

**PATTERNS OF WOMEN'S PROPERTY OWNERSHIP AND INHERITANCE RIGHTS  
IN KISII COUNTY, KENYA.**

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AWARD OF DOCTOR OF PHILOSOPHY OF KENYATTA UNIVERSITY**

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## DECLARATION

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**DEDICATION**

To my late father Sirimani Mogute Nyachoti, my mother Norah Kemunto Mogute,  
my children Calvin and Marcy and my granddaughter Meena Moraa Nyachoti  
for their prayers, inspiration and support.

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## LIST OF ABBREVIATIONS AND ACRONYMS

AIDS	Acquired immunodeficiency Syndrome
BBC	British Broadcasting Corporation
CBO	Community Based Organizations
CEDAW	Convention on Elimination of All Forms of Discrimination against Women
COHRE	Centre on Housing Rights and Evictions
FAO	Food and Agricultural Organization
FGD	Focus Group Discussions
FIDA	The Federation of Women Lawyers (Kenya)
HIV	Human Immunodeficiency Virus
HRC	Human Rights Commission
HRW	Human Rights Watch
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
ILO	International Labor Organization
KNBS	Kenya National Bureau of Statistics
NGO	Non-Governmental Organizations
UDHR	Universal Declaration of Human Rights
UNAIDS	United Nations Aids Programme
UNDP	United Nations Developmental Programme
UNESCO	United Nations Educational, Scientific and Cultural Organization
UN-HABITAT	United Nations Human Settlement Program
UNICEF	United Nations Children's Education Fund
WDR	World Development Report

## OPERATIONAL DEFINITION OF TERMS

**Access to Property:** This is the ability of the male or female household heads to fully or partially access and utilize family properties (having user rights).

**Control over property:** This is the ability of the male or female household head to absolutely or partially have the authority to exercise a certain degree of powers make decisions on the use, disposal, leasing and gifting of family property.

**Culture:** Culture means the whole complex of distinctive spiritual, material, intellectual and emotional features that characterize a society or a social group. It includes not only the arts and letters, but also modes of life, the fundamental rights of human beings, value systems, traditions and beliefs (UNESCO, 1982).

**Customary Laws:** These are the usual laws subject to and held by customs in society that govern property ownership and inheritance.

**Female Household Head:** This is a wife or mother who assumes nominal control and ownership of property in the family in the absence of a male household head.

**Inheritance:** It is the process of passing down property through descent or succession from a parent or parents, spouses or guardians to an heir, nominee, benefactor or trustee.

**Inheritance rights:** This refers to legal powers or authority through which property is transmitted from one's parent or parents, spouse or guardian to a nominee, benefactor trustee to designate heirs.

**Joint property Ownership:** This is a practice where a husband and wife have equal rights in the use and decision-making processes with regard to family properties.

**Law of Succession:** This is the law which specifies the set or order of persons having the right to succeed family property through inheritance.

**Male Household Head:** The male household head is a father, husband or adult son over 18 years of age who assumes the control, ownership and inheritance rights.

**Patriarchy:** This is a system of society in which males assume primary power, dominate in leadership positions, have control over, ownership and inheritance of property and maintain authority over women.

**Patri-local:** This refers to the pattern of marriage in which after marriage the couple settles in the husband's home.

**Perceptions:** These are notions and ideas that people have about certain things and objects. It is a stand point from which people interpret reality and interact with the dynamics of women's property ownership and inheritance rights.

**Properties:** This refers to any concrete resources, goods or possessions that one owns controls or has access to including land, houses and livestock among others.

**Property rights:** They are privileges to access, own, control, use or transfer resources like land, livestock, houses or cars.

**Property Ownership:** Property ownership refers to a set of rights held by the owner to deal with the property as he pleases. These rights could be derived from dominant customs or the law.

**Socio-cultural factors:** Socio-cultural factors describe beliefs, values and norms of people which emanate from their culture and form the basis their socio-cultural practices.

**Statutory Laws:** These are enacted laws by the legislative body that govern the process of women's property ownership and inheritance rights.

**Structural factors:** These are factors that are not necessarily drawn from culture but define the practices or orientations that may or may not influence the way property is acquired, used or controlled by the target group.

**User rights:** This is the permission given by a property owner, usually a household head, to a member or members of the family to access and benefit from the said property and its' proceeds without claiming its ownership.

**Women's property rights:** These are women's rights which promote the legal and social position to own, acquire (through gift, purchase or inheritance), manage, administer, use, dispose of tangible and intangible property; including land, housing, money, bank accounts, livestock, crops, and pensions HRC, 2006).

## ABSTRACT

Women's rights have been the global agenda for the last few decades. Despite this, women are still disadvantaged. This study endeavoured to investigate the patterns of women's property rights among the Kisii people of Nyanza region, Kenya. The objectives of this study were to identify the various types of property, establish who had rights to access, control and inherit property, investigate the determinants of women's property ownership and inheritance rights and generate suitable strategies that could be adopted to enhance women's property rights. This study was informed by the conflict and the social role theory. The research design adopted for this study was descriptive survey which triangulated quantitative and qualitative techniques. Interviews schedules were utilized to obtain primary data from 408 household heads, in-depth interview guides were used to collect data from thirty key informants while focus group discussion guides were utilized in facilitating collection of qualitative data from groups. Four focus group discussions were conducted in the two sampled divisions. Obtained data was processed and analyzed with the help of statistical package for social sciences (SPSS). The finding of the study revealed that land, houses and livestock were common properties owned and men were found to dominate ownership of these properties. While land was majorly inherited as reported by 94.6% of the respondents, livestock was purchased and houses build. Male and female genders accessed family land and houses as demonstrated by chi-square outputs of 2.75 and a p-value of 0.25 and 10.55 and a p-value of 0.007 respectively. However, access to cattle was influenced by gender as demonstrated by a chi-square of 10.55 and p-value of 0.005. The study revealed a relationship between control of land (chi-square 17.59 and a p-value of 0.001), livestock (a chi-square of 12.83 and a p-value of 0.002) and houses (a chi-square of 19.36 and a p-value of 0.001) with gender. There was a relationship between property ownership and gender as shown by a chi-square output of 90.909 and a p-value of 0.001, 81.124 and a p-value of 0.001 and 81.227 and a p-value of 0.002 for residential houses, agricultural land and cattle respectively. Inheritance of land was also found to have a relationship with gender as depicted by a chi-square of 12.402 and a p-value of 0.002. Factor analysis generated ten items and only four items with eigenvalues of  $\geq 1.0$  and factor loadings of  $\geq 0.4$  were acceptable while the other six were discarded because they were insignificant in influencing women's property ownership and inheritance rights. These factors were; cultural beliefs and practices with a variance of 14.593%, socio-economic factors with a variance of 13.398%, patriarchy with a variance of 11.865% and legal awareness and land scarcity with a variance of 10.502%. These factors explained a total variance of 50.358%. Implying they were significant in influencing women's property ownership and inheritance. Analyzed data also revealed that there was need to enhance women's rights to property as reported by 76.1% of the respondents. Policy recommendations were: to sensitize and empower the community on statutory and legal provisions related to women's property rights, to appropriately implement existing laws that promote women's rights to property, to use of gender sensitive school curriculum to help change the orientation of people on gender equality, government to establish programs to empower women economically, socially and politically. Research recommendations were; to conduct research with a wider scope beyond Kisii County and assess the impact of constitutional provisions in promoting women's property rights among the Kisii people.

## CHAPTER ONE: INTRODUCTION

### 1.1 Introduction and Background Information

The promotion of human rights is a global agenda upheld by the International Human Rights instruments including; the International Covenant on Civil and Political Rights (1945), the Universal Declaration of Human Rights (1948), the International Covenant on Economic, Social and Cultural Rights (1966) and the Convention on the Elimination of all Forms of Discrimination against Women (1979) whose purpose was to accord all people equal rights and eliminate all forms of gender based discrimination.

Women's rights in particular have been reinforced further by international conferences such as the First World Conference for women held in Mexico in 1975 whose objectives were to ensure gender equality, women integration and full participation in development, and contribution towards world peace. The second world conference was held in Copenhagen in 1980 and it initiated the Copenhagen Programme for Action that called for stronger national measures to ensure women's ownership and control of property, and improvements on women's rights to inheritance and an end to stereotyped attitudes towards women.

The third conference was the World Conference to Review and Appraise the Achievements of the UN Decade for Women (The Nairobi-Forward Looking) held in Nairobi in 1985. The intention of which was to review and appraise the achievements of the UN Decade (1975-1985) for Women. The fourth conference was held in Beijing in 1995. The participants of the

conference resolved to come up with the Beijing Declaration and Platform for Action that urged member countries to uphold women's rights, their involvement in decision-making and elimination of discrimination against women. As a follow-up to the Beijing conference, the UN Commission on the Status of Women held another conference in New York in 2005. The main objectives of this conference were to assess the implementation of the Beijing Platform for Action and consider appropriate initiatives and strategies for the advancement and empowerment of women and girls. Further, the United Nations Millennium Development Goals, pillar number three emphasizes the promotion of gender equality and empowerment of women in all spheres of life.

Provisions for gender equality in international, regional and national human rights instruments and the resolutions made in various women's conferences underscore the need and urgency for gender equality. They urge member countries to ensure that women are accorded equal rights with men (COHRE, 2006; KHRC, 2006). These provisions aim at protecting the interests of women in spite of existing regional and cultural diversity (COHRE, 2006). International human rights instruments and legal frameworks strive to guard against all forms of discrimination against women (FAO, 2004; FAO, 2011; KHRC, 2006).

However, in most communities in Africa, property ownership and inheritance are dominated by men (Njuki and Sanginga, 2013; Silberschmidt, 1999). Women are not considered as legitimate owners of family property. They are also not counted when it comes to inheritance of the family estate (KHRC, 2006). Even though succession laws provide for female and male heirs, female

children are not usually considered and if they are, they are allocated a smaller share of property compared to their male counterparts. More so, women are considered for inheritance only under special circumstances (The Succession Act, 1981). These practices depict gender disparity in property ownership and inheritance rights.

This notwithstanding, it is necessary to have gender equality in property ownership and inheritance rights. As contained in the FAO (2011) report, legitimate property ownership provides the owner with direct and indirect benefits. For instance, in agricultural societies, property rights, particularly land rights form a primary source of wealth, power and social status. Land rights provide the basis for shelter, food security and other economic factors essential for human survival (ICRW, 2004). Besides, land title deeds may be used as collateral to secure loans from financing institutions to facilitate further investments (FAO, 2011). Therefore, land rights are essential prerequisites to individual's and societal socio-economic growth and development (Njuki & Sanginga, 2013).

The FAO (2004) report shows that poverty in agricultural societies is directly related to household land ownership. The report further observes that direct access to and control over land minimizes the risk of impoverishment of women and their family members, especially children. However, predominant land ownership practices portray strong gender bias against women. Kameri-Mbote (2007) argues that land ownership and inheritance issues are generally handled by the male gender through locally organized structures that consist of community leaders who are men with a likelihood of gender bias. This leads to gender-biased decision making processes that

negatively affect women's property rights and deprives them of control and ownership of family resources.

Constitutions of different countries in Africa such as Kenya, Zambia, Tanzania, Lesotho, Ghana and Zimbabwe recognize the importance of women's property rights and declare gender equality in property rights as a fundamental human right for all individuals regardless of sex. However, in practice gender discrimination is evidenced in property ownership and inheritance (KHRC, 2006; UN-Habitat, 2006). Efforts to increase women's control, ownership and inheritance to key resources are faced with resistance and lack general societal goodwill and support (Kameri-Mbote, 2002). As a result, attempts aimed at changing the status quo are slow, sporadic and frustrating (KHRC, 2006; Ngwira, 2006).

Consequently, a majority of women respond in conformity to the prevailing circumstances and expectations without objectively examining the justification behind their behavior. They defend and rationalize discriminative practices detrimental to their own well-being (KHRC, 2003; 2006). Those who dare to judiciously question the status quo are made to feel guilty, ridiculed and stigmatized as anything against the normative script for men and women is undesirable (COHRE, 2006). This forms the basis on which society entrenches male dominance in property and inheritance as the best practice (COHRE, 2006; Kameri-Mbote, 2002). However, it limits women from fully participating in the control, ownership and inheritance of family resources and this has far-reaching repercussions that negatively affect women and the community at large.

Women's denial of property ownership and inheritance rights leads to weighty economic, social, political and psychological implications that affect women and the entire community negatively. Economically, women are left destitute with no source of livelihood and this makes them more vulnerable to further violations and abuse since they cannot financially support themselves (KHRC, 2003). Socially, violation of women's rights to property makes women feel disregarded, isolated and marginalized; hence, they lack a sense of dignity and security that comes with property control and ownership. This reduces their self-worth and motivation to be actively involved in productive socio-economic activities. Political exclusiveness of women leads to demotivation and under-representation of women in decision making and policy formulation processes critical to their own and community's growth. Likewise, denial of women's rights to property has serious psychological effects that lead to lack of sense of belonging and ownership of the decisions made pertaining to family properties. Women end up feeling like strangers or outsiders and this retards their active involvement, performance and output in the process of development (FAO, 2014). All these effects cause serious obstructions that lead to increased rates of poverty, food insecurity, poor health and impoverished livelihoods detrimental to national development.

According to KHRC (2003) report, women's limited ability to control, own and inherit property is a historical concern. While the details of women's property rights violations may differ from place to place, time to time and people's socio-economic status, most women world over have experienced property rights violations. They control fewer properties if any, have poorer access to financial services and lack of information and technology (Nzioki, 2006). They not only lose

property but are also ostracized by their families and communities when they attempt to assert for their rights. The KHRC (2003) report further reveals that though difficult to quantify, women's property rights violations are widespread and keep on increasing due to competition over scarce family or community resources (KHRC, 2003).

Therefore, pursuit of gender equality in property ownership and inheritance remains a challenge in most societies. As a result, women continue to suffer disfranchisement and gross denial of property ownership and inheritance rights despite international, regional and national laws that provide for gender equality in property rights. Restricted abilities of women to control, own and inherit property have continued to sustain women's low socio-economic status and dependence on men, a factor that not only affects the well-being of women, but their families and society at large (FAO, 2004; Ngwira, 2006).

Ensuing from the foregoing is the fact that gender disparity in property ownership and inheritance still remain ingrained in the fabrics of the society (Ngwira, 2006). Existing international, regional and national statutory frameworks, policies and sessional papers that champion gender equality have not positively influenced women's property rights. There are still glaring gender disparities that exist in property control, ownership and inheritance (FAO, 2004; Nzioki, 2006). It is in the light of this that this study endeavored to investigate the determinants of women's property ownership and inheritance rights in Kisii County and proffer suitable strategies that could be used to promote this global agenda.

