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To cite this article: Elishiba N. Kimani & Lucy W. Maina (2010) Older Women's Rights to Property and Inheritance in Kenya: Culture, Policy, and Disenfranchisement, Journal of Ethnic & Cultural Diversity in Social Work, 19:4, 256-271, DOI: [10.1080/15313204.2010.523647](https://doi.org/10.1080/15313204.2010.523647)

To link to this article: <http://dx.doi.org/10.1080/15313204.2010.523647>



Published online: 20 Nov 2010.



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# Older Women's Rights to Property and Inheritance in Kenya: Culture, Policy, and Disenfranchisement

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*Women's rights to property and inheritance are safeguarded through various human rights policies and laws at international, regional, and country levels. However, many women continue to experience discrimination while claiming these rights. In Africa, older women, in particular, experience obstacles as they attempt to secure inheritance and property rights. These older African women, who are already more likely to be among the most vulnerable and disadvantaged, have little recourse when denied access to property or inheritance. In Kenya, there are various legislated policies and guidelines regarding property ownership and inheritance. Despite these policies, cultural, structural, and even judicial impediments continue to disenfranchise women. This article highlights the historical and cultural context of property and inheritance rights for older women in Africa and Kenya and the evolution of policy responses to these impediments.*

**KEYWORDS** *women, inheritance, rights, property, Kenya*

## INTRODUCTION

Globally, social and human development has encompassed the rights of all, from the unborn to the very old, the endowed and the deprived, as well as those of different race, ethnicity, or gender. These rights were recognized as

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early as the Universal Declaration on Human Rights (United Nations, 1948), followed by other international, regional, and country-specific instruments of human rights such as the African Charter on Human and People's Rights (1981) and the Constitution of Kenya (Republic of Kenya, 1992). Yet there are categories of peoples whose rights are of particular concern due to their socioeconomic status, age, race, ethnicity, gender, or geographical habitation.

A key factor in the global development agenda is reversing the historical exclusion of women from leadership roles in planning and policy formulation. This disparity was highlighted at the Fourth World Congress on Women in Beijing (United Nations, 1995a). Women, in general, and older women, in particular, have been excluded and given low representation in key decision-making structures and institutions such as parliaments and trade unions. As women continue to be excluded from major decision-making positions, their concerns or plights continue to be obscured in gender-insensitive policies and plans. Of even more note is that women comprise the majority of older persons in most of the developing world (Gist & Velkoff, 1997; HelpAge International, 2007). With respect for the needs of older women, the International Plan of Action on Aging (United Nations, 2002a) asserts that recognizing the differential impact of aging on women is integral to ensuring full equality between men and women, and to the development of effective and efficient measures to address inequalities.

World conferences held from the 1970s to date confirm the understanding that women's property and inheritance rights are essential underpinnings of the development process. This was echoed in the first World Conference on Women held in Mexico City (United Nations, 1975), the Second World Conference on Women held in Copenhagen (United Nations, 1980), the International Conference to Review and Appraise the Decade for Women (United Nations, 1985), the Conference on Human Rights held in Vienna (United Nations, 1993), the World Summit for Social Development held in Copenhagen (United Nations, 1995b), the Fourth World Conference on Women held in Beijing (United Nations, 1995a) and the Beijing Plus Five Platform held in Mexico (United Nations, 2000a). The concerns of older women were further accentuated in the Second World Assembly on Ageing held in Madrid (United Nations, 2002b) and the African Union Protocol on the Rights of Women (2005). The Protocol emphasizes the need for older women to own and control property given their socioeconomic vulnerability in their traditional sociocultural roles and responsibilities. In Africa, at the same time that women's rights have been codified, the shift from the traditional view of women's rights to a universal practice of equality has been slow. The recognition of gender equality as prerequisite for long-term economic growth is also slow in coming.

No country in the world can achieve meaningful development when a major portion of its population is denied access to or control of resources or direct participation in decision making and policy formulation.

Unfortunately, this is one of the frustrations that women in developing countries, including Africa, have to contend with. Gender-insensitive policy formulation has worsened the situation for Kenyan women, resulting in wide-scale feminization of poverty (African Development Fund, 2007).

