian or the widow to HIV/AIDS which is a major threat to human life today. Unfortunately despite this threat, this cultural practice has persisted.

Additionally, a majority of the Luo populace has received western education and Christian teachings yet they still adore the institution. Sadly today as the study revealed, the institution has been cited as not only being responsible for the spread of HIV/AIDS virus but also breeding poverty among already suffering widows. Furthermore The research established that guardianship is one of the traditional cultural practices that have survived the test of time irrespective of the opposition from the modern trends such as western education, Christianity, modern laws among others.
5.2 Recommendations

Widow guardianship was a well-intended form of widow care which gave widows a sense of belonging and socio-economic protection. However due to the emergence of HIV/AIDS and prevailing social economic environment in the contemporary society, the study suggests a number of recommendations. Key among them is that the government and other stake holders need to step up rigorous sensitization program to make people aware on the dangers the long held cultural practice poses on the social economic lifestyle of the people especially, in aiding HIV/AIDs which has claimed many lives in the area of study.

Additionally, a widow should develop a warm relationship between herself and her in-laws. This would cultivate family spirit built on mutual respect, care and love. Out of such cultivated love and respect, the family may not find it human to subject the widow to degrading cultural practices like widow guardianship. Similarly, it will sort out the problem of loneliness which at time compels widows to be guarded.

Besides, Luo being a patriarchal society where the male often dominates especially in decision making process, the study recommends that elders be trained to intervene when widow’s rights are violated. The research also recommends that the government should develop more measures of poverty eradication especially among the rural poor. To achieve this, the government can give widows and other jobless men soft loans or grants to begin some income generating activities. This would enable widows to gain some degree of economic independence. This is informed by the fact that a majority of widows or guardians have resorted to the practice for economic reasons.
Apart from these, the persistence of the cultural practice is largely attributed to the unequal power relations between the men and women and the inferior status of women and girls. The research therefore implores the government to formulate and implement policies that fight inequality. Concerning the inheritance of property laws, parliament should amend the law to improve access of property to the widows and her children after the death of a spouse. Apart from this, the study found out that illiteracy could be one of the drivers behind the practice.

The research therefore recommends that education should be made more affordable especially at secondary school and higher education. This would reduce the vulnerability of falling into the trap of the practice. Moreover members of the society who have to participate in guardianship relationship should be advised to go for HIV test to reduce chances of new cases of infection. Similarly, the use of condoms should be encouraged between the widow and the guardian. This would further reduce the spread of HIV infections. The research also recommends that the government should come up with a strategy to eliminate cultural practices that discriminate against vulnerable members of the society such as women.

The study further observed that widow guardianship institution gives widows a sense of belonging and socio economic protection. However, the manner in which it is practiced often subject the widows to inhuman practices that not only violate their right to human dignity but also expose them to dangerous diseases such as HIV/AIDS. For instance,
widows are cleansed by social outcasts forcefully before they are guarded. This portrays women as sexual vessels which leads to a total violation of their rights as human beings. In this respect, the study recommends that as a society, the Luo nation should re-examine its value system to respect the human dignity of widows.
REFERENCES.

PRIMARY SOURCES

Archival Sources

KNA Cc/13/36/1941 Customary Law and Inheritance Law Panels

KNA DC/EN/3/2/2/1954 Land and Law 1954-1956

KNA DC/MKS/2/15/2/1954 Native Tribes and Their Customs; Law panel

KNA DC/KER/4/15/1946 Kipsigis Customary Law

KNA PC/NZA/2/17/128 /1941Nyanza Native Tribunal

KNA OP/EST/1/454/1953 Sociological Survey of Luo Customary Laws

KNA PC/NZA/3/2/24/1940 Letter to the District Commissioner Homa Bay

KNA DO/NZA/2/3/490/1945 Letter to the District Officer Homa Bay

K.N.A C.C/NZA/13/36/1941 Letter to the Pe- Hill Faithful

KNA DO/NZA/2/1/490/1945) Letter to the DO Homa Bay District

K.N.A PAC/NZA/3/24/1934 I Luo Customary Law

K.N.APC/NZA/2/7/128/1941 Nyanza Native Tribunal
Thesis


Journals


Cherono K. (2014) *Wife Inheritance among the Luo*; Cultural Journal vl.3


List of Informant

Achieng D.