## 1.2 Statement of the Problem

Women's property ownership and inheritance rights are important democratic principles, recognized in a range of constitutions, conventions, treaties and legal frameworks across the world. Likewise, securing of women's rights is an important global indicator of women's emancipation and general development. Globally, women were traditionally marginalized, discriminated against and denied fair playing ground in many spheres of life. However, there is evidence that most women are gradually able to access fundamental human rights such as education, participation in the labour force, participation in the political arena and other critical opportunities that facilitate their development (FAO, 2013).

Women's participation in domains that were culturally reserved for men is as a result of efforts that have been put in place over a couple of decades to promote women's rights and mainstream gender in all sectors as provided in international, regional and national instruments that advocate for and protect women's rights. Similarly, a number of women's world conferences held over the years such as the Mexico conferences in 1975, the Copenhagen conference in 1980, the Nairobi forward looking in 1985 and the Beijing conference in 1995 have been instrumental in advocating and promoting a myriad of women's rights and the need for gender inclusiveness in society.

Following these efforts, modest progress has been made in promoting women's rights in different spheres of life (UN-Women, 2014). However, not much improvement has been

achieved with regard to women's rights to ownership and inheritance of property, particularly land (FAO, 2013). This has far reaching effects that lead to the exclusion of women from key decision making processes pertaining to land, which is the primary resource on which they work to sustain their own livelihoods and those of their families in almost all agrarian societies. Further, this translates to food insecurity, lack of economic growth, under-representation of women in decision-making and leadership positions, and a myriad of psycho-social challenges. All these deprivations faced by women are hypothesized to hamper the realization of gender equality and women empowerment as envisioned in the millennium development goals (MDGs) and the Kenyan Vision 2030 social pillar, critical in improving the livelihoods of women and the society at large.

Ensuing from this account, it is an irrefutable fact that property rights are critical in empowering and improving women's livelihoods as well as advancing the general development of societies. Nevertheless, most communities resist embracing this reality. It was with this realization that this study sought to explore the underlying dynamics that validate current practices on women's property ownership and inheritance in Kisii County, elucidate their determinants and unfold the obstructions that deny women property ownership and inheritance rights as a first step to mitigating them.

### **1.3 Purpose of the Study**

From the foregoing, it is evident that women's property ownership and inheritance rights are grossly disfranchised in most communities despite the emphasis given in promoting gender equality in property ownership and inheritance rights. This state is wanting and has far-reaching negative effects in the general development of the society. Therefore, the primary purpose of this study was to examine the dynamics undergirding women's property ownership and inheritance rights and practices among the Kisii people in relation to the constitutional provisions of the Kenyan Constitution (2010). To achieve this goal, the study investigated the various types of properties owned, their access, control and inheritance rights by gender as well as the determinants of women's property rights among the Kisii people of Kenya. Accordingly, from the study findings and conclusions, strategies that could be adopted to enhance women's property ownership and inheritance rights in Kisii County and beyond were proffered for consideration.

### **1.4 Objectives of the Study**

The broad objective of the study was to investigate the determinants of women's property ownership and inheritance rights in Kisii County, Kenya.

The specific objectives were to:

- i) Identify the various types of property and their ownership;
- ii) Establish which gender had access, control and inheritance rights;
- iii) Investigate the determinants of women's property ownership and inheritance rights; and

- iv) Proffer strategies that could be adopted to enhance women's property ownership and inheritance rights.

### **1.5 Research Questions**

The research questions of the study were;

- i) What are the types of properties owned by the household heads in Kisii County?
- ii) Which gender has the right to access, control and inherit property?
- iii) What are the determinants of women's property ownership and inheritance rights?
- iv) What strategies could be adopted to promote women's property rights in Kisii County?

### **1.6 Assumptions of the Study**

This study is premised on the following assumptions;

1. There are clear cut engendered patterns of property ownership in Kisii County.
2. Access to property is influenced by gender in Kisii County.
3. Control of property is dominated by the male gender in Kisii County.
4. Property inheritance rights run through the male gender in Kisii County.
5. Specific factors influence existing practices on women's property ownership and inheritance in Kisii County.

### **1.7 Justification of the Study**

Currently, the issues of human rights are given great emphasis as a means of ensuring justice and fairness to all in any given society. This is outlined in various human rights instruments both international and local and various world women's conferences such as the Copenhagen conference in 1980 and the Beijing world women's conference in 1995 which stressed the need for women's rights to property ownership and inheritance. Besides, the Millennium Development Goals (MDGs) and the Vision 2030 have provided a platform for promotion of gender equality in property ownership and inheritance. The government of Kenya has also provided for women's property rights in the constitution of Kenya under the bill of rights. All these are pointers to the importance attached to women's property rights in the community today. However, all these efforts notwithstanding, there is evidence of women's property ownership and inheritance rights violations. This is a serious concern in the 21<sup>st</sup> century when every person,

regardless of gender, is entitled to property ownership and inheritance as part of the fundamental human rights. These rights are clearly stipulated in international, regional and national instruments that upholds gender equality and equity. In spite of the efforts to promote gender equality in property rights at all levels in the past couple of decades, most African countries have achieved little success towards this goal.

Therefore, this study was justified because it was carried out at a critical period when women's rights were a major focus and concern globally. It sought to establish the underlying forces that hinder the realization of women's property rights given the efforts and legal frameworks that exist and promote this agenda. Knowledge generated from this study would contribute to the process of enhancing women's property ownership and inheritance rights by filling existing gaps by shedding more light on the factors that hinder the realization of women's property rights. Invariably, this study will suggest suitable recommendations and contextualized strategies that could be adopted to promote and enhance women's property ownership and inheritance rights as basic human rights.

### **1.8 Significance of the Study**

The findings and recommendations generated from this study would permit a better understanding of the dynamics of women's property ownership and inheritance rights among the Kisii people and other communities with similar practices in and beyond Kenya. The results of this study are also expected to contribute in designing appropriate and contextualized strategies

that can promote gender equality in property rights, planning for effective promotion of women's property rights, informing policy formulators and agencies concerned with women's property rights such as; civil societies, government and other development partners on best practices that could be adopted to facilitate and enhance effective implementation of women's property rights. Finally, the findings of this study will contribute to the existing body of knowledge in related fields, fill existing scholarly gaps and at the same time provide a basis for further research.

### **1.9 Scope of the Study**

This study centered on women's property ownership and inheritance rights in Kisii County, Kenya. The main focus of the study was the types of properties owned, their access, control, ownership and inheritance by gender, determinants of women's property rights and strategies that could be adopted to enhance women's property rights. The target population of this study was male and female household heads above eighteen years age and sole or partial owners of inherited or purchased family properties that were investigated in this study. Since Kisii County is relatively large, the study was conducted in two selected divisions, namely Township and Keumbu. Township division was sampled because it represented both the urban and semi-urban population. Though there are many human rights concerns that affect women and need investigation, the focus of this study was on women's property access, control, ownership and inheritance rights in Kisii County. It is hoped that the study findings and recommendations generated from the study may be generalized with caution to other communities with similar practices on women's property ownership and inheritance in and out of Kisii County.

## **CHAPTER TWO: REVIEW OF RELATED LITERATURE**

### **2.1 Introduction**

The literature presented here focused on relevant research and documentations done in this field of study. The global, African, Kenyan and Kisii situations related to women's property access, control, ownership and inheritance were reviewed. The reviewed literature is presented under the following sub-titles: women's rights to access, control, own and inherit property; women's property inheritance rights, the influence of culture on women's property ownership and inheritance; the theoretical framework of the study and the conceptual framework of the study.

### **2.2 Women's Rights to Access, Control, Own and Inherit Property**

This section of the study will explore the rights of women to access, control, own and inherit various types of properties. The review will focus on the global, African, Kenyan setting and the Kisii communities as presented in the subsequent sub-sections.

#### **a) A Global Perspective on Women's property Access, Control, Ownership and Inheritance of Property**

Globally, women's rights to access, control, own and inherit properties are faced with highly contextualized socio-cultural and legal obstacles. According to the United Nations Development Report (2013), gender inequality in property access, control, ownership and inheritance are closely related to women's poverty, deprivation and exclusion. The report further reveals that there is direct correlation between women's access to, use and control over key resources and

improved standards of living and protection of human rights, such as; housing, food, property and health. The report also argues that access to and control over property, particularly, land improves women's self-esteem and confidence and this ultimately enhances their bargaining powers and economic stability. Consequently, this improves their public involvement and participation in decision-making processes, socio-economic and political spheres of life.

According to FAO (2011) report, regardless of the varying roles of women from region to region across the globe, they make essential contributions to agricultural production in most developing countries. Women are key producers of food and goods. Besides, they play key roles in sustaining of families, communities and nations (UNDP, 2006). Further research (FAO, 2011; HRC, 2003; UNDP, 2006) reveals that rural women account for more than half of the world's food production and between 60-80 percent of food production in most developing countries. Globally women's role in food production is critical; it contributes to sustenance of their own livelihood and that of the society in general.

The crucial realities of involving and supporting women's participation in all spheres of life have been emphasized by the international instruments and conferences such as; the Universal Declaration of Human Rights (1948), the International Covenant on Economic, Social and Cultural Rights (1966), the International Covenant on Civil and Political Rights (1945), the Convention on the Elimination of All Forms of Discrimination against Women (1979), the Vienna Declaration and Programme of Action (1993), the Beijing Declaration and Platform for Action (1995), the Copenhagen Declaration on Social Development and the Programme of

Action (1995), the Habitat Agenda (1996), among others. All these point to and confirm a broad conceptualization of the need for women's access to, control over and ownership of key resources in a gender-sensitive, gender-inclusive and gender-responsive environment (UNWomen, 2013).

The World Bank (2012) report on the effects of women's economic power in Latin America and the Caribbean reveals that female income contributed up to 30 percent of extreme poverty reduction of poverty strains of the poorest between the year 2000 and 2010. Similarly, Giovarelli, Wamalwa and Hannay (2013) report on land tenure, property rights and gender state that improving of women's access to and control over land has positive effects in reducing poverty and enhancing economic growth. The same views are documented by FAO (2013) report on gender equality and food security which also affirms that women's empowerment and equal land rights can be a tool against hunger.

In spite of the above realization and acknowledgment of the need for gender equality in property rights, women across the globe still face significant barriers related to; access to, control over and ownership of vital resources such as land, livestock, houses and finances (Rashida, 2013). Odeny (2013) also observes that though international, regional and national human rights instruments have been campaigning and advocating for gender equality in property rights, men still dominate access, control and ownership of land and other key natural resources. Reforms in favour of women's equal treatment with men in property rights have been slow and faced with formidable resistance from society (UN-Habitat, 2006).

Besides, implementation of these laws remains ineffective (Rashida, 2013). National governments often view international standards as contradicting their own interests and resist applying them to their social-cultural and economic systems because they perceive these laws as foreign and outrageous to their specific cultural beliefs and practices. More often than not, ratification of international treaties by member countries does not guarantee automatic domestication at national levels (COHRE, 2006; KHRC, 2006). The COHRE (2006) report further observes that formal legal systems, traditional legal systems, cultural norms and religious beliefs constrain women's property acquisition and inheritance rights.

There is evidence to show that control over and ownership of property in most parts of the world is dominated by men (FAO, 2004). For instance, in England and in the United States of America, following the British law, women's property was under the control of their husbands. Gradually, these states started giving women limited property rights and by 1900 quite a number of states had given married women substantial control over family property (Salmon, 1995; Steinzor, 2003). In China, two views with regard to property rights were held; first, both male and female children could control family properties but with differing degrees. That is; females had rights to half the size of males' share. Secondly, property control was deemed to be a male gender affair that must remain in the hands of male household heads, who are ultimately required to pass it down to male heirs (Bernhardt, 2009).

This trend exists up to the present day in most patriarchal parts of the world as observed by United Nations Development Report (2013). In India, for example, though the constitution

(1949) guarantees fundamental rights and equal treatment to all citizens irrespective of gender, property ownership and control is still dominated by men as reported by Agarwal (2003) and Kelkar (2013). They document that female children are guaranteed support as family dependents or beneficiaries while growing up but are not permitted to exercise any form of control over property. When married, as wives, women are accorded user rights to property with little or no control over them (Doss, Kovarick, Peterman, Quisumbing, and Bold (2013). These views demonstrate gender discrimination on property control rights. Worse still, there are some countries such as Colombia, Peru, Bolivia, Ecuador and Venezuela that have not embraced any form of reforms towards women's property control rights (UN-Habitat, 2007).

In most developing countries, social construction of gender determined by culture defines appropriate gender roles and behaviours for female and male gender (Moser, 1993). Often, this restricts and persuades women from pursuing property control and ownership rights. Accordingly, women waive their rights to property control and ownership at the expense of protecting culturally sanctioned family ties (Kameri-Mbote, 2007). Besides, women who seek to invest in private individual properties obtained either through purchase or given as gifts, face financial constraints in developing them (Silberschmidt, 1999).

Further, Bikaako and Ssenkumba (2006) observe that most women nominally control land. They cannot use it the way they want because their priorities for farm use are different from those of their husbands who have its absolute control. Besides, women lack adequate financial ability to purchase fertilizer, improved seeds and relevant technology without relying on men's support.

Agarwal (2006) documents that female land owners face pressure from their male relatives who want to control their land on their behalf because culturally they consider women as weak and unable to effectively control and management land even when it legally belongs to them.

According to Brown and Bohn (1989), these unfavorable and discriminatory practices are mostly derived from patriarchal structures, cultural, customary and religious beliefs that influence human behaviour. Unfortunately these beliefs and practices are pervasive in society and they effectively serve male interests with little opposition by the female gender. These beliefs and practices tend to develop into norms that entrench male dominance, thus, strengthening the status quo (COHRE, 2006). Consequently, they shape community's perceptions on what is right, proper and acceptable even when they contravene international, regional and national human rights, particularly, those that deal with women's property rights (ICRW, 2004).

Social stigma also hinders women's realization of property control, ownership and inheritance even when endorsed by the existing legal systems. Women are reluctant to demand their rights to control property because of the social stigma attached to such demands. Cultural stereotypes such as 'women are a weaker sex', 'the place of women is in the kitchen' and religious beliefs such as 'wives must submit to their husbands' fortify this social stigma. Women who dare go against such cultural beliefs and stereotypes are generally perceived as disrespectful, arrogant, and greedy (KHRC, 2003). In some cases, widows are accused of having killed their husbands in order to seize, control and own family properties. Often, this leads to unwarranted harassments, physical assaults and in extreme cases, eviction from family properties such as land and houses (COHRE, 2006; KHRC, 2003). As a result of all these accusations, and out of fear, women tend

to shy away from demanding for property control and ownership. Instead, they conform to culturally sanctioned norms and practices even when they do not serve their interests (Swedberg, 2014).