In a report commissioned by the African Union Policy Framework and Plan of Action on Aging, data gathered in Kenya indicated that poverty was most acute among older women. In all of Kenya's provinces these women were traditionally less entitled to property or had no property at all, especially land (HelpAge International, 2007).

### OLDER WOMEN IN AFRICA

The reality for most older women in Africa is that they not only suffer discrimination, but that their suffering often goes unnoticed even though the majority of Africans are women (Kimani, 2006; Kimani & Chiuri, 2004). This discrimination can impose direct and indirect costs on local and national economies and gender bias in access to land and other resources can impact the larger economic well-being through inefficient use of land resources. Given that land is the main means of production in such economies, access, control, ownership, and utilization rights become very critical. African women of all ages perform a large portion of agricultural work which amounts to approximately 90% of hoeing and weeding, 60% of harvesting and marketing, and 90% of processing food, storage, and transport from home (Woomer, 2006). Yet, the high inequalities in land ownership make it impossible for women to acquire credit to enable them to improve their farms. For instance, women in Kenya account for only 5% of registered landholders. Even so, all over Africa, women are the primary providers of food for families and livestock. Women constitute more than 80% of the agricultural labor force, often working on an unpaid basis, and 64% of subsistence farmers are women (African Development Fund, 2007). Furthermore, female-headed households in Kenya provide 60% of farm-delivered income even though they own less than half of the farm equipment that male-headed households own (Kimani & Chiuri, 2004). In addition, older women in Africa are the majority of caregivers for AIDS orphans, which further strains their ability to care for themselves in old age (HelpAge International, 2007; Wanjama, Kimani, & Lodiaga, 2007).

### WOMEN, CULTURE, INHERITANCE, AND PROPERTY RIGHTS IN AFRICA

In most communities in Africa, culture dictates who has access and control of assets and resources, and these rights are largely limited to men (Nyaga,

2008). The assets or resources can be the means of production such as land and labor or capital/finances in the form of cash and/or credit. The traditional patriarchal systems in Africa were reconstructed under colonialism (1895–1963) in ways to benefit men, disadvantage women, and strengthen male control over female labor and productivity. Local chiefs became colonial functionaries who retained the power to allocate land. As such, the ownership of the allocated resources, especially land, were given to men along with the reserve of land-ownership certificates (Chiuri, 1996). In Kenya these are commonly known as *title deeds*. Today, women are not likely to have a title deed in their name, which prohibits them from any form of credit when land is required as collateral. Women's lack of agricultural credit considerably lowers their productive capacity. Women also have less access than men to other forms of agricultural credit. This is mainly because they face gender-specific barriers to credit due to low levels of literacy and less time to seek the credit or difficulties in traveling to lending institutions. Another barrier is the increase of the minimum lending rates by international and local banking institutions, which render credit way beyond women's abilities to repay (Kimani, 2006).

In much of Africa, women have access rights to land through marriage. Upon marriage, they move to their husband's home. However, in the event of divorce or widowhood, they are often expelled from occupying their spouse's property (Magesa, 1998). Older widows are especially vulnerable and, in some cases, older women have to tolerate abusive relationships from in-laws for fear of losing access to land (Ojwang & Mugambi, 1989). At times, the access to land that they enjoy as co-workers with their male partners is ill-defined, of uncertain duration, subject to change, and contingent upon maintaining good relations (often of insubordinate nature) with the male partners. As a result, it has been argued that the African woman's position is akin to that of a bonded laborer (Chiuri, 1996; Palmer, 2002). This is despite the fact that women have the dominant role in food production (Kimani & Chiuri, 2004). Furthermore, this secondary right is becoming increasingly vulnerable, as the institution of marriage becomes more unstable (Manyasa, 2006).

As observed by Burns (2005), culture dominates and dictates that women have unequal rights in using land as a productive asset. In Kenya, existing legal systems coupled with unfavorable, and often misrepresented, customary laws inhibit equal access to land (Kameri-Mbote, 2002). Land rights vary with time, location, social group (ethnicity, class, and age), the nature of the land (the function it fulfills), and the legal system applicable (Kimani & Chiuri, 2004). Not only are women denied rights to own land but they often have no access to extra labor so crucial for agricultural production. All labor within the family typically belongs to the male head within a homestead or a household. Rarely do women, especially

those from poor households, access extra labor outside their homes (Kimani & Chiuri, 2004).