Venue: Kabunde
Position: retired nurse
Marital status: widow
Gender: female
Age: 66
Date: 12/7/2014

Aoko J.s

Venue: Kabunde
Position: Small scale trader
Marital status: widow
Gender: Female
Age: 27
Date: 6/7/2016

Adero M.M

Venue: Kabunde
Position: famer
Marital status: widow
Gender: Female
Age: 30
Date: 14.7.2016
Awuor J.S

Venue: Rodi

Position: Business lady

Marital status: widow

Gender: Female

Age: 30

Date: 10.4.2016

Aoko C.T

Venue: Kabunde

Position: fish vender

Marital status: married

Gender: Male

Age: 30

Date: 12/7/2016

Aruambe J.S

Venue: Kopany

Position: Villlage elder

Marital status: Married

Gender: Male

Age: 70

Date: 10/7/2016
Adoyo

Venue: Kabunde

Position: vegetable vender

Marital status: widow

Gender: Female

Age: 40

Date: 13/7/2016

Anyango O.T

Venue: Kabunde

Position: Teacher

Marital status: Married

Gender: Female

Age: 35

Date: 3/7/2016

Abito

Venue: Kabunde

Position: Vegetable vender

Marital status: single

Gender: Male

Age: 23

Date: 18/7/2016
Akumba M.

Venue: Kabunde
Position: Chief
Marital status: Married
Gender: Male
Age: 50
Date: 9/7/2016

Kaloo J.

Venue: Kabunde
Position: Church elder
Marital status: Married
Gender: Male
Age: 40
Date: 8/7/2016

Liech O.

Venue: Kabunde
Position: Clan elder
Marital status: Married
Gender: Male
Age: 60
Date: 20/7/2016

Omolo S.J

Venue: Kabunde
Position: fisherman
Marital status: Married
Gender: Male
Age: 40
Date: 12/7/2016
Ogalo K.

**Venue:** Kanyada  
**Position:** An NGO officer  
**Marital status:** Married  
**Gender:** Male  
**Age:** 32  
**Date:** 22/7/2016

Owino S.

**Venue:** Migori  
**Position:** Farmer  
**Marital status:** married  
**Gender:** Male  
**Age:** 29  
**Date:** 15/6/2016

Owiso P.

**Venue:** Kabunde  
**Position:** village elder  
**Marital status:** married  
**Gender:** Male  
**Age:** 75  
**Date:** 22/7/2016
Ojwang S.

Venue: Kabunde
Position: Clan elder
Marital status: widow
Gender: Male
Age: 81
Date: 12/7/2016

Ogada M.

Venue: Kabunde
Position: An NGO officer
Marital status: Married
Gender: Male
Age: 30
Date: 1/7/2016

Opare. M

Venue: Karungu
Position: Retired Chief
Marital status: Married
Gender: Male
Age: 68
Date: 5/7/2016
Opany M.

Venue: Kabunde
Position: Village elder
Marital status: Married
Gender: Male
Age: 72
Date: 3/7/2016

Opiyo J.

Venue: Kabunde
Position: Village elder
Marital status: Married
Gender: Male
Age: 77
Date: 15/7/2017

Ososi V.

Venue: Migori
Position: Health officer
Marital status: Married
Gender: Male
Age: 30
Date: 17/7/2016
Ojowi M.

Venue: Rongo
Position: Student
Marital status: Single
Gender: Male
Age: 20
Date: 20/7/2016

Ochieng S.

Venue: Rongo
Position: Student
Marital status: Single
Gender: Male
Age: 23
Date: 18/7/2016

Ondiek S.

Venue: Homa Bay Town
Position: Social Worker
Marital status: Married
Gender: Male
Age: 38
Date: 19/7/2016
Okelo J.

Venue: Kabunde

Position: Retired Teacher

Marital status: Widowed

Gender: Male

Age: 67

Date: 8/7/2016

Opande M.

Venue: Kabunde

Position: Carpenter

Marital status: Married

Gender: Male

Age: 47

Date: 18/7/2016

Pendo J.

Venue: Kabunde

Position: Fish vendor

Marital status: Widow

Gender: Female

Age: 36

Date: 197/2016
Paulo O.