Poverty makes women more vulnerable to violations of property rights. It also aggravates property grabbing by in-laws and other male relatives. Women's financial deprivation restricts them from pursuing their rights in court due to huge legal fees, logistical expenses, time and emotional investment required (COHRE, 2006; KHRC, 2003). Women's low economic status demand that they get preoccupied with immediate basic needs like food, clothing and shelter and they suppress property and inheritance rights as non-essential and not urgent (KHRC, 2003). As women divert their attention from property ownership and inheritance rights stressed in existing legal frameworks, their implementation is weakened as they are not regarded as urgent or critical (Ngwira, 2006). Besides, the speed of promoting women's property ownership and inheritance rights is slow and regionally selective, as some parts of the world have fairly progressed while others have not (Devi, 1999; Ngwira, 2006). Compared to communities that are developed with developed economies, poor communities are slow to embrace reforms that advance women's property ownership and inheritance rights.

Overall, some countries (especially in the West) have made modest progress in promoting women's property rights. However, no country has attained 100% gender equality in property rights as documented by Ode (2007). Therefore, it is evident that women's control over and ownership of property remains a global challenge as evidenced mainly in some developing

regions such as of Latin America, Asia and Africa. These regions are still lagging behind in spite of the international, regional and national legal frameworks and policies that promote gender equity (World Bank, 2012).

#### **b) Women's Access to, Control over and Ownership of Property in Africa**

The situation in Africa is not very different from the global picture. International instruments discussed in part (a) above apply to Africa with a purpose of supporting gender equality in accessing, controlling, inheriting and owning property. They are; the Universal Declaration of Human Rights (1948), the International Covenant on Economic, Social and Cultural Rights (1966), the International Covenant on Civil and Political Rights (1945), the Convention on the Elimination of All Forms of Discrimination against Women (1979), the Vienna Declaration and Programme of Action (1993), the Beijing Declaration and Platform for Action (1995), the Copenhagen Declaration on Social Development and the Programme of Action (1995), the Habitat Agenda (1996), just to mention a few.

The African (Banjul) Charter also addresses the issues related to women's rights to property control and ownership. In Article 2, the Charter gives emphasis on non-discriminative gender practices. In Article 3, it declares that women must be treated with dignity and respect just as men in all spheres of life while Article 16 states that women shall have the right to equal access to housing and to acceptable living conditions in a healthy environment. Article 21 also gives provisions for the rights of women to inherit property. Hence, just like the international human rights instruments, the African Charter recognizes the importance of women's rights to access,

control and own property. This demonstrates the region's commitment to the promotion of women's property control and ownership rights as a way of ensuring gender equity. This notwithstanding, Davis (2012) reports that it is only 36 out of 54 member States of the African Union (AU) that have ratified the Banjul Protocol. Worse still, member states that have ratified the Banjul protocol are faced with challenges of contextualizing, implementing and realizing its objectives in relation to gender equity in property related issues (Davis, 2012).

In addition to this, most countries in Africa recognize the importance of women's rights to access, control, own and inherit key resources in society. This is demonstrated by the state specific laws that support women's property access, control, ownership and inheritance. These laws are enshrined in specific country constitutions and acts of their respective parliaments. Regrettably however, though provided for, women's property rights still face stiff resistance from existing socio-cultural structures. For instance, the Constitution of Tanzania (1977) generally provides that every person in Tanzania has a right to own property. However, customary law order of 1963 discriminates women in relation to property ownership and inheritance, especially inheritance of land. Besides, most women are not in a position to realize their rights to own land and other property due to a lack of legal awareness and weak enforcement of these laws. Another barrier to female property rights in Africa is the presence of customary laws, inheritance practices, traditions and norms that deny women rights to control, own and inherit property (TAWLA, 2013).

In Malawi, the constitution states that women are entitled to a fair disposition of property jointly owned by the couple when a marriage ends. However, properties are considered to be jointly owned only when couples make direct financial contributions to their acquisition. In reality, women cannot always prove their direct financial contribution to the acquisition of jointly owned properties. This is because most women do not have well-paid jobs or established businesses that can enable them to contribute towards the purchase of expensive items like houses, land, vehicles or even bicycles. Besides, their non-monetary contributions of managing family properties are not considered as important (Izumi, 2006). Therefore, although specific country constitutions provide for women's fair share of joint marital property when a marriage is dissolved, many women continue to be short-changed upon dissolution of marriages or death of husbands because they have no proof of their contributions towards property acquisitions (Izumi, 2006).

According to Uganda's Constitution (1995) and Land Act (1998), both women and men have equal rights to own land and property, either as individuals or jointly with other people. Upon marriage, women do not lose these rights. However, because couples tend to share property, it becomes confusing to separate what belongs to whom. In many cultures in Uganda, almost always all property belongs to husbands, even if their wives acquired them before marriage. Culturally, women lose their ownership status after marriage in spite of the existing constitutional provisions, as observed by Bikaako and Ssenkumba (2006).

Similarly, at the dawn of democracy, South Africa's 1996 Constitution provided for accountable and responsive local government that could ensure gender equality that supersedes prevailing

traditions and customs. However, these provisions were compromised by the post-apartheid legal reforms including the Traditional Leadership and Governance Framework Act (TLGFA) of 2003, the Communal Land Rights Act (CLRA) of 2004 and the Traditional Courts Bill of 2008 that safeguard dominant traditions and customs which are gender biased. The process of passing these bills into law elucidates the power of existing culture and traditional authorities and the resultant powerlessness of marginalized social groups such as women (Walker, 2002).

In most African states, access to, control over and ownership of property is an essential determinant and indicator of one's socio-economic status and well-being. However, Kanyi and Ngunjiri (2002) observe that lack of women's control and ownership of property has historical and cultural roots that remain a concern. Though efforts have been made to promote women's rights to control, own and inherit key resources as provided for by the regional and national human rights instruments, their implementation has been slow and sporadic with some regions demonstrating positive progress while others lag behind (Devi, 1999). These disparities in embracing women's rights to property in Africa is determined by a number of factors such as poverty, strict adherence to conservative culture, religion and level of education and exposure of the people as reported by UNESCO (2005).

These observations about Africa notwithstanding, Bikaako and Ssenkumba (2006) observe that women in most communities in Africa are accorded user rights to access family resources by male relatives. However, in most cases they are not allowed absolute access. Men oversee women's access to property because they make decisions on what should be done with the properties that women are allowed to access. For instance, Njuki and Sanginga (2013) note that

women have access to land and livestock and the products accrued from them. They feed and take care of animals, use animal products such as milk and eggs for family consumption and local sales (International Fund for Agricultural Development, 2004). Women are also allowed to till and cultivate family land and use the proceeds accrued from the farm for subsistence. Besides, they can also sell surplus produce from their vegetable gardens with minimum restrictions and consultations.

It is also documented by Njuki and Shanginga (2013) that control and ownership of key resources such as livestock are dominated by the males. These are basic properties whose ownership is valued in most African communities but they are scarce and very competitive as observed by (FAO, 2004; UN-Habitat, 2005). This becomes a source of conflict in society among the various groups who struggle over these scarce resources. Often, men compared to women dominate the control and ownership of these key resources as dictated by culture (COHRE 2006; KHRC, 2003, 2006). This culminates in gender-based discrimination in relation to property ownership and inheritance rights despite their enormous contributions in managing these resources.

However, socio-cultural and legal challenges hinder effective implementation of women's property rights in most African countries. Possession of properties such as land and livestock are very valuable; they accord owners social status and recognition as well as power to influence and control those around them. Socially, this motivates the sustenance of male dominance in property rights as they want to remain in control over women. This practice is perceived as a norm in

most African cultures that embrace patriarchy. As a result of this, women's access to property, especially land, is through male relatives who are either fathers, brothers, husbands or sons (Aduyoye, 1999). Unfortunately, discrimination against women in property ownership and inheritance remain pervasive, largely because of their gender (Marjolein, 2002).

It is important to reverse the scenario presented in the preceding paragraphs because as documented by ICRW (2006), women's property control and ownership facilitates growth of not only women but the community at large. When women get involved in family decision-making processes, they are faced with less gender based discrimination, harassment and violence. Further, the same report reveals that women's ownership of property is crucial in cases of separation or divorce. This is because once separated or divorced, women who own properties are able to adjust quickly and move on with life as opposed to those without any property of their own. Similarly, the same report observes that women who own properties are able to take care of their families in a better way compared to those without property of their own. Besides, women who own properties are likely to use their properties as collateral to acquire loans from financial institutions that they may use for further re-investments. This ultimately leads to women's personal, familial and societal empowerment, well-being and development.

Further, reports by International Food Policy Research Institute-IFPRI (2000; 2014) observe that the ability of women to own and cultivate land over a long period of time influences the way they manage it. When women know that the land they own rightfully belongs to them, they commit themselves to its effective utilization and management. The FAO (2011) report also confirms that the proceeds and income that accrue from land that is owned, controlled and

managed by women go a long way to improve their livelihoods and those of the other family members in general. Besides, women's property ownership contributes to stable family resource base thereby contributing to economic security. The ICRW (2006) report also reveals that those women who own property are likely to have higher and more regular income than those who do not. The report further observes that women who control and own properties are effective managers. Therefore, though women's property rights face a number of challenges in most African countries, women's access to, control over, ownership and inheritance of property is important in ensuring women's and societal well-being and development.

### **c) Women's Access to, Control over and Ownership of Property in Kenya**

This study was done in Kenya and it was appropriate to find out the status of women's rights to key resources in this country. As documented by KHRC (2003) and (Kameri-Mbote (2007), Kenya has ratified various international human rights instruments discussed in the preceding subsections, the African (Banjul) Charter on Human and People's rights besides formulating state laws (constitution and Acts of parliament) that are appropriate in facilitating the implementation and promotion of human rights, particularly, women's rights to property. Nevertheless, just like the rest of Africa, Kenya is faced with enormous socio-cultural and legal challenges that hinder the realization of this goal. Cultural beliefs and practices compounded with customary practices ingrained in people's minds deny women the rights to access, control, own and inherit properties in spite of the existing laws. Law enforcement agencies and agents are often caught up in this trap. Occasionally, they prescribe to customary and cultural practices that hinder effective implementation of laws that provide for equal treatment for men and women. However, Okoth-

Ogendo (2000) perceives resilience and persistence of cultural beliefs and practices in property ownership and inheritance as an opportunity to re-think the issues of access, control and ownership of Africa's primary resource such as land.

Though the succession Act (1981) fairly provides for both testamentary and intestate succession of women, in actual practice, enforcement of this provision is weak as widows are evicted out of their matrimonial homes, denied property rights of their husbands' estate upon the demise of their spouses (KHRC, 2003; Okuro, 2007). There are gender discriminatory clauses of this Act in relation to women's property rights. For instance, widows' life interest to their husbands' estates is terminated upon remarriage while the life interest of surviving husbands' does not terminate upon their remarriage. Also, as far as intestate succession is concerned, when a person dies without a spouse or children, the estate goes first to the father and in his absence it goes to the mother. Though women are considered in this succession clause, comparatively, men have superior rights (KHRW, 2000; The Law of Succession Act, 1981). Hence, this clause promotes gender inequality in property succession rights and it is a reflection of the male gender bias in property ownership and inheritance under The Law of Succession Act (1981).

Another challenge of effectively enforcing gender equity in property rights as provided by the law is occasioned by laxity of the administrative and community leaders who are its primary implementers. These leaders are predominantly men, who are often gender biased due to their customary and cultural orientation and mind-sets as reported by Kamrei-Mbote (2007). They perceive women's property and inheritance rights from the perspective of cultural norms,

customary beliefs and practices anchored on patriarchy which supports male domination and women subordination in almost all structures of society as documented by (COHRE, 2006; KHRC, 2003). In addition to this, cultural stereotypes, prejudices and prescribed gender roles persuade people to believe that women are not meant to control, own or inherit property even when the law makes such a provision.

For instance, women who acquire and invest in personal property are seen as tough, daring and dangerous. Instead of being appreciated, their economic independence is seen as a threat by some sections of the society. A good example is presented in the case of Mr. Leitich, a former nominated Member of Parliament, in his separation suit with his wife Chepkorir. Mr. Leitich declared: "none of my four wives has a right to own any property". Mr. Leitich told the Nakuru law court that his four wives were just supervisors of his property. They had no claim over what he owned. He affirmed that his wives too were his 'properties' and none of them had control over what he owned. This is a gender-based stereotype that shapes the perceptions of some sections of the society (East African Standard, 2004).

It is on the basis of the foregoing that Njuki and Sanginga (2013) observe that Kenya, like most countries in the African continent, accords women land user rights with no control or ownership rights. Women are allowed to access and utilize land for subsistence farming, and can plant vegetables and other subsistence crops consumed within their homes (Silberschmidt, 1999) but they cannot claim ownership or control of the land they cultivate. Studies by Chavangi (1987); ILRI (1999); Mogaka (2000); Njuki and Sanginga (2013) document the critical role that women

play in caring and managing livestock. They feed and milk them, clean their shades and sell surplus milk on behalf of their families. Generally, women have access to the main natural resources in the society as they are accorded their user rights. However, these rights are limited to and controlled by male relatives, particularly the male household heads within the homestead.

As far as property ownership is concerned, Kameri-Mbote, (2002) observes that the majority of the people in Kenya customarily own land while a few are mainly registered under the names of male household heads. It is estimated that only one percent of land title deeds are held by women and these account for only five percent of registered landholders nationally (KHRC, 2003). This idea is confirmed by (NALEP, 2003) report that shows that formal land ownership is dominated by the male gender, as summarized in Table 2.1. Though women's representation in formal land ownership is insignificant, they constitute over 80% of the agricultural labour force, 64% of subsistence farmers, provide approximately 60% of farm-delivered income and on average work three hours longer each day compared to their male counterparts (KHRC, 2003). This reflects huge responsibilities bestowed on women in addition to their immense contributions geared towards sustaining the national economy whose backbone is the agricultural sector which contributes over 80% of national employment and 60% of national income.

**Table 2.1 Ownership of land with titles deeds from selected sub-locations in Kenya**

Responses	Combined		Gatundu		Mwea		Suneka		Sabatia	
	Freq.	%	Freq.	%	Freq.	%	Freq.	%	Freq.	%
No Title Deeds	115	46.2	28	48.3	46	76.6	16	26.7	25	37.5
Husband	75	30.1	20	34.5	10	16.7	27	45	18	25.7
Wife	4	1.6	-	-	1	1.7	2	3.3	1	1.4
Joint Titles	14	5.6	3	5.2	1	1.7	1	1.7	9	12.9
Father-in-law	40	16.1	7	12.7	2	3.3	14	23.3	17	24.3
Total	248	99.6	58	100	60	100	60	100	70	100

Source: NALEP Baseline Survey of Focal Ares, Republic of Kenya: September-October 2003

From the above accounts, it is apparent that though Kenyan statutory laws provide for women's rights to significant resources such as land, livestock and housing, these rights are not yet fully realized. Despite women's enormous contributions in sustaining the economy of Kenya, socio-cultural practices such as widow evictions from family properties such as land, houses, cars and other household properties still prevail (KHRC, 2003). Customary practices are deep rooted in this society and are enforced by gender biased community leaders and customary laws. It is hoped that the constitution of Kenya (2010) which provides for gender equity in property rights in Articles 27(3), 45(3), 59(2) (c) and 60 (1) (f) will in practice override customary laws, cultural and customary beliefs and practices that currently prevail and in its place initiate the change process that could enhance gender equality in relation to women's access, control, ownership, and inheritance of land and other key resources in society.