### Inheritance and Property Ownership Rights of Older Women in Kenya

In Kenya, issues of property and inheritance rights pose a major threat to the dignity and survival of all women irrespective of their marital status and age. For married women, their rights to property depend upon the system of law under which they are married. Women married under customary law do not own property. Their husbands and sons own the family property, which descends through male lineage. Marriage, under statutory law, does not guarantee women an advantage in most cases. The laws are interpreted and biased by the prevailing cultural practices and customary law. The result is that even where women have sought court interventions, they most often lose. The pursuance of property and inheritance rights, especially rights sought after death of parents or male spouse or termination of marriage, have continued to confuse and baffle a majority of women in Kenya. The situation is worse for older women, who can lose access to property when they need it most. This loss may occur due to divorce or death of a spouse and sometimes due to disinheritance by their own children (Kanyi & Ngunjiri, 2002). Moreover, in Kenya, HIV/AIDs has rendered many older women as caretakers and guardians of AIDs orphans left behind by their sons and daughters (Wanjama et al., 2007). At a time when a woman might be looking to family to care for her, many older women find themselves taking on responsibilities for feeding, housing, and caring for younger generations. Even when older women have sought legal intervention they are likely to lose. In Kenya, judgments favoring older women with regard to property inheritance in accordance with Section 82(1) of the Constitution of Kenya are extremely rare due to customary male preference in regards to inheritance rights (Oduyoye, 1999).

Older women's rights to inheritance and access or control of property are comprised of an evolutionary tangle of formal legislation, and customary and religious laws. In the pre-colonial period, prior to 1895, customary laws of particular communities governed the ownership and distribution of property, primarily land. Land formed the livelihood of the group and was communally managed and controlled for the benefit of the entire community. Inheritance was mainly patrilineal through the male lineage. Wives and daughters retained life interests in the family land, but this right ceased upon remarriage, widowhood, or marriage of a daughter. This was meant to ensure that land was not only utilized for the benefit of the family but that it also remained in the family line (Kariuki, 1998; Lungu & Shinyangwe, 1988; Krishna & Chanana, 1989).

## Inheritance and Property Rights in Kenya: Influence of Colonization and Religion

Kenya's colonization period witnessed the enactment of varied statutes that sought to regulate the ownership of property, especially within marriage. These included the Marriage Act, Cap 150, and the African Christian Marriage and Divorce Act, Cap 151 (Kameri-Mbote, 2002). Both legislations regard marriage as essentially monogamous, within which only the surviving spouse and the children of such marriage can inherit from the deceased.

The civil law of marriage in Kenya is foreign in pedigree and a codification of English norms and values. Section 1 of the Judicature Act, the Married Women Property 1882 of England (see WLEA, 1996; Kariuki, 1998) provides that a married woman is capable of acquiring, holding, and disposing, by will or otherwise, any real or personal property as her separate property in the same manner as if she was unmarried. The section further provides that a married woman has the capacity to enter into separate contracts and to sue and be sued in respect of her separate property in all respects as if she were not married. Under Section 2 of that Act, upon marriage, a woman is entitled to hold as her separate property, and deal with it as she desires, all real and personal property which belonged to her at the time of marriage or which she acquires or which devolve upon her after marriage including any wages, earnings, money, and property gained or acquired by her in her employment, trade, or occupation in which she is engaged, or which she carries on separately from her husband (Amollo, 1998). But interpretation of this statute is complicated by cultural beliefs and practices that are dictated by family and community values and beliefs pertaining to relationships between women and men. Accompanying these beliefs are the traditions that determine access and control of assets and resources as well as inheritance rights.

In 1972, the law of Succession Act (Cap 160) was enacted with an aim of creating a uniform law of succession which would ensure that any discrimination and inequalities exercised under previous laws of succession were done away with. Consequently Cap 160 came into force in 1981. In 1990, Muslims were exempted from adherence to the law on the basis that it conflicted with the Koran, their Constitutional rights, and in particular their freedom of worship. This was in accordance with Section 82(4) of the Constitution, which provides for enactment of laws making provision with respect to personal laws (Ngatia, 1999).