Venue: Kabunde
Position: Fisherman
Marital status: Married
Gender: Male
Age: 42
Date: 19/7/2016

Pamela A.

Venue: Homa Bay Town
Position: An NGO officer
Marital status: Married
Gender: Female
Age: 33
Date: 19/7/2016

Paulina.

Venue: Kabunde
Position: vegetable vendor
Marital status: Widow
Gender: Female
Age: 27
Date: 11/7/2017
Nyajimo.

**Venue:** Kabunde

**Position:** Tailor

**Marital status:** Married

**Gender:** Female

**Age:** 34

**Date:** 5/7/2016

Nyajimo.

**Venue:** Kabunde

**Position:** Peasant farmer

**Marital status:** Widow

**Gender:** Female

**Age:** 41

**Date:** 3/7/2016
Nyaose

Venue: Kabunde

Position: fisherman

Marital status: Married

Gender: Male

Age: 37

Date: 10/7/2016

Nyojero

Venue: Kabunde

Position: Juakali Worker

Marital status: Married

Gender: Male

Age: 30

Date: 18/7/2016

Nyodao

Venue: Kabunde

Position: Peasant farmer

Marital status: Widow

Gender: Female

Age: 68

Date: 2/7/2016
Nyawagasi.

Venue: Homa Bay Town
Position: Fish Vender
Marital status: Married
Gender: Female
Age: 34
Date: 5/7/2016

Opany M.

Venue: Nyabisawa
Position: Peasant famer
Marital status: Widowed
Gender: Male
Age: 60
Date: 7/7/2016

Nyakaksigri.

Venue: Kabunde
Position: Cloth Vendor
Marital status: Widow
Gender: Female
Age: 25
Date: 8/7/2016
Zachayo O.

Venue: Kabunde

Position: Fisherman

Marital status: Married

Gender: Male

Age: Clan elder

Date: 4/7/2016
SECONDARY SOURCES

Books


Bible: Deut 25:5-6, 1Timothy 5:3-8, James 1: 27, Jeremiah 7:5-7, 1Corinths7:2.


APPENDICES

A1: LETTER OF INTRODUCTION

RE: REQUEST FOR RESEARCH DATA

I’m a student at Kenyatta University pursuing a masters of Arts Degree in history. I’m carrying a research on the Transformation of the culture of widow guardianship from 1920 to 2014.

You are requested to answer the questions on the next page with honesty as you can. All the information given will be treated with the outermost confidentiality. Do not write your NAME anywhere.

Please note that the information given will be purely used for academic purposes.

Yours faithfully,

Sabato John Joel.

A2: QUESTIONNAIRE

Section One: Personal Information (please tick appropriate)

1. Age: 18-24 yrs( ) 25-34 yrs( ) 45-54 yrs( ) 55 yrs and above ( )

2. Gender: Male ( ) Female ( )

3. Marital status: Single ( ) Married ( ) Divorced ( ) Widow ( )
4. Level of education: Lower primary 1-4( ) Upper Primary 4-8( ) Secondary ( )
    Collage ( ) Never been to school ( )

5. Religion: Christian ( ) Muslim ( ) Hindu ( ) Non Religious ( ) Any other
    specify…………………………

Section 2: Widow Guardianship

6. Was widow guardianship practiced in your area? YES ( ) NO ( )

7. If so why do you think it was practiced?
   • To perpetuate the lineage of the diseased ( )
   • To provide social security to the widow and their children.( )
   • To provide social needs to the widows( )
   • To support the widow economically.( )

8. Were there other reasons? YES ( ) NO ( )

9. IF
   YES
   specify………………………………………………………………………………………………………………

10. Who was responsible to be a guardian to a widow?
    • Brother of the diseased husband ( )
    • Any male close relative ( )
• Any other person, specify……………………………………………………………

11. In your opinion do you think the way the culture was practiced changed in the colonial period? YES ( ) NO ( )

12. If YES kindly specify…………………………………………………………………….

Section 3: Widow Guardianship in Post-Colonial Period.

13. Do you think people carried out the practice of widow guardianship after independence? YES ( ) NO ( )

14. If YES, were there any changes on the way it was practiced? YES ( ) NO ( )

15. If so please specify…………………………………………………………………….

16. In your own opinion do you think the following transformed the culture of widow guardianship in your area today?

i. Modern education YES ( ) NO ( )

ii. Christianity YES ( ) NO ( )

iii. Urbanization YES ( ) NO ( )
iv. HIV/AIDS  YES(   ) NO (   )

v. Women empowerment YES (   ) NO (   )

vi. Government laws  YES (   ) NO (   )

vii. Any other spiffy please

..............................................................