#### **d) Women's Access to, Control over and Ownership of Property in Kisii County**

The current study was carried out in selected sub-locations in Kisii County. Kisii County is located in Nyanza region in the southwestern part of Kenya. Its capital and largest town is Kisii. The county is inhabited mostly by the Kisii people. This community is governed by the Kenyan Constitution (2010), Acts of parliament and other policies that apply to Kenya as a state and uphold human rights for all the citizens regardless of gender, class and age among others. These laws cascade from international human rights instruments, regional human rights instruments such as the African (Banjul) Charter that Kenya has ratified. These instruments are domesticated and contextualized in state laws that this community is subjected to. Hence, it is a constitutional requirement that both men and women in this community be treated equally in all spheres of life, including the rights to key resources.

This notwithstanding, in this County, there is evidence that points to gender disparity between men and women in socio-economic and political realms as demonstrated with regard to access, control, ownership and inheritance of key productive resources. Despite the fact that Kenyan laws emphasize gender equity, Silberschmidt (1999) observes that the Kisii community is a patriarchal society with a bias to the male gender. Thus property control, ownership and inheritance are dominated by the male gender and inheritance is passed down from father to son. Culturally, women have user rights but are not considered for property ownership and inheritance (Njuki and Sanginga, 2013). According to Republic of Kenya (2002-2008) development plan, married women in Kisii are custodians of family properties but they lack the

powers or authority to control or own these resources while their husbands are considered as legitimate owners and heirs of family properties, especially land.

The fact that most women lack control and ownership of property deprives them of the freedom to fully access and control family resources. This deprivation denies them the chance to effectively and independently maximize the utilization of the resources at their disposal such as land and livestock (Mogaka, 2000). Thus, they depend on male relatives to make major decisions on farm use, the type of crops to be planted, where and when even when women are the chief providers of the needed labour force (KHRC, 2003; Njuki and Sanginga, 2013).

The Republic of Kenya Development Plan for (2002-2008) confirms that majority, 70 percent of women in Kisii County are engaged in subsistence and small scale agricultural production. However, their participation in leadership and decision making processes has been quite low over the years. Besides, women cannot use family land as collateral because majority of the title deeds are in the names of male household heads as documented by (NALEP, 2003). According to Kisii County Integrated Development Plan Report (2013), women are still under-represented in strategic decision-making positions despite the existence of policies and legislative reforms across the country.

Just like in most parts of Africa, changes in family structure have not managed to alter the way people think and perceive women's property ownership and inheritance rights in Kisii County (Silberschmidt, 1999). Similarly, Mogaka (2000) confirms that the Kisii people still uphold

cultural practices which deny women the rights to control, own and inherit land and livestock. These reports are emphasized by work by Waithaka et al. (2000) who report that cultural and customary beliefs and practices among the inhabitants of Western Kenya stand on the way of the realization of gender equality in property rights in spite of the existing legal frameworks and campaigns spearheaded by different promoters of women's property rights.

These accounts confirm that gender disparities still prevail in this county in almost all spheres; social-cultural, legal, economic and political. This is also true when it comes to access, control, ownership and inheritance of key resources and exposure to available opportunities. Overall, the implementation of policies and laws related to women's property rights has been slow, a situation attributed to prevailing cultural and customary attitudes and resultant behaviours with regard to women's property rights (Kameri-Mbote, 2007). Therefore, this study is timely because its findings could help understand the determinants of women's access, control, ownership and inheritance of property and recommend strategies that could be adopted to deliberately and consciously initiate positive change in the way people think and act with regard to women's property rights.

### **2.3 Women's Property Inheritance Rights**

Globally, property inheritance rights to land, housing, livestock and other key family resources have been historically a reserve for men. In most communities, men have had exclusive rights to property inheritance (International Women's Rights Clinic (2009). Women's property

inheritance rights have been minimal despite the fact that they have been accorded recognition in a number of International Human Rights Instruments. According to the United Nations Development Report (1999), women's right to access, control and inherit property determines their overall quality of life. Women are key producers of food and goods and they play key roles in sustaining families, communities and nations. Rural women account for half of the world's food production and between 60-80 percent of food production in most developing countries. It is evident that women assume a critical role in food production world over (KHRC, 2003; UNDP, 2006).

International women's rights movements have been campaigning and advocating for the advancement of women's equality with men in relation to inheritance of property. In Kenya, the governments' commitment to women's property, especially land inheritance rights is stressed in the constitution of Kenya (2010). Article 40 (1) guarantees protection to equal rights to property by men and women and article 4(2), states that parliament shall not enact any law that permits the state or any other person to deprive a person of property of any description. Similarly, Article 60(f) provides for the elimination of gender discrimination in respect to land. It further states that the marital status of a daughter is not the basis to deny her the right to inherit her father's estate. Therefore, the constitution outlaws cultural traditions that lock out daughters (women) from inheriting their parents' property.

Section 4 of the Matrimonial Property Act (2013) provides for equal status of spouses to acquire, administer, hold, control, use and dispose moveable and immovable property and that moveable and immovable properties can be jointly owned by spouses during marriage. Section 11(4) of the

same Act states that a spouse shall not be evicted from the marital home by any person except in execution decrees, a trustee in bankruptcy, or a mortgagee or chargee in exercise of power to sale or other remedy. Section 14 of this Act also states that in case matrimonial properties acquired during marriage in the name of one spouse, there is assumption that the property is held in trustee for the other spouse and it is further pre-summed that their beneficial interests in the matrimonial property are equal. Therefore, this Act addresses property rights and protection of both men and women. However, the most critical factor that would lead to its realization is the commitment to its effective implementation by the implementing agencies and agents.

The law of succession Act (1981) also provides for equal inheritance rights for women and men, girls and boys. This law states that female and male children (married or unmarried) should equally inherit from their parents. It further states that a surviving spouse (female or male) is entitled to absolute interest in the deceased's personal and household effects and life interest in the rest of the estate (e.g. land, houses and business, etc.). However, as earlier alluded in section 2.2 (c) of this report, this act has grey areas that seem to promote gender inequality in property succession.

Despite these legislations that promote women's inheritance rights, Ngwira (2006) argues that laws are stipulated on paper but they are lacking in action. Besides, the speed of promoting women's property inheritance rights is slow and regionally selective, as some parts of the world have fairly progressed while others have not. In addition to this, most customary laws have no provisions for women inheritance rights. Women are welcome to live on family land as guests of

their male relatives by blood or marriage (Republic of Kenya, 2006). According to most cultures in Africa, land inheritance is a domain of the male gender. Property is passed down from male household heads to male heirs. Women are not considered in land inheritance (Aduyoye, 1999; Silberschmidt, 1999).

The practice of bride wealth exacerbates women's property inheritance rights violations. Once paid, some people see women as "bought properties" with less bargaining power to defend their rights or resist any form of property inheritance rights violations. Even women themselves get caught up in these distorted perceptions and remain quiet even when their property rights are being violated. They even perceive themselves as 'bought' by their husbands (HRC, 2003; Silberschmidt, 1999). This slows down the promotion of women's ownership and inheritance rights (Kameri-Mbote, 2007; UN-Habitat, 2006).

The COHRE (2006) report further points out that, in some societies, mainly Muslim communities, women are made to believe that inheritance rights are purely a 'family matter' since courts often decline to intervene, and instead, refer them to customary or religious courts. Women do not bother to take time to appreciate that their inheritance rights are enshrined in statutory laws. They assume that decisions made by the family will take care of their best interests; sadly, this is often not the case. Enforcers of customary and religious laws are men with personal and dogmatic gender bias. Their interpretation of the law is dominated by patriarchal ideas which recognize men as legitimate heirs and property managers.

Social stigma also hinders women's realization of property inheritance rights even when the law provides for such protection. Women may be reluctant to claim property inheritance rights in a court of law because of the stigma attached to the venture. Cultural and religious beliefs and practices fortify this stigma. Women who dare to pursue property rights through the court are perceived as greedy, disrespectful and arrogant. Widows are accused of having killed their husbands in order to seize family property; this may lead to unwarranted harassments, physical assaults and disinheritance (COHRE, 2006; HRC, 2003). Out of fear, women tend to be flexible and conform to normative inheritance practices that are against the law and do not serve their interests for fear of stigmatization and rejection.

Education is also a very critical tool for women empowerment. According to Kramarae & Spender (2014), education is considered as one of the most important means to empowering women with knowledge, skills and self-confidence to fully participate in development processes. Through women's education, society could eliminate sex-based stereotypes that lead to gender discriminative practices common in most societies (Beena & Jothi, 2012). Education helps people to gain insights on what is undesirable and unfavourable about their current situations, perceive better alternative situations and think through the possibilities of attaining or realizing them. Education also involves change of perceptions and worldviews about self, the environment and the relationships between self, others and the environment. This change helps people to generate better choices, negotiate about them and adopt better and acceptable situations.

Therefore, through education society is able to influence cultural and customary practices that are often gender insensitive change them to be accommodative and responsive to the female gender. On the other hand, factors like illiteracy, lack of awareness, lack of information and knowledge aggravates women's exclusion from women's property inheritance. As women remain in a state of ignorance, they survive in the belief that they cannot change their situations (Medel-Anonuere, 1995). Hence, with low education, male gender domination and women's discrimination on property ownership and inheritance is sustained in society.

Closely related to education is the low level of awareness of the legal provisions that protects property ownership and inheritance of women. According to Kamari-Mbote (2007), majority of women in rural Africa are not aware of property and inheritance rights even when they are provided for by the existing legal frameworks. Furthermore, the laws intended to mitigate women's property ownership and inheritance rights violations have remained unknown to the masses. There is evidence to show that women's rights to use or access, control, own or inherit properties are not known to many (Kamri-Mbote, 2007). Therefore, most women opt to resolve property rights violations at the family level (COHRE, 2006) with arbitrators who are mainly men with ingrained gender stereotypes and biases. Women who may be aware of these legal provisions that support women's property rights, are challenged with their low socio-economic status that hinder them from seeking legal intervention, which most often than not is quite expensive. Besides, the monetary cost, there are other hidden non-monetary costs such as time, emotional strain and social consequences such as stigmatization that are associated with seeking legal redress when one's property rights have been violated (KHRC, 2003).

Further, poverty makes women more vulnerable to violations of property inheritance rights. It aggravates property grabbing by in-laws and other male relatives. Women's financial deprivation restricts them from pursuing their rights in court due to the huge legal fees, expenses, time and emotional investment required (COHRE, 2006; KHRC, 2003). Instead, women are pre-occupied with immediate basic needs like food, clothing and shelter for their family and they persuade themselves to believe that property inheritance rights are non-essential and not urgent as they work hard to address their immediate basic needs such as shelter, food, and clothing.

#### **2.4 The Influence of Culture on Women's Property Ownership and Inheritance Rights.**

Culture is the totality of learned and socially transmitted behaviour. It is a stand point from which people interpret reality and interact with the world around them. Culture influences the social construction of gender. Though biological differences are basic in sex distinction between men and women, a great deal is left to social construction of gender. Social construction of gender leads to the establishment of gender-specific cultural expectations from childhood to adulthood. Throughout the lifespan of an individual, one is taught to conform to these gender-specific expectations (Haralambos, and Holborn, 2008).

Similarly, the process of socialization is used to shape and entrench gender differences between boys and girls and men and women. Once gender is "assigned", cultural gender specific roles and responsibilities are spelt out and the actors are expected to conform to the set standards. Children are trained to internalize these socio-cultural expectations and act accordingly. The

same expectations prevail even in their adulthood. Ultimately, gender differentiation forms the basis for inequalities between men and women (Giddens and Sutton, 2013).

Based on individuals' socialization, experiences and training, one learns to see things and extract information from the environment from a gender-specific perspective. This forms the basis of behaviour (Basirico, 2010; Kassin, Brehm, and Fein, 2013). Culture is acquired through the process of socialization and modeling of norms, values and expectations. Consequently, individuals learn to match these expectations with their specific gender. In other words, individuals have pre-set notions; real or imagined about certain situations and how they are expected to behave.

Besides, cultural stereotypes and prejudices reinforce social construction of gender and culture-specific scripts that enable people to anticipate behaviours and their likely outcomes in particular settings (Myers, 2011). Beliefs or behaviours that contradict cultural expectations are met with resistance and gender appropriate roles are affirmed, encouraged and rewarded, thus, maintaining the status quo (Giddens et al., 2013). Consequently, people adapt to specific gender-role socialization which in turn influence the way they think, behave and respond to the world around them, see others and the value they attach to their prescribed positions in society (Kassim, et al., 2013).

Kanyi & Ngunjiri (2002) observe that as much as legal provisions, education, socio-economic status and other factors are important in determining women's inheritance rights to key resources

in society, it is essential to appreciate the role played by culture in determining the way people view women's property inheritance. Brown and Bohn (1989) observe that culture and patriarchy govern property inheritance and it revolves around the male gender. Similarly, in the event of a husband's death, property reverts to the husbands' male relatives, or in case of divorce property reverts solely to the husband. This cultural system has been maintained over the years and it contributes towards the sustenance of women exclusivity from property inheritance.

Religion is also a critical cultural value that has sustained women's exclusion from property inheritance. Once religion is integrated into existing gender roles and distinctions, it produces and legitimizes gender inequality for its adherents (Woodhead, 2007). In most communities, religion favour men over women. Religious leaders are also reluctant to abandon gender-blindness anchored on religious patriarchy. Religious tolerance and rationalization of women subordination and oppression by men is hinged on culture and patriarchy (Women for Women International, 2003). This is true even in property inheritance where men are 'religiously' perceived as heads of households, owners and heirs of family properties. Once this perception is held by the adherents of the religion concerned, it is difficult to change the mindsets of the people and this motivates the sustenance of women marginalization from property inheritance.

As pointed out by Lungu & Shinyangwe (1988), in some cases women's access to property is determined by the number and sex of children they have. Women without children, especially sons, are subjected to blatant discrimination. It is assumed that women's access to property is for their children's welfare, and not their own. Women's entitlement to property rights is irrelevant

if they do not have children. Women's user rights are meant to benefit children and not women directly. Besides women having access to property because of the number and sex of children they have, this preferential treatment is further confirmed in actual property inheritance by children themselves. Male children are culturally given priority over female children when it comes to inheritance. This is because male children are perceived as permanent while female children are perceived as 'transient' in the family of birth and 'strangers' in their marital families. These perceptions affect the practices of women's property ownership and inheritance as evidenced among the Buganda and Banyankore of Uganda (Lungu & Shinyangwe, 1988; Bikaako & Ssenkumba, 2007). The same practice is prevalent among the Kisii (Silberschmidt, 1999).