The proprietary rights of Muslim women in marriage in Kenya are therefore such as are provided for by the Koran. A Muslim woman does not change her status upon marriage. She remains subject to the Muslim law applicable to her prior to marriage. She acquires no interest in the property of her husband by reason of marriage and her husband does not acquire any interest in her property. She has a right to be maintained by her husband



regardless of whether she has the means to maintain herself or not. As such, a Muslim wife has no proprietary interest in matrimonial property, but she has access to the use of such property during marriage. Consequently, Muslims in Kenya have been governed by the Mohammedan, Divorce and Succession Ordinance of 1920, which applied pre-colonial Koranic law to personal law and succession (Kanyi & Ngunjiri, 2002).

For Hindus in Kenya, the Hindu Marriage, Divorce and Succession Ordinance of 1946 applied Hindu customary laws in succession until 1961, when the Hindu Succession Act (Cap 158) was passed. Among the Hindus residing in Kenya, family property is for use by members of the family on a communal basis. Land is passed down through the generations and confined to male ancestors up to the fourth degree. Wives are included in the membership of the joint Hindu family and enjoy the right to maintenance at the expense of the joint family property. As such, the right of the wife to maintenance exists even when she has her own separate property (Kanyi & Ngunjiri, 2002; African Development Fund, 2007).

### Customary Inheritance in Kenya

Kenya has more than 42 ethnic groups with diverse cultural practices and beliefs concerning women. This diversity is particularly evident in regard to older women's rights to property ownership and inheritance (Kenya Human Rights Commission, 1998; Kenya Land Alliance, 2006). In most of these groups, customary practices dictate that a married woman does not own property during marriage. The practice is that a woman's property, whether acquired before or after marriage, is in sole control and disposition by her husband during the subsistence of the marriage. A wife invariably has a right of use to the matrimonial property but cannot dispose of it in any way without the consent of her husband. In this case, men have control over their wives' property whether or not such property is separate and can freely dispose of such property (Kenya Human Rights Commission, 1998; African Development Fund, 2007). This subordination of women undermines their social position and adversely affects their economic power. This in turn has implications on per capita income and development at large while it perpetuates inequalities between men and women.

In situations of divorce and dissolution of marriage, most customs allow a woman to only take with her personal effects and gifts and sometimes property acquired before marriage (WLEA, 1996; Chiuri, 1996; Oduyoye, 1999). Seldom do questions of property arise when the marriage is active since it is assumed that everything belongs to the family with the male head being its custodian. Upon the termination of a marriage, women emerge the most disadvantaged since property is registered in the name of the husband even though it may have been acquired by both spouses (Chiuri, 1996). In addition, while the husband takes custody of all the family's production,



the wife's contribution to property acquisition could be indirect and non-monetary, such as family care, reproductive roles, and tilling of the land. While it may be possible to identify the property belonging to each spouse, it may be impossible to identify the precise share of each (Institute of Economic Affairs, 2008). In many instances, property may have appreciated in value and it may therefore be hard to apportion the loss or benefit.

Another area where customary practices impact women's rights to inheritance and property is succession of wives after the death of a polygamous spouse. If a polygamous man leaves more than one widow, the personal and household effects together with the remainder of the estate are divided among the widows according to the number of children in each "house," where each child is a "unit." The mother is the base for each "house" and is considered to be one "unit." A widow without any children counts as a single "unit" and will probably get the smallest share of the property. These customs focus on the number of children rather than a woman's individual needs and contributions.

### Inheritance Policies in Kenya

African countries have individual development targets based on their needs, concerns, and capabilities and Kenya's development process is currently being guided by its *Vision 2030*, the country's development blueprint covering the period 2008 to 2030 (Republic of Kenya, 2008). The blueprint aims to transform the nation into a newly industrializing "middle-income country providing a high quality life to all its citizens by the year 2030." The attainment of the goals of *Vision 2030* will depend on the inclusion of all Kenyans, including women and other marginalized groups, in relevant policy planning, formulation, implementation, monitoring, and evaluation. This inclusion must also be matched with equitable resource allocation beginning from family to national levels.