17. In case of YES in any of the question 16 please

specify........................................
Our Ref: C50/CE/24782/12  Date: 14th April, 2016

Director General, National Commission for Science,
Technology & Innovation,
P.O. Box 30623-00100
NAIROBI

Dear Sir/Madam,

RE: RESEARCH AUTHORIZATION FOR MR. SABATO J. JOEL REG. NO. C50/CE/24782/12

I write to introduce Mr. Sabato who is a Postgraduate Student of this University. He is registered for a M.A. degree programme in the Department of History, Archaeology & Political Studies in the School of Humanities & Social Sciences.

Mr. Sabato intends to conduct research for a M.A Degree thesis entitled “Transformations in the Practice of ‘Widow Guardianship’ among the Luo of Homabay County Kenya: 1920-2014”.

Any assistance given will be highly appreciated.

Yours faithfully,

MRS. LUCY N. MBAABU
FOR: DEAN, GRADUATE SCHOOL

RM/cao
NATIONAL COMMISSION FOR SCIENCE, TECHNOLOGY AND INNOVATION

TelephoneNumber:+254-20-2213471,
2241349,3310571,2219420
Fax:+254-20-318245,318249
Email:dg@nacosti.go.ke
Website: www.nacosti.go.ke
when replying please quote

Ref: No.

NACOSTI/P/16/27048/12320

1st July, 2016

Sabato John Joel
Kenyatta University
P.O. Box 43844-00100
NAIROBI.

RE: RESEARCH AUTHORIZATION

Following your application for authority to carry out research on “Transformation in the practice of “widow guardianship” among the Luo of Homabay County Kenya; 1920-2014,” I am pleased to inform you that you have been authorized to undertake research in Homa Bay County for the period ending 30th June, 2017.

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

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

BONIFACE WANYAMA
FOR: DIRECTOR-GENERAL/CEO

Copy to:

The County Commissioner
Homa Bay County.
THIS IS TO CERTIFY THAT:  

MR. SABATO JOHN JOEL  

of KENYATTA UNIVERSITY, 0-90100  
machakos has been permitted to  
conduct research in Homabay County  
on the topic: "TRANSFORMATION IN THE  
PRACTICE OF "WIDOW GUARDIANSHIP"  
AMONG THE LUO OF HOMABAY COUNTY  
KENYA: 1920-2014  
for the period ending  
30th June, 2017  

Applicant's  
Signature  

Director General  
National Commission for Science, Technology & Innovation
1. You must report to the County Commissioner and the County Education Officer of the area before embarking on your research. Failure to do so may lead to the cancellation of your permit.

2. Government Officers will not be interviewed without prior appointment.

3. No questionnaire will be used unless it has been approved.

4. Excavation, filming and collection of biological specimens are subject to further permission from the relevant Government Ministries.

5. You are required to submit at least two (2) hard copies and one (1) soft copy of your final report.

6. The Government of Kenya reserves the right to modify the conditions of this permit including its cancellation without notice.

RESEARCH CLEARANCE PERMIT

Serial No. 13850

CONDITIONS: see back page
OFFICE OF THE PRESIDENT
MINISTRY OF INTERIOR AND COORDINATION OF NATIONAL GOVERNMENT

Telephone: Homa Bay 22104 or 22105/Fax:22491
E-mail: cc_homabay@yahoo.com
When replying please quote

REF.NO. ED.12/1/VOL.II/124

The Deputy County Commissioner
HOMA BAY SUB COUNTY

RE: RESEARCH AUTHORIZATION-SABATO JOHN JOEL

This is to inform you that the above named person has been authorized to carry out a research on "Transformation in the practice of widow guardianship' among the Luo of Homa Bay Sub County; 1920-2014" for the period ending 30th June, 2017.

J.B.ALUODO
For: COUNTY COMMISSIONER
HOMA BAY COUNTY

cc

County Director of Education
HOMA BAY COUNTY.

*Please note our e-mail address  cc_homabay@yahoo.com