Culture has also shaped the perceptions of the people with regard to the sex of the children they have. In most patriarchal societies, female children are appreciated and regarded highly as compared to male children. Couples with many female children but no male child is considered like the ones with no children at all. This solely rotates around the perception that female children are transitory and temporal in their family of birth while male children are permanent and a source of social security in old age. Besides, male children are considered as legitimate heirs of family property who carry forward family lineage. These perceptions have and still continue to sustain the preference of male children in most patriarchal societies (Bikaako and Ssekunda, 2006; Doss, et al., 2013; Silberschmidt, 1999).

Consequently, resistance to adopt women's property inheritance rights as provided for by international and regional human rights instruments, national laws and policies and other related organs, is partly as a result of these deeply entrenched cultural practices prevalent in society. Therefore, denial of women's property inheritance rights remains a challenge in spite of the efforts geared towards promoting gender-sensitive and gender-balanced property rights practices. It is worth noting that while some communities have made modest progress in promoting women's property rights, others especially in Africa and Southeastern Asia are still lagging behind because of their adherence to existing dominant cultures.

## **2.5 Theoretical Framework**

This study was informed by two theories; the conflict theory and the social role theory which were triangulated to provide a comprehensive understanding of the variables under investigation. The conflict theory explains the competition that exists in society between the dominant group and the subordinate group (in this study men and women respectively) over valuable and scarce resources and how the dominant group ensures that the resources in question remain under their control and ownership to maintain the status quo as far as property ownership and inheritance is concerned. Further, the conflict theory facilitates the understanding that health conflicts could lead to health competition that could accelerate the realization of desired changes likely to benefit members of the society (Otomar and Wehr, 2002).

On the other hand, the social role theory explains how people are conditioned through the process of socialization to stick to their culturally assigned roles. As a result of this, they believe in and perform roles that are culturally perceived as appropriate for the specific gender. Sticking to these gender roles helps people to fit in and adapt to their environments. This theory attempts to explain that gender-based role distinctions could lead to gender discrimination that still persists in the society to date. Therefore, both the conflict and social role theories were significant in understanding the dynamics behind women discrimination with regard to property ownership and inheritance. These theories also attempted to explain how desired change that could accord women and men rights to property ownership and inheritance could be realized through health conflicts and appropriate role alterations as dictated by societal needs and the environmental contexts. These theories are explained in the sub-sequent sections.

#### **a) The Conflict theory**

The conflict theory has its roots in the early writings of Karl Marx (1818- 1883), Georg Simmel (1858-1918), Lewis Coser (1913-2003) and Dahrendorf (1958, 1959). It critically analyzes existing social systems and arrangements and holds that the most important determinant of social life is the work people do, especially that which results in the provision of basic necessities of life like food, clothing and shelter.

Marx emphasized that in all stratified societies, there are two social groups; the ruling (dominant) group and the subject (subordinate) group. According to Marx, each specific group share similar positions in the market economy by virtue of the rewards they receive. Each

specific group also shares similar life chances that directly affect their chances of obtaining the things defined as desirable by society. The ruling group derives its power from its ability to dominate and control forces of production. Often, the ruling group exploits and oppresses the subject group which feels vulnerable and helpless. As a result, conflict of interest emerges between the two opposing groups. The ruling groups utilize established institutions in society such as the law, politics and patriarchy as instruments to advance and serve their interests.

As observed by Otomar and Wehr (2002), there is constant struggle and conflict between the dominant and subject groups over scarce resources, status and power. Wealth, prestige and power are always in limited supply. Gains for one group are associated with losses for the other groups. This theory affirms that power is a determinant of the outcomes of the distributive questions of; who gets what? When and How? Power also determines which group translates its preferences for behaviour (its values) into operating rules in society. For instance, this theory helps to determine the rightful owner of family property, those entitled to property inheritance and how this is regulated in any given society. These behavioural preferences are eventually accepted and adopted as normative practices in the said society. This theory also critically examines who benefits and who loses from the way society is organized (Otomar et al., 2002).

Proponents of the conflict theory argue that society operates under perpetual scarcity of resources to equally satisfy the demands of the dominant and subject groups. This produces intense conflict that threatens and ultimately destroys existing social structures and relationships between the two opposing groups. Intense conflicts between conflicting groups can 'tear apart'

the fabrics of society. According to this theory, what threatens the social structures and relationships is not conflict itself, but the rigid character of the structures involved. For instance, if society maintains that only the male gender is entitled to property ownership and inheritance and is fixed about this position, the female gender may arise to demand for their share as provided under the existing legal frameworks. Resistance from the male gender to accommodate this demand from the female gender is likely to cause conflicts. Emerging conflicts may lead to positive or negative change. Positive change will facilitate necessary adjustments in relation to expected normative behaviours while negative change will lead to tension among the two groups.

The proponents of conflict theory argue that conflict is the basic mechanism for social and cultural change that continually transforms human life (Joas and Wolfgang, 2011). Conflict occurs when people are motivated to protect the interests of their own group. When intensified, dominant groups coerce subordinate groups to do things or accept things against their will. Dominant groups attempt to control the subordinate groups through means other than coercion such as religion, cultural beliefs and practices among others. For instance, Marx theorized that religion is an agent of subordination. Through religion, people may be induced to accept existing socio-economic systems as God ordained, thus supporting the interests of the dominant groups (Joas et al., 2011). For instance, the biblical requirement that women should submit to their husbands may be used to serve the interest of the dominant group (men) at the detriment of the subject group (women).

Differential distribution of power and authority determines systematic social conflicts either positively or negatively (Otomar, 2002). Power and authority resides in the position held rather than in individuals. Therefore, conflicts are evident in the arrangement of social roles endowed with expectations of domination or subjection. Those who occupy positions of authority are expected to control subordinates since authority is legitimate and sanctions can be brought to bear against those who do not comply. For instance, society, more particularly the dominant group (men) may penalize the subordinate group (women) for going against expected normative behaviour in relation to property ownership and inheritance. Nevertheless, the subordinate group (women) may also fight back to demand for their legitimate rights to property ownership and inheritance and this could lead to conflicts.

For instance, men who own property such as land and insist that women work on it without any direct economic gain may ignite reactions from women who may fight back to demand equal control over the said land and its proceeds. If this is considered as a healthy conflict, it will spur reciprocal antagonisms between the two competing groups. In some cases, these conflicts could lead to preservation of social divisions and systems of stratification, thus, maintaining the overall social systems. On the contrary, such conflicts could lead to appreciation of progressive and gradual change in the normative and behavioural practices of the people. Ultimately, this could accelerate the promotion of women's property rights in the society and facilitate gender-balanced property ownership and inheritance (Joas et al., 2011).

### **b) The Social Role Theory**

The other theory that informed this study is the social role theory which complements the conflict theory. Eagly and Wood (2012) argue that the differences between the dominant and the subject groups discussed under the conflict theory in the preceding sub-section could be magnified by the unequal social roles occupied by men and women in society. Ordinarily, men engage in masculine high status roles that command power and authority while women engage in feminine low status roles that lack in power and authority. Accordingly, members of the two groups behave in ways that fit their expected roles and the resultant behavioural differences provide a continuous basis for social distinction. As Kassim, et al.(2013) observes through gender differentiation, society perceives men as dominant while women are perceived as domestic 'by nature'. However, in reality, the differences that exist between the two groups reflect the social roles they perform.

Occasionally, the subject group (women) cooperates with the dominant group (men) by implicitly agreeing to play their assigned social roles (Swedberg, 2014). This explains why most women are not keen on issues related to property ownership and inheritance rights. They uncritically accept and play the social roles assigned to them by convincing themselves that different types of social behaviours come naturally to different social groups. Additionally, Swedbery (2014) argues that culturally prescribed social roles get ingrained in people's psyches as society encourages them to learn the script and play it as expected to maintain stability.

Once society has prescribed gender based social roles, behaviours of each group are expected to fit the various social norms, values and beliefs upheld in society. Members of each specific

group are expected to behave in definite ways suited to the tasks they perform. Social agents in the society such as the family, religion and politics constantly communicate and reinforce expected and prescribed behaviours of each specific group to members of society. Gender stereotypes and prejudices further reinforce the preservation of the status quo in society (Swedberg, 2014). Men are expected to assume leadership roles (controlling, ownership and inheritance of property) while women assume subordinate roles (tilling and nurturing). These roles are sanctioned by society and they become part of everyday life.

When these roles are institutionalized, members of the society justify and rationalize existing social structures and arrangements even when they are the 'losers'. For instance, women who are denied property rights reassure themselves that the world is 'just' and people get what they deserve according to their social roles without re-examining the rationale behind male domination in property ownership and inheritance. Therefore, they engage and act according to their culturally assigned roles that magnify gender differences. Being the dominated group, women are forced to cooperate with the dominant group (men) because it is normative to do so.

This is true in property ownership and inheritance rights where men seem to be the ones controlling means of production, as argued by the conflict theory, while women provide the much needed labour force to sustain the economy without any direct economic benefits as expected of their gender specific roles. Men use existing socio-cultural structures such as patriarchy, religion, place of residence of the couple after marriage, bride wealth and dominant cultural values and norms to perpetuate their own interests in the face of scarce

family/community resources. Men protect their own group's interests to maintain their socio-economic rewards such as power, authority, status and prestige which come with their positions and roles in society.

On the contrary, emphasis given to human rights in the contemporary society has made women realize that they are oppressed by the existing male-dominated socio-cultural structures. Consequently, they struggle to have equal opportunities and life chances with men. This has led to formulation and enactment of statutory and legal instruments and other policies which promote women's rights. These efforts are reinforced by women's rights movements and gender activists who promote women's rights.

Since gender equity in property rights is not culturally sanctioned in most African societies, its promotion may lead to healthy conflicts that may ultimately initiate positive change in people's perceptions, attitudes and behaviours with regard to women's property ownership and inheritance rights. These changes may in turn provide a justification to review and adjust gender discriminatory socio-cultural structures and promote gender equity in property related issues. Social institutions such as the law, education, economy and religion among others could be used as avenues of enhancing gender inclusiveness in all spheres of life. This may ultimately influence positive change with regard to women's property ownership and inheritance practices as illustrated by the conceptual framework of this study.

## 2.6 The Conceptual Framework of the Study

From the reviewed literature, the status of women's access to, control over, ownership and inheritance of property were discussed. Several determinants of women's rights to key resources were highlighted. In this study, the independent variables that influence women's property ownership and inheritance practices were; patriarchal systems of society, patri-local residence of the couple after marriage, bride wealth paid to the parents of the bride at the time of marriage, male child preference over female children with regard to property ownership and inheritance, economic status, level of education, awareness levels, religion and the values attached to different types of properties while the dependent variable was women's property ownership and inheritance rights.

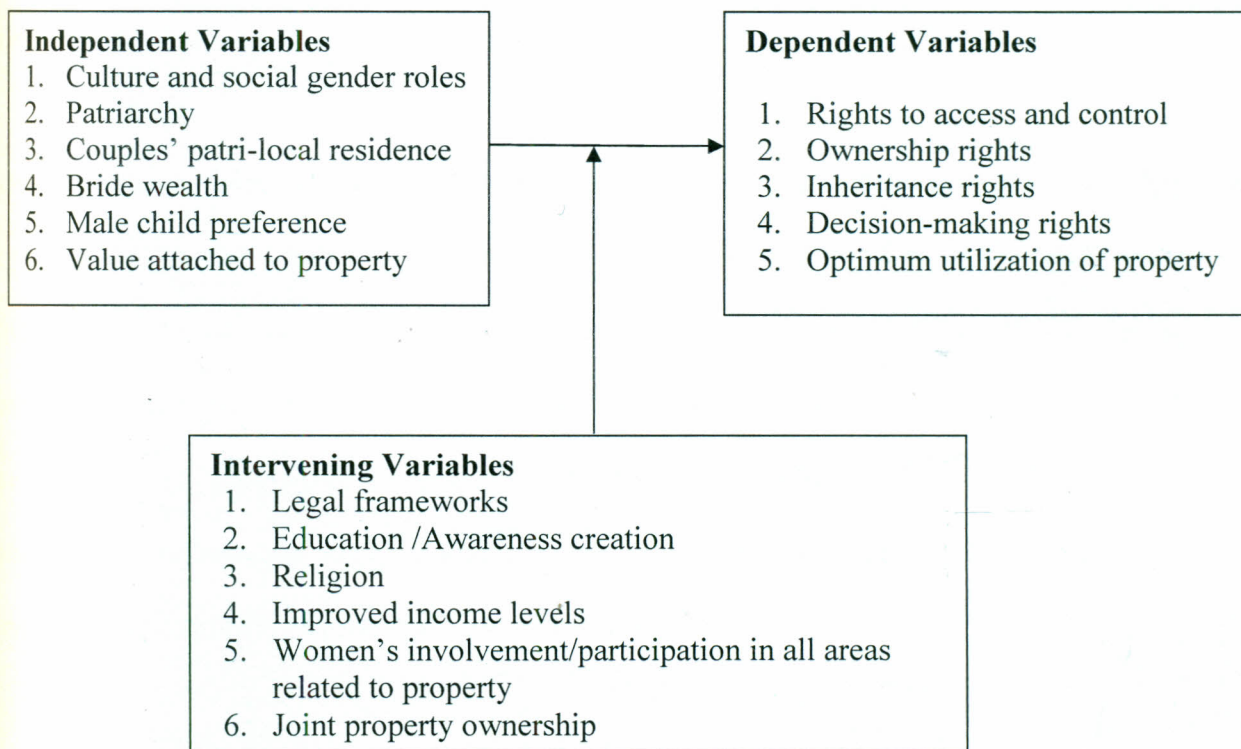
Culture dictates who has access to, control over, rightful ownership and inheritance of family properties as dictated by dominant customary beliefs and practices of the people in the community under investigation. Culture mainly influences the current practices with regard to women's property practices in this society. More often than not, culture favors the male gender, thus, explaining the practice of male dominance in property ownership and inheritance in spite of the efforts put in place to promote gender equity.

Attempts to change these deep rooted beliefs and practices require strategic intervention that could facilitate the process of un-learning the undesirable beliefs and practices and in their place learn the desirable ways of thinking, perceptions, attitudes and behaviours in relation to property rights (Eagly, 1987 and Ode, 2007). The process of un-learning the undesired and learning the

desired beliefs and practices requires intervening variables that could be adopted as strategies to influence this change process. The intervening variables identified from the reviewed literature are formulation and effective implementation of laws that provide for gender equality in property ownership and inheritance regardless of gender, promoting levels of formal education of the people, giving emphasis to civic education, promoting religious endorsement of equality between men and women and enhancing socio-economic empowerment of the members of the community under investigation. If effectively applied, these strategies may positively influence the thinking, attitudes and behaviours of people.

Consequently, this change will facilitate the promotion of women's rights to vital resources in the family and community at large resulting in the ultimate desired overall change. Change in people's perceptions, attitudes and behaviours will be demonstrated through the emergence of women's property ownership rights (the dependent variable), that is, freedom to access and use property, control over and ownership of property which includes the right to dispose, sell, gift and grant inheritance. If this is realized, then gender parity in property access, control, ownership and inheritance will be achieved as illustrated in the conceptual model (see Figure 2.1).