Complications arise because Kenya has three land tenure systems with concomitant land rights which are individual (freehold), public, communal (customary), and religious based. In certain contexts, and particularly with regard to women's rights, the different laws contradict each other, resulting in a situation where one law that gives women rights to land is negated by the other law.

To illustrate this scenario, Section 82 of the Constitution (Republic of Kenya, 1992) provides that no law may make any provision that is discriminatory either of itself or in its effects. The prohibited grounds of discrimination are set out as race, tribe, place of origin or residence or other local connection, political opinions, color, creed, or sex. Furthermore, Subsection (4) of Section 82 provides that the prohibition of discrimination does not apply to any law as far as that law makes provision "*with respect to adoption, marriage, divorce, burial, devolution of property on death or*

*other matters of personal law.*" In this case, when laws relating to property rights are read subject to Section 82, the difficulties confronting older women in relation to their ownership of property begin to crystallize. As it is, the Constitution, the supreme law of the land, recognizes and permits discrimination in matters of devolution of property on death (under which inheritance of property falls) and in the application of the customary law of the various Kenyan communities. The only check on this, though not explicit, is found in the usefulness of a caveat at Section 3(2) of the Judicature Act that states that customary law applies only where it is not repugnant to justice and where morality is called to question since the Constitution does not have any such qualification.

On the other hand, in considering matters of property ownership by women, the starting point must be recourse to the Constitution, the supreme law of the land, which has no express provision on acquisition of property either by women or men, though it protects the property of individuals once it is acquired. Thus, while any Kenyan of sound mind and who is older than 18 years may own movable and immovable property under the statutory law, Section 75 of the Constitution protects the individual's property of any description from being compulsorily taken possession of unless certain stringent conditions are met and compensation paid. In addition, the section provides relief by way of direct access to the High Court to any person having an interest or right in or over any property, compulsorily acquired. Thus Section (75) affords little solace to women in Kenya, whose primary grievance is the denial of the right to inherit, acquire, own, or enjoy property (Republic of Kenya, 1992).

The Kenyan parliament has drafted a Marriage Bill (Republic of Kenya, 2007), whose part (IV) specifies spousal rights in respect to matrimonial rights, liabilities, and status. Clause 80 specifies the division of assets between husband and wife. With respect to property, it states that

Subject to any law on matrimonial property, a court, when or after granting a decree of annulment, divorce or separation, may order a division between the parties of any assets acquired by them during the marriage by their joint efforts, or may order the sale of any of those assets and a division between the parties of the proceeds of the sale. (Marriage Bill, 2007; moved in Parliament on October 16, 2008)

Should the bill become an act of Parliament, older women who have lived in long-term relationships will be free to seek for court redress in claiming their joint property rights. On the other hand, however, other obstacles—especially insensitivity to women's rights and lack of economic empowerment—will continue to jeopardize older women's rights to claim family property. This is mainly because access to legal assistance requires considerable financial resources which are beyond the reach of most

women. Kameri-Mbote (2002) also observed that cultural and religious beliefs stand out as obstacles to asserting older women's property and inheritance rights in a socioeconomic system that is complex even to the educated and informed. Many older women do not even know that they are entitled to land or property because assets are usually registered and owned by males. Kimani and Chiuri (2004) further observed that, due to high illiteracy levels among older women in Kenya, many are not aware of laws related to property inheritance rights. Furthermore, a Kenyan woman's life rotates around cultural stereotypes that reinforce males' unlimited inheritance rights.

Even so, older women in Kenya have increasingly sought legal justice. Obtaining such justice often depends on the judge's own propensity. Examples of failed justice in matters of inheritance for women and widows abound in Kenyan history. A woman's right to property in Kenya can be subject to interpretations of laws that are biased against women. Subjective evaluations are left to judges and clan elders, who often rule against women even when contrary evidence is provided. These rulings can be influenced by cultural beliefs and customary practices (Kanyi & Ngunjiri, 2002). For many women, especially older women, who are illiterate or ignorant of the law, the burden to prove their contributions to the family property is too onerous or complex. Many of them give up their claim or die before realizing their claim or right. Older women are easily exploited through the court process and even can lose the little they may have to themselves. Hence, the quandary for many women is whether to put up a fight and waste huge resources proving the case or to remain still and watch as they are disinherited at a time when they need their property most.