## The Conceptual Framework of the Study



**Figure 2.1 Promoting Women's Property Rights**

### 2.7 Gaps of the Study

As discussed in the reviewed literature, in order to ensure gender equity, international and regional human rights instruments and conventions, national laws such as the constitution and women's rights activists have been campaigning for the promotion of women's access to, control over, ownership and inheritance of property. Though modest progress has been made in this direction in most Africa countries, it has been slow and sporadic. As presented in the reviewed literature, laws alone may not effectively change the ingrained cultural mindsets of people. It is therefore, critical to develop a contextualized, deeper understanding and appreciation of the

determinants of women's property rights as a strategy of advancing gender equality in property ownership and inheritance.

Reviewed literature revealed that though there are statutory instruments such as the constitution that provide for women's rights to property, not much is known about them; hence, most people are not able to take advantage of them. Therefore, this study intended to fill the knowledge gap by establishing the determinants of women's property ownership and inheritance rights and the place of statutory provisions in promoting women's rights to property. The study also endeavoured to recommend suitable and contextualized strategies that could be adopted to promote women's property ownership and inheritance rights.

## **CHAPTER THREE: STUDY METHODOLOGY**

### **3.1 Introduction**

This chapter gives a description of the study methodology. Key areas highlighted include: the research design; study site; units of analysis; population and target population of the study; sampling procedures and sample size; data collection instruments; reliability and validity of the research instruments; data collection procedures; data processing and analysis; ethical considerations and chapter summary. These details are presented in the subsequent sub-sections.

### **3.2 Research Design**

This study adopted mixed methods approach design. According to (Heavier, Ames and Onghena, 2011) mixed methods research design is a procedure that allows 'mixing' or triangulation of quantitative and qualitative research methods to collect and analyze data in a single study to facilitate a better understanding of the research problem. Descriptive survey design, a typical quantitative approach, was the main design that was used to collect data from a large population whose units of analysis were individuals as recommended by Creswell and Plano (2011). The design allowed flexibility and was appropriate for probing to gain more understanding of the variables investigated. It also permitted collection of detailed and relevant information on women's property ownership and inheritance rights. In particular, descriptive survey design allowed interviewed household heads to describe the various dynamics of women's property ownership and inheritance practices.

The other procedure used in this mixed design was qualitative research techniques for purposes of triangulation in data collection tools, analysis and interpretation of results and reporting. Qualitative approach focused on the setting and context in which the study was done (Creswell, et al. 2011). Further, it provided an in-depth understanding of the concepts investigated. Qualitative techniques gave emphasis to listening to the discussions and experiences of the participants in their contexts and highlighted the voices of participants through quotes. Data collected through in-depth interviews and focus group discussions were subjected to analytical induction to establish common themes.

Mixed method design was appropriate for providing broad and in-depth understanding of the various types of properties owned by the respondents, the levels of property access and control, ownership and inheritance dynamics and the determinants of women's property ownership and inheritance rights. This design allowed triangulation of qualitative and quantitative data collection and analysis procedures to be used concurrently to achieve mutual corroboration of the findings obtained from the two methods of research (Creswell, et al., 2011). In addition, the design enhanced the confidence of the study findings as qualitative and quantitative findings complemented each other to arrive at more credible and reliable findings, conclusions and recommendations.

### 3.3 Study Site

The study site was Township and Keumbu divisions located in Kisii County, Nyanza Region-Kenya (Appendix 1). According to the KNBS (2012) the county covers an area of 1,332.7km<sup>2</sup>. Out of the 1,332.7 km<sup>2</sup>, 1,260.34 km<sup>2</sup> is arable land while 190.66 km<sup>2</sup> is non-arable land. The arable land has fairly rich and fertile soil with ample rainfall of an average of 1500mm and temperatures ranging between 10°C and 30°C. Since this community is predominantly an agricultural zone practicing subsistence mixed farming, this climatic condition support agricultural activities carried out in this County. Land is the main economic resource that sustains the livelihoods of people in this county. However, it is scarce and highly fragmented with insignificant economic value. The Republic of Kenya (2009) and The Kisii County Government Website (2013) report that Kisii County has the highest land fragmentation in Nyanza Region with an average farm size of 0.75 hectares per household. This has led to escalating poverty as 51% of the population in this county live below the poverty line

According to the Kisii County Website (2013), the population of the County was 1,152,282 people comprising 48% males and 52% females. There were 245,029 households with an average family size of six members, and female headed household were put at 20,434 in this county. The average population growth rate stood at 2.19% with an average life expectancy of 53 years (Republic of Kenya, 2009). What is more, the area had a very high fertility rate of 5.2 children per woman, much higher than the national average of 4.7 children per woman. These statistics are confirmed by (Republic of Kenya, 2009) population and housing census report.

The main economic activity of the inhabitants of this area is subsistence mixed farming. Subsistence crops such as maize, beans, finger millet and a variety of vegetables are cultivated on small-sized farms. Common cash crops grown in this area are; tea, coffee, bananas, avocados, passion fruits and pineapples. In addition to crop farming, livestock rearing is practiced to supplement subsistence and cash crop farming. According to the Republic of Kenya (2009) and the Kisii County website (2013), the number of women involved in agricultural labour force in this county is higher than that of men.

Women who participate in productive agricultural work have limited control over and ownership of productive resources such as land. This status quo is influenced by ingrained cultural practices such as female genital mutilation (FGM), assigned socio-cultural gender roles and widow inheritance (being 'taken care of' by a designated male relative after the death of a husband) through which women are socialized to submit and adhere to cultural values that promote patriarchy by putting men in positions of authority while women are trained to assume subordinate positions. As a result of this, members of this community are in-sensitive to constitutional and legal provisions that guarantee women's property ownership and inheritance rights (Kameri-Mbote, 2007). Consequently, both men and women are conditioned to believe that property control, ownership and inheritance rights are the domain of the male gender (Silberschmidt, 1999). Hence, there is slow cultural transformation that retards the realization of women's inclusiveness in property control, ownership and inheritance.

Similarly, according to UNAIDS (2014) report, Kisii County is in Nyanza Region which records the highest rates of disfranchisement of women from family properties by their in-laws. Widows who decline to conform to the cultural practice of widow inheritance are taken advantage of and their marital properties are seized and taken by their husbands' kin. Such widows find themselves without any form of property to use as a source of livelihood for themselves and their children (KHRC, 2003, 2006; UNAIDS, 2005). Similarly, Nyanza has high rates of poverty and HIV/AIDS prevalence in Kenya whereby more than 60% of Nyanza's population is classified as impoverished while the HIV/AIDS prevalence stands at 15.1%, more than twice that of the entire country which stands at 6% (UNAIDS2014). Besides, Kisii County records a high rate (33%) of female-headed households in Nyanza their marginalized status in society notwithstanding (Republic of Kenya, 2014). All these factors make Kisii County an ideal site for this study, whose findings could be generalized with caution to other communities with similar practices.

### **3.4 Unit of Analysis**

The unit of analysis for this study was household heads drawn from selected households from the six sampled sub-locations, three locations and two divisions in Kisii County.

### **3.5 Population and Target Population of the Study**

The population of the study was all the residents of Kisii County who comprised 1,152,282 people with 245,029 households as earlier reported in section 3.3 of this thesis. However, the target population of the study was 292,837 people from the two sampled divisions, that is,

Keumbu division with a population of 109,837 people and Township division with a population of 183,000 people.

### **3.6 Sampling Procedures and Sample Size**

In this study multi-stage sampling technique was adopted. Multi-stage sampling refers to the sampling procedure that allows smaller and smaller units to be sampled at each stage. In this method, a sample of primary units was selected and then a sample of secondary units was selected from within the primary unit (Creswell et al., 2011). However, in every stage, a combination of probability and non-probability sampling procedures were utilized. In the first stage, purposive sampling was used to isolate the rural and urban divisions of Kisii County which has a total of six divisions. They are Keumbu, Marani, Township, Masaba, Mosocho and Suneka. Out of the six divisions, Township division was purposively selected for its metropolitan characteristics. From the remaining five divisions (Keumbu, Marani, Masaba, Mosocho and Suneka), simple random technique was utilized to sample Keumbu division to represent the rural population. Hence, the study focused on two divisions in Kisii County- Township and Keumbu divisions.

The second phase was to sample locations which were included in the study. There was only one location in Township division (Township location) which was purposively sampled while there were a total of five locations in Keumbu division. The locations are Ibeno, Kerera, Keumbu, Birongo and Taracha. Out of these five locations, Keumbu and Birongo locations were sampled

using simple random techniques. Hence, there were three locations sampled for the study, that's Township, Keumbu and Birongo locations.

In the third stage, Township and Mwamosioma sub-locations, the only two sub-locations in Township were purposively sampled. On the other hand, Keumbu location had a total of three sub-locations; Nyamware, Keumbu and Taracha. Out of these, two (Nyamware and Taracha) were selected using simple random technique. Similarly, Birongo location had three sub-locations: Biombe, Bomwagi and Birongo. Out of these, two (Bomwagi and Birongo) were sampled using simple random techniques.

In the end, a total of two divisions (Township and Keumbu), three locations (Township, Keumbu and Birongo) and six sub-locations (Township, Mwamosioma, Nyamware, Taracha, Bomwagi and Birongo) were sampled. In the fourth stage, the assistant chiefs of the sampled six sub-locations were requested by their respective chiefs to compile comprehensive lists of all the households in their sub-locations through the help of clan elders. The lists generated comprised 2,460 names of household heads from the six the sub-locations. These lists were used as sampling frames from which the household heads were selected as illustrated in Table 3.1.

Table 3.1 Phases of Multi-Stage Sampling used in the Study

Stage	Level of Sampling	Population	Number Sampled	Sub-Locations Sampled	Sampling Technique Used
Stage 1	Divisions	6	2	1. Township	Purposive
				2. Keumbu	Simple random
Stage 2	Locations	28	3	1. Township	Purposive
				2. Keumbu	Simple random
				3. Birongo	Simple random
Stage 3	Sub-Locations	82	6	1. Township	Purposive
				2. Mwamosioma	Purposive
				3. Taracha	Simple random
				4. Nyamware	Simple random
				5. Bomwagi	Simple random
				6. Birongo	Simple random
				<b>Sub-Location &amp; Sample Size</b>	
			240 ÷ 2 = 120	1. Township 120	
			20 from each sub-location	2. Mwamosioma 120	
Stage 4	Households from the six sub-locations	2,460	144 ÷ 4 = 36 from each sub-location	3. Taracha 36	Systematic random
				4. Nyamware 36	Systematic random
				5. Bomwagi 36	Systematic random
				6. Birongo 36	Systematic random
				<b>Total</b>	<b>384</b>
				Contingency (10%)	38
				<b>Grand Total</b>	<b>422</b>
Stage 5	Household Heads	2,460	422	-	Male or female household heads

### Determining the Sample Size

Since there was no estimate available for proportions in the target population assumed to have the characteristics of interest i.e. household heads who inherited and owned property in Kisii

County, 50 percent was used because the target population with these characteristics was more than 10,000 and the desired accuracy was sought at 0.05 levels. Fisher et al. (1983) recommended the z statistic as 1.96 (as cited in Mugenda & Mugenda, 1999). Thus, the sample size was calculated as follows:

$$n = \frac{z^2 \cdot p \cdot q}{d^2}$$

where;

*n* is the desired sample size

*z* is the required confidence level

*p* is the proportion of the target population estimated to have characteristics being measured

$$q = 1 - p$$

*d* is the level of statistical significance (the error)

Therefore,

$$n = \frac{z^2 \cdot p \cdot q}{d^2}$$

$$n = \frac{(1.96)^2 \cdot 0.5 \cdot 0.5}{(0.05)^2}$$

$$n = \frac{(1.96)^2 \cdot 0.5 \cdot 0.5}{(0.05)^2} = 384.16$$

$$n = 384.16$$

*n* = 384 is the desired sample size for the study.

To ensure that the desired sample was achieved, an additional ten percent (38) of 384 respondents was added as contingency sample. This made the total sample size to be 422 respondents. Out of

the 422, a total of 408 respondents were available and reached for interview. According to Hart (2007), a contingency sample may range between 5 to 10 percent of the overall sample size. Further, (Hart, 2007) argues that a contingency sample gives the researcher flexibility to sample a slightly higher number of respondents to take care of non-response or recording errors. If managed properly, contingency sample provides a safeguard to the desired sample size and increases the significant level of the findings which ultimately increases the confidence of the results (FAO, 1990).

The sample proportions given in Table 3.2 were within the plus and minus .05 of the population proportion with a 95% level of confidence. The sample distribution was then categorized along the defined sub-locations and appropriate sample sizes were proportionally allocated to each one of them on the basis of the population strength of each division.

**Table 3.2 Sample Size Proportions of Selected Households in Kisii County**

Divisions	Population size for divisions	Sample populations	Percentages	No. of sub-locations	Corresponding Proportions
Township Division	183,000	264	62.5	2	132
Keumbu Division	109837	158	37.5	4	40
Total	292,837	422	100	6	422

Out of 422 household heads sampled from six sub-locations, 408 household heads interviewed were sampled through systematic random technique. The sampling frame lists bearing the names

of household heads from each of the six sub-locations were used to randomly select the first sample,  $k^{th}$  element whose value was determined as four (4). Hence, the study sample was systematically selected from the sampling frame using the interval of 4 until the 408 respondents from the six sub-locations was attained.

In addition to the 408 household heads interviewed, thirty (30) key informants were purposively selected for in-depth interviews aimed at gaining a better understanding of women's property rights in Kisii County. The key informant population included the leadership of the community such as; government representatives, public administrators and local leaders, social development officer, chairman of the land tribunal board, NGO and CBO representatives, women leaders, youth leaders, educational institution leaders, public opinion leaders and faith-based institution leaders from Keumbu and Township divisions. FGD participants from Township and Keumbu divisions were purposively sampled to be part of the respondents.

### **3.7 Data Collection Instruments**

Triangulation of data collection methods entails the use of two or more instruments to collect data in a single study (Creswell, et al., 2011) to get a holistic perspective of the problem under investigation. A single tool of data collection could lead to a limited view of the complex social phenomena under investigation. Hence, the study triangulated three types of instruments that were used for data collection. The three tools of data collection used were semi-structured interview schedules for household heads, in-depth interview guides for key informants and focus

group discussions guide for focus group discussion participants. These tools are discussed in the subsequent sub-headings.