#### CASE EXAMPLE OF THE INTERSECTION OF AGE, GENDER, CULTURE, AND POLICY

The following example serves to illustrate the challenges that women encounter in their struggle to own the property on which they have labored for years. The real name of the woman has been changed to protect her privacy.

##### *The Case of Beatrice Wanjiru Kimani (61) vs. Evanson Kimani Njoroge (HCCC No. 1610 of 1995)*

In 1995, Wanjiru, an older woman, filed an originating summons under Section 17 of the Married Women's Property Act (1882), essentially seeking a declaration that properties (movable and immovable) acquired by the joint

funds and efforts of husband and wife during their marriage and registered in the husband's name and in the possession of the husband be deemed to be held in trust by the husband for both of them. She also desired that the said properties be sold and the net sale proceeds be shared equally between them. By the time she went to court, the couple had already separated after 16 years of marriage and 2 children. Wanjiru produced evidence that she had contributed directly to the acquisition of the properties through taking a loan from a savings and credit co-operative society. She had also contributed toward the upkeep of the children through buying food and clothes while the husband spent his earnings on accumulating investments and paying school fees.

Wanjiru's husband categorically denied that the properties were bought jointly by the couple. He asserted that he had bought everything with his own money and that Wanjiru used her money on her own personal needs. Furthermore, he argued that the couple had a very unhappy relationship characterized by intense disagreements, and said that sharing money was out of the question.

After hearing the parties, the judge declined to accept Wanjiru's evidence but wholly accepted her husband's argument even though Wanjiru during the subsistence of the marriage was in salaried employment. The result is that her application was dismissed on the basis that she deserved no share in the property acquired during the subsistence of the marriage.

In this case, the principle guiding the judgment was based on the grounds that in a dispute over matrimonial property, *contribution of whatever form must be proved on evidence unless the other party admits it*. In this particular case, the court found no evidence of the contribution Wanjiru had made during the marriage, which consequently enabled her husband to be relieved from the family responsibilities so as to purchase the properties claimed.

Upon appeal (civil appeal No. 79 of 1997), the Court of Appeal judges set aside the High Court's judgment and ordered that the case be reheard before another judge on the grounds that the trial judge had taken an "off discourse on women" bordering on bias against the female gender and purported to give unsolicited guidelines on the law of property where spouses or former spouses lay claim on property used by them in the family. When the case went to the Court of Appeal, the judge held that indirect contribution should be considered in its own special circumstances. Furthermore, such indirect contribution must be proved on a balance of probability. In the end, the Court of Appeal came to the same conclusion that Wanjiru deserved no share in the matrimonial property.

Despite the grim scenario above, as the Marriage Bill goes through the necessary stages in Parliament to be adopted as law, awareness of human rights and the rights of older women to inherit family property can be promulgated in the Kenyan community through civic education programs. As

Palmer (2002) notes, when people embrace change, transformation from within eventually leads to individual and community empowerment and development.

## KENYA AND THE FUTURE OF GENDER EQUITY POLICIES

The National Policy on Gender and Development (Republic of Kenya, 2006) provides a framework for the state to reduce gender imbalances and inequality. The policy mandates the government to strategically address gender inequalities through established institutional frameworks. The Sessional Paper No. 2 of 2006 on Gender Equity and Development (Republic of Kenya, 2006) also provides such a framework for the operationalization of gender mainstreaming in policy, planning, and programming in Kenya. The government is also in the process of developing a *Gender Mainstreaming Implementation Plan of Action for the National Policy on Gender and Development* and a draft of the same has been presented to Parliament. These policies capture and reiterate Kenya's commitment to the Beijing Platform for Action (United Nations, 1995a), the Convention on the Elimination of All Forms of Discrimination Against Women (United Nations, 1979), the International Conference on Population and Development Programme of Action (United Nations, 1994), and the Millennium Development goals (United Nations, 2000b). All of these have been ratified and signed by Kenya and these and other relevant policies must be integrated into the process of advancing gender equality.