#### **a) Semi-Structured Interview Schedules**

Semi-structured interview schedules (Appendix 1) were used to collect data from the 408 sampled household heads. This tool of data collection was preferred because according to Creswell et al., (2011), interviews facilitate face to face oral questioning of the respondents while it allows probing to generate detailed data with varying degrees of flexibility. Also it was necessary for face to face interviews to be administered because they encouraged the respondents to give insightful information on women's property ownership and inheritance issues. In addition to this, open-ended questions in the semi-structured interview schedules allowed the interviewer flexibility to pursue ideas and thoughts that emerged in the course of interviews, thus enhancing clarity of issues investigated. Since a number of respondents had low education while others had none at all, face to face interviews made it possible for the illiterate and semi-illiterate household heads to participate in the study without any problem. Face to face interviews also allowed the researcher to observe non-verbal behaviour of the respondents, besides helping in reducing anxiety of the respondents because of the sensitive nature of the topic under investigation.

#### **b) In-depth Interview Guides**

In-depth interview guides (Appendix 2) were also used to collect data from thirty (30) key informants. This instrument was used to facilitate in-depth interviews with key informants who provided insightful information about issues related to women's property ownership and

inheritance rights in Kisii County. The in-depth interview guide was helpful in collecting qualitative data as participants were encouraged to freely express their views, while allowing the researcher to follow through unexpected clues and new insights shared by the informants. In-depth interviews were also helpful in eliciting vivid information on participants' perspectives of the research topic (Mack, Woodsong, MacQueen, Guest, and Namey, 2011). It also brought to the fore individuals' feelings, opinions, attitudes and experiences. The persons who were interviewed were considered as experts while the researcher was motivated to learn from what the participants were sharing about the research topic (Mack et al., 2011).

### **c) Focus Group Discussion Guides**

According to UNESCO (2005), FGDs comprise 6-12 persons who are facilitated by the researcher or moderator to reflect and discuss the specific issues of interest to the study. Further, (Mack, et al., 2011) document that FGDs facilitate and encouraged participants to freely interact as they discuss issues related to the topic of study. Focus group discussions generate insights that reveal different perspectives of the topic under investigation (Mack, et al., 2011) . All these kinds of group processes were critical in collecting data from FGDs. FGDs were used in this study because they allowed the researcher to collect qualitative data related to the participants' beliefs, perceptions, attitudes and experiences on women's property rights. As Creswell, et al., (2011) states, focus group discussions promote honest responses that could otherwise not be obtained from individual interviews. Besides, the researcher can observe the mood and passion of the discussions as the participants drive home their views.

Through the help of the chiefs of the two divisions, members of the focus group discussions were mobilized and sensitized in readiness for participation at the chiefs' camps of their respective divisions at Keumbu hall and Township chief's camp. Focus group discussion participants were not part of the main sample. They were men and women drawn from the two sampled divisions and conversant with the subject of study. They were free to share their views, argue, correct each other, and support their viewpoints with examples from their own experiences (Mack et al., 2011). A total of four focus group discussions, two from each division- one for men and another for women- were organized on the basis of gender based on the assumption that this arrangement will permit openness.

In this study, the principal researcher facilitated the focus group discussions while the three research assistants recorded the discussions manually by taking notes and electronically through the use of a voice recorder. There were two FGDs for female participants and two FGDs for male participants. Each of the four groups had between 8-10 participants sourced from the local community through the help of the local authorities. Single sex-groups were settled on because they capitalize on and take advantage of group homogeneity and experiences that enable individuals to freely express themselves even in sensitive matters (Creswell et al., 2011). In this study, FGDs (Appendix 3) provided a forum for open dialogue and enabled the researcher to gain in-depth understanding of the participants' views, opinions, perceptions and experiences in relation to women's property ownership and inheritance rights. During these discussions, the researcher was keen to observe non-verbal gestures and hesitations that required interpretations.

### **3.8 Reliability and Validity of Research Instruments**

Mugenda and Mugenda (2003) define reliability as the measure of the degree to which a research instrument yields consistent results or data when applied in similar circumstances while validity is the degree of accuracy and meaningfulness of inferences based on the results each time the tool is used. Before embarking on field work, training of research assistants who were engaged in field work was also done to prepare them adequately for this exercise. This training enhanced their understanding of the topic under investigation and facilitated effective and standardized data collection. In addition to training, the principal researcher closely worked with and supervised the research assistants during data collection processes to ensure high quality of the data collected.

To determine the reliability and validity of the data collection instruments, pre-testing of the tools was done. The purpose of this was to ensure the appropriateness of the instruments used in addressing the study objectives. Pre-testing of the research instruments was done in Kerera sub-location, not included in the main sample. Eleven (11) household heads, three (3) key informants and one FGD comprising 8 participants were interviewed using their respective instruments (Appendixes 1, 2 and 3). Data generated from the pre-test was processed, analyzed and used to detect any flaws as far as data collection instruments were concerned. Consequently, necessary adjustments and corrections on the instruments were effected as appropriate to ensure reliability and validity.

Cronbach's alpha test of internal consistency was used to test reliability of the instruments used for the study. Cronbach's alpha is a measure of internal consistency of a test or scale (George and Mallery, 2003). The value of alpha ( $\alpha$ ) is expressed as a number between 0 and 1. Internal consistency describes the extent to which all the items in the test measure the same concept or construct. Hence, it is connected with the inter-relatedness of the items within the test. Therefore, internal consistency of the instruments used for this study was determined before they were used for data collection to ensure validity. To accomplish this, a three point Likert scale was utilized to measure the amount of access to and control over property that the household heads owned. The number 1 was assigned to the answer 'full control' and number 3 was assigned the answer 'none' and the test yielded a Cronbach's alpha ( $\alpha$ ) of 0.791 for access to property while it yielded a Cronbach's alpha ( $\alpha$ ) of 0.701 for control over property. According to (George et al., 2003), an alpha value of  $> .7$  shows high internal consistency and reliability of the data collection instrument. Therefore, the instrument used for this study was reliable because it had internal consistency of 0.791 and 0.701 for property access and control by the household heads respectively.

In addition to this, reliability of the instrument was further tested using the test retest method. Test-retest reliability measure was obtained by administering the same test twice over a period of two weeks to the same group of people. Scores obtained from Test 1 and Test 2 was correlated to determine the reliability and stability of the tool over time (Trochim, 2006). In this study, the first test was done with 11 respondents and after two weeks, the second test was administered to the same respondents to establish the consistency and reliability of the instruments. The Kappa

statistics were used to evaluate the level of agreement (correlation) between Test 1 and Test 2. The kappa statistics range between 0-1 and the closer it is to 1 the greater the agreement. Landis and Koch (1977) as cited in (Zenk, S., Schulz, A., Mentz, G., House, J., Gravlee, C., Miranda, Y., Miller, P. and Kannan, S. (2006) provide the following guidelines for evaluating the level of agreement; perfect (0.80- 1.00), substantial (0.06-0.79), moderate (0.40-0.59), fair (0.20-0.39), slight (0-0.19) and poor ( $< 0$ ).

In this study, the items investigated were property ownership and inheritance which generated a kappa of 0.605 with a p- value of 0.002. As far as access to property was concerned, a kappa of 0.608 with a p-value of 0.009 was generated while control of property yielded a kappa of 0.578 with a p-value of 0.013. Therefore, the items that were test retested yielded kappa statistics of between 0.578 (moderate) and 0.605 (substantial). This implies that the correlation between test 1 and test 2 was acceptable and confirmed that the instruments that were used for data collection were reliable and stable to measure the intended variables at any given time they were used.

Lastly, to ensure that valid data was collected, three instruments of data collection were used concurrently for purposes of triangulation. Semi-structured interviews were conducted for household heads, in-depth interviews were conducted for key informants and focus group discussions were used with focus group discussion participants. Triangulation of data collection instruments facilitated collection of holistic and reliable data not limited to one source of information.

### 3.9 Data Collection Procedures

The principal researcher, with the help of three trained research assistants, was responsible for data collection. Research assistants with at least 'O' level certificate of education were recruited and trained on issues related to integrity, honest, accuracy, effective communication skills and ability to remain focused to the interview schedule. Moreover, they were trained on how to approach respondents and ask questions, observance of confidentiality and exclusion of personal opinions while collecting data. Trained research assistants were assigned sub-locations from which to collect data.

Quality control measures were taken during and after data. The data collection team, which comprised the principal researcher and research assistants, went from one sampled household to another interviewing the household heads. Research assistants who were not accompanied at any given time by the principal researcher were supervised through random spot checks or on-spot field visits to ensure that the right procedure of data collection was observed and high quality of data collection was maintained throughout the field work period. In cases where designated household heads to be interviewed were unavailable, repeat visits were made at the time when they were available. In cases of absolute unavailability of designated household heads, replacements were done and the next person in the chain of family command and authority (often, a wife or adult son) was interviewed. During field work, due diligence was taken to improve completeness and consistency of the responses. This process was repeated until all the 408 household heads were satisfactorily interviewed.

The principal researcher personally conducted the in-depth interviews for all the 30 key informants. Prior to the interviews, appointments with each key informant were sought based on their convenience, availability and venue of their choice. The researcher clearly explained to them the purpose of the interview before interviewing began. The insights of key informants were very helpful in providing deeper understanding on matters related to property ownership and inheritance rights in Kisii County.

As far as focused group discussions were concerned, mobilized groups were assembled in readiness for discussions in their respective chiefs' camps. Each group had between 8-12 participants of either male or female gender that were conducted separately. Prior to the discussions, participants' informed consent was sought after which the principal researcher facilitated the discussions while the three research assistants recorded the proceedings. Using the FGD guide, the principal researcher moderated and directed all focus group discussions and ensured that they remained focused to the objectives of the study. Probing was done to find out more information related to women's property ownership and inheritance rights.

### **3.10 Data Processing and Analysis**

Since data obtained from this study was both quantitative and qualitative, its analysis required triangulation of quantitative and qualitative analysis techniques to come up with a mixed method analysis. Data analysis was guided by the study objectives. At the onset of quantitative data analysis, data was classified, coded and keyed into the computer. After data entry, data cleaning

and editing was done to remove any inaccuracies and inconsistencies unintentionally captured during the process of data entry. All the 408 cases were crosschecked against assigned codes to detect any erroneous entries. Wrong codes were deleted and the correct ones inserted.

Processed data was subjected to analysis using the Statistical Package for Social Sciences (SPSS) to generate tables, frequencies and percentages that facilitated descriptive statistical analysis. At the univariate analysis level, raw counts and frequencies pertaining to the respondents' profiles were done. Bivariate analysis, which involved cross tabulation between independent and dependent variables, was also done to establish relationships between investigated variables. Inferential statistics, in particular chi-square were used to establish relationships between variables that were investigated in relation to women's property ownership and inheritance rights.

To investigate the determinants of women's property ownership and inheritance, factor analysis was used to analyze data generated and reported by the respondents. Factor analysis was used because of its ability to reduce a large set of variables to a smaller number of factors capable of accounting for larger proportions of the total variability of the items. Factor analysis facilitated the identification of underlying factors among a set of variables that influenced women's property ownership and inheritance rights. According to Blaikie (2009), factor analysis identifies a cluster of variables and establishes how much variance they have in common. This reduces a large set of variables to a small set of factors that can explain the maximum amount of common variance.

On the other hand, analysis of qualitative data obtained from in-depth interviews and focus group discussions was an ongoing process throughout the study and climaxed into deeper analysis after data collection. Creswell, et al., (2011) under-scores the importance of ongoing analysis arguing that this process enhances efficiency and flexibility in addressing emerging relevant information in the process of research. Further, ongoing analysis permits a critical evaluation of the research instruments allowing for modification and necessary adjustment to be made on the questions asked.

Similarly, qualitative data analysis in this study was guided by the study objectives outlined in chapter one of this thesis. During the analysis process, reference was made on the interactive influence of women's property ownership and inheritance and gender. Voice recording of in-depth interviews and FGDs were transcribed to generate text data. Transcribed data was sorted, summarized according to emerging issues detected and classified into themes. Further identification and sorting of data was done to establish similarities and differences. This enabled discussions and interpretation of the findings based on the thematic areas identified. The outcome of this analysis is discussed in chapter four of this thesis in descriptive form and captured voices of the participants. The findings resulting from qualitative and quantitative analysis were integrated and merged during interpretation to obtain an understanding from the two data bases and corroborate results. Conclusions and recommendations for further research are also made based on both quantitative and qualitative findings.

### 3.11 Ethical Considerations

Before embarking on field work, permission was obtained from the graduate school at Kenyatta University. In the field, further permission was sought from relevant county administrative authorities in Kisii County and the purpose of this study was explained. Authorization was given to the researcher to proceed to divisional headquarters and other local authorities where permission was also sought and granted for field work to commence. Relevant leaders in sampled divisions, locations and sub-locations were informed of the purpose of the intended study and they granted the researcher their support during the entire field work period.

Before the commencement of the interviews, study respondents were briefed on the purpose of the study and their informed consent to participate was sought and granted accordingly. Confidentiality was also affirmed to the local authorities, interviewed household heads, key informants and FGD participants with the assurance that generated data would not be utilized for any other purpose other than this research. Permission to photograph FGD participants and use their photos in this report was also sought and granted. Each and every potential respondent was informed in advance that participation in this study was voluntary and they were free to participate or decline. The researcher treated all the participants with mutual respect while protecting their dignity and privacy.

## **CHAPTER FOUR: STUDY FINDINGS AND DISCUSSIONS**

### **4.1 Introduction**

There are five main sections in this chapter. The first section presents the demographics and socio-economic profiles of the household heads interviewed useful in understanding the realities and context of the studied population. The other remaining four sections are guided by the four study objectives. The second section focuses on objective one that set out to identify the various types of property people in this community own and their rightful ownership by gender. The main properties discussed in this section are houses, land and livestock. Section three discusses objective two which endeavoured to establish the gender that had access, control, ownership and inheritance rights to property among the studied population. Section four deals with objective three of the study which interrogated the determinants of women's property ownership and inheritance practices in Kisii County while section five focuses on objective four highlights the respondents' suggestions on how women's property rights could be enhanced. Section five further provides insights for the study recommendations. These sections are discussed in detail under the preceding sub-headings.

### **4.2 Demographics and Socio-Economic Profiles of Household Heads**

In this section, the demographic and socio-economic characteristics of the household heads are discussed. Information on demographic and socio-economic profiles of the household heads was a critical pointer to the socio-economic status of the population studied. This information could be used at a later time to interrogate the relationship between property ownership and

inheritance and the respondents' socio-economic characteristics. The demographic data was generated and analyzed from the 408 household heads targeted for the study as explained in chapter three. Analysis was done on the basis of the key variables thought to have an impact on the values, attitudes and perceptions people had on women's property ownership and inheritance. These variables were gender, age, marital status, religion, occupation and monthly household income. They are discussed in detail in the following sub-sections.