Further, the 2005 Law of Succession (Amendment) Bill is intended to amend the discriminatory provisions in the Law of Succession Act (Republic of Kenya, 1981) and has brought substantial changes to African customary law in matters of succession in that it makes no distinction whether a child of a deceased person is a girl or a boy, married or not. Yet, despite its provisions, the Act is often undermined when the customary principle of patrilineal inheritance is still applied. Moreover, women can only make a will for the disposition of property that they effectively own while most matrimonial property is registered in the husband's name. Customary laws will thus continue to override formal policies in matters of succession, which paints a rather dim picture of the prospects for ending women's disenfranchisement.

Although many factors hinder sustainable development in Africa (including Kenya), such as poverty and poor governance, the effect of gender inequality in the allocation, access, and control of resources contributes a significant portion to underdevelopment. In Kenya, discrimination against women, particularly older women, continues despite a moderate level of advocacy and gender awareness (Institute of Economic Affairs, 2008). For

women to enjoy equal opportunities in matters of inheritance and property rights, all forms of social injustice must be addressed, including the skewed power relations between women and men, and between social classes. In this respect, need exists for the transformation of institutions to embrace the goal of translating the concept of gender equity into concrete policies, programs, and practice. The patriarchal nature of the African societies that subjects women to discrimination and oppression needs to be continually challenged. This calls for institutional transformations as well as a political commitment and goodwill. The government must also show real effort in domesticating international instruments including Convention on the Elimination of All Forms of Discrimination Against Women (United Nations, 1979) and the African Charter on Human and People's Rights (1981) as well as the African Union's Protocol on the Rights of Women in Africa (African Union, 2005). Ratification of other relevant international and regional instruments of rights and justice will also assist in ensuring women's rights to inheritance and property.

#### ARE GENDER EQUITY POLICIES ENOUGH?

Even if gender equity policies for inheritance and property rights for women become law, policies and laws are not always implemented as intended. In Kenya, it is increasingly important to change ageist and sexist customs, thinking, values, behavior, and the entrenched institutional culture such as that of the judiciary. Such efforts must also take into account the fact that gender inequalities are deeply ingrained within the colonial heritage and have been perpetuated through cultural myths and beliefs. In essence, governments need to recognize the role of culture in determining property rights and to re-contextualize existing myths and patterns. The recognition that denial of property rights and inheritance to women perpetuates poverty and that Kenya can never achieve its *Vision 2030* while the majority of its citizens are denied basic human rights is paramount. Key to achieving equity is providing advocacy and ways to access information for older women involved in the legal processes to claim property and inheritance.

Furthermore, we need to institute approaches that harness the potentials of both men and women to work harmoniously in safeguarding each other's property rights. Key stakeholders such as government ministries, non-governmental institutions, and community-based support groups must also work in a concerted manner in both policymaking and implementation. Leadership in these endeavors must of necessity include women, especially the marginalized categories such as older women and widows. Men, too, must join in resisting a culture that marginalizes any one gender and work together with women to eliminate the disenfranchisement of women in Kenya.



## IMPLICATIONS FOR SOCIAL WORK

Historical, cultural, and legal impediments continue to jeopardize older women's position pertaining to rights to property and inheritance. This is despite key global as well as regional achievements in securing women's property and inheritance rights accentuated in both law and policy. Hence, there remains a dire need for proper advocacy to bridge the gap between law, policy, and practice all over Africa. As cultural practices constitute the main impediment in this case, governments, civil society, and social workers need to make a concerted effort to integrate sensitivity in matters pertaining to the rights of women in all their programs and projects. Furthermore, working with communities and families will call for a more focused attempt at ensuring that discriminative perceptions and attitudes are dealt with at the grassroots level. Both men and women should be sensitized on the need to embrace equity in matters of property ownership and advised on the importance of property registration for both men and women. The larger implications of the precarious position of older women who claim no property should be emphasized in all practice. Indeed, as more effort is made to empower women for economic development at both the local and national spheres, the issue of property ownership, especially for older women, must not be ignored since exclusion from formal employment leaves many without any other source of income or wealth. In any case, younger women are becoming owners of purchased property as their economic position is expanded; this serves as a clear demonstration that women are able to utilize property for gain just as their male counterparts. This will call for goodwill from both government and other development players taking cognizance of the fact that poverty reduction cannot become a reality if a segment of the population has no right to property and its inheritance.

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