#### **a) Gender of the Household Heads in the Study**

The gender distribution of the household heads interviewed for this study was 173 (42.4%) females and 235 (57.6%) males. Gender Representation was higher for males compared to females. This is because the target population for the study was household heads who, in this community under investigation are ordinarily men. Female household heads only assume this role in the absence of male household heads. Hence, the 42.4 percent females respondents interviewed were mainly widows. If still married, their husbands lived away from home on work related assignments. In spite of this, both the male and the female genders were fairly represented in the study. However, this finding suggest some interesting developments where female headed households are now becoming a reality in most communities due to the massive rural-urban migration by men who are stimulated to migrate in search of better opportunities as observed in a recent study in Western Kenya by Oucho, Oucho, and Ochieng (2014). Similarly, as reported by KHRC (2006), HIV and AIDS related deaths have left most women in this region widowed. All these factors contribute to the increase of female headed households in most

communities. Hence, it was not unexpected for women household heads to be fairly represented in this study. Representation of the male and female gender was important in generating gender-balanced perspectives and dynamics for the study

### b) Age of the Household Heads

As shown in Figure 4.1, data analysis revealed that the majority (25.6%) of the household heads interviewed were between 41-50 years while only 9.4% were between 18-30 years and below.

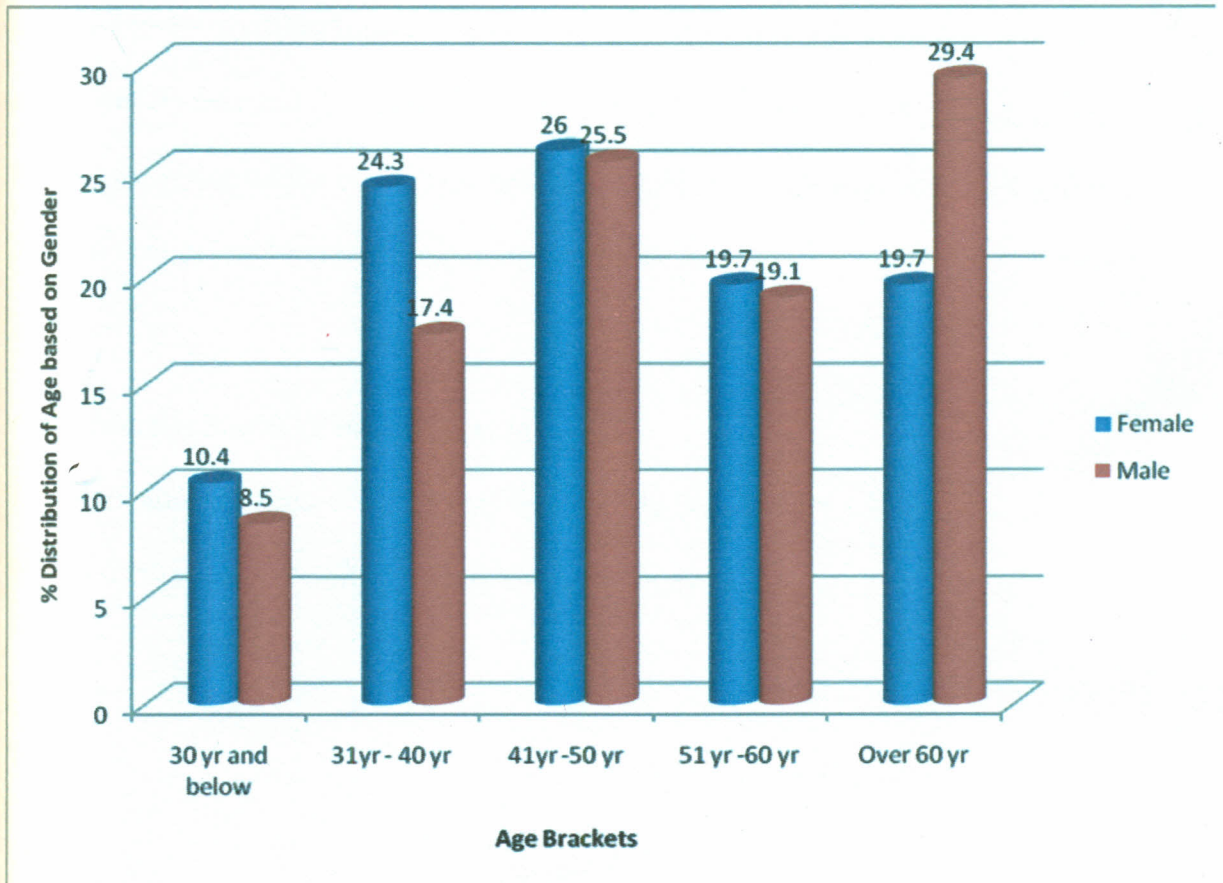
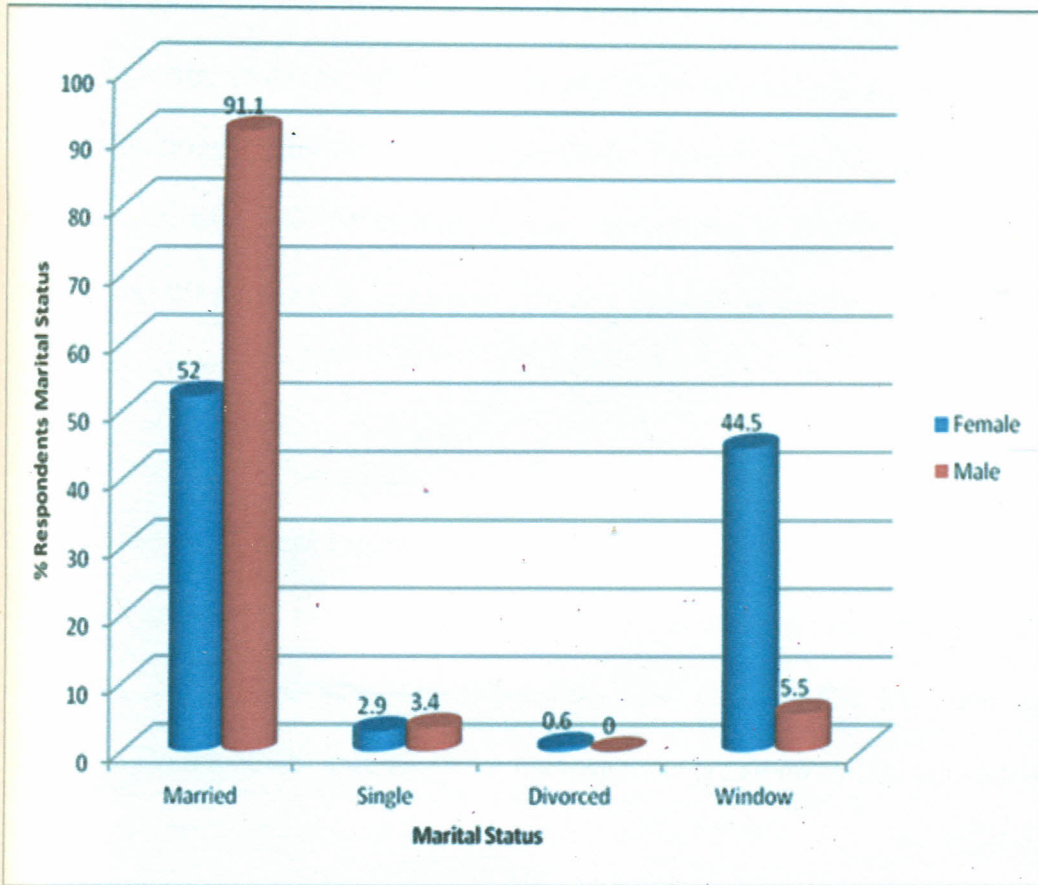


Figure 4. 1 Age distribution of the Household Heads interviewed by Gender

The modal age of the interviewed household heads was 41-50 years with 26% female and 25.5% males. It is worth noting that majority of the household heads interviewed in all the age clusters except that of 60 years and above were female. This is perhaps because male household heads below 60 years of age are still actively involved in formal or wage employment out of their homes in nearby towns and cities (see section 4.2 (a) )and their availability within the homestead was difficult. As a result of this, their wives, who live in their rural homes had temporarily assumed household headship while their husbands were absent, thus, they qualified as respondents for this study. On the contrary, those respondents over 60 years of age were likely to be retired from formal employment and wage labour and settled in their rural homes as documented by KHRC (2006). Hence, they were available for interview. On the other hand, respondents between 18-30 years of age were significantly few (10.4% female and 8.5% males). At this age, young adults could have not fully established independent households units of their own and their parents were still assuming household headship.

#### **c) Marital Status of the Household Heads**

The information in Figure 4.2 reveals that the majority (74.5%) of the household heads were married, 22% widowed while 3% were single and only (0.6%) reported to have been divorced.



**Figure 4. 2 Marital Status of the Interviewed Household Heads**

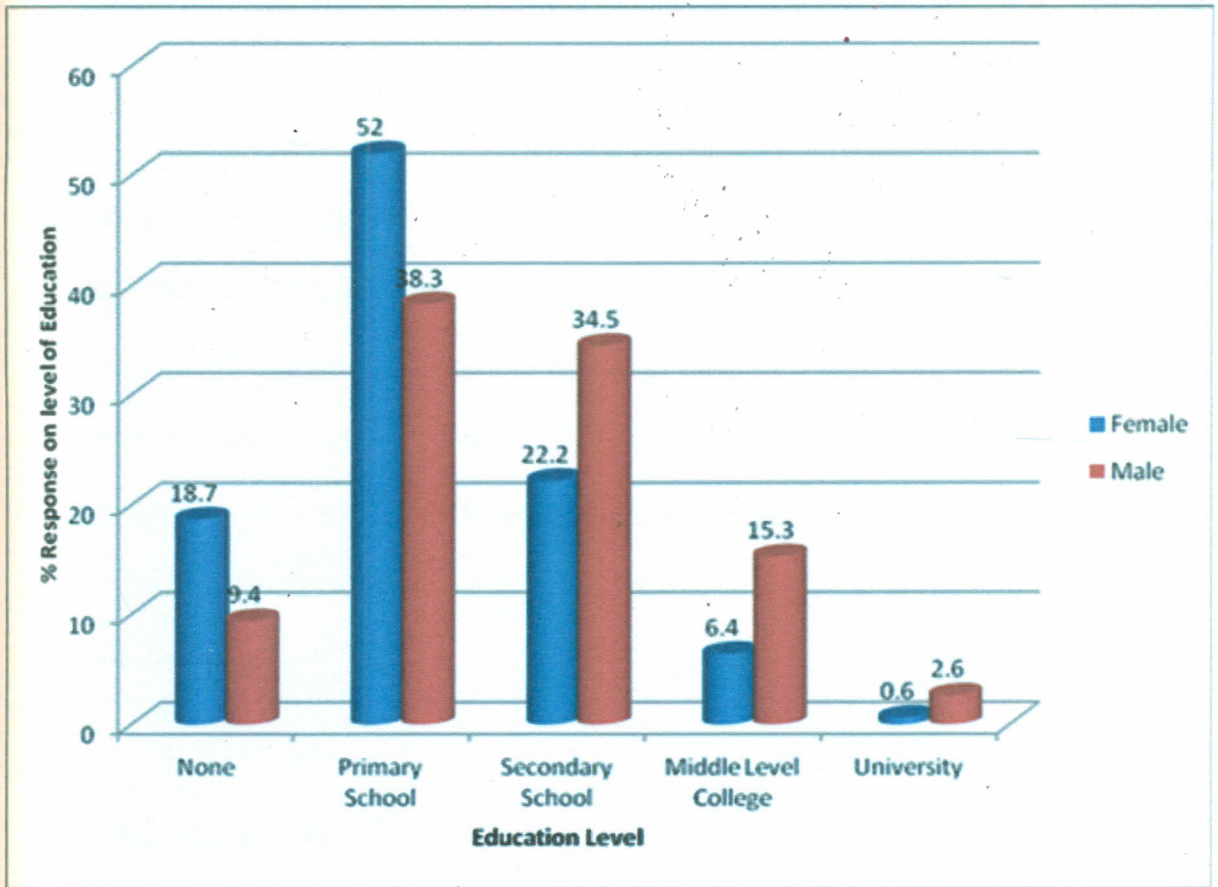
Further analyses revealed that the majority (91%) of the male respondents were married. However, the percentage of female widows was comparatively high (44.5%). This disparity was expected because in most African communities, widow remarriage is discouraged while male widowers are encouraged to re-marry soon after the death of their spouses (KHRC, 2003). It is worth noting that only a minority of the household heads were single or divorced. This shows the value placed on marriage by the Kisii people.

#### **d) Religious Affiliations of the Household Heads**

The findings of this study revealed that the majority (99.5%) of the household heads interviewed were Christians while the remaining minority of the respondents subscribed to Islam (0.2%) and African traditional religion (0.2%) respectively. From this finding it is evident that Christianity was the dominant religion in Kisii County. According to ICRW (2004) and COHRE (2006), religion has the potential to determine property ownership and inheritance rights and practices in any given community.

#### **e) Level of Formal Education Attained by Household Heads**

Figure 4.3 shows that the majority (44.1%) of the household heads had primary school level of education, 29.3% had secondary education, and only 13.5% had college and university education. On the other hand, 13.3% of the respondents had no formal education.



**Figure 4.3 Distributions of Household Heads in Terms of Education**

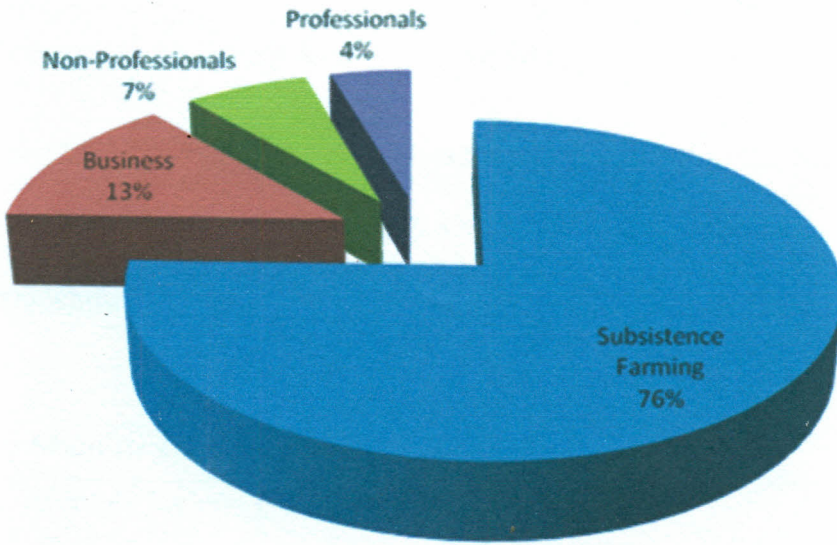
Further analysis reveals that (52%) respondents of the female gender compared to the male gender (38.3%) attained primary level of education. On the other extreme, a minority (0.6% females and 2.6% males) attained university education. Further these findings revealed that 18.7% females and 9.4% males of respondents had no formal education. These findings corroborate studies by Mensch and Lloyd (1998) and Grant and Hallman (2006) which indicate that school enrolment rates in primary schools are high for both boys and girls while the number of those retained in high school, colleges and universities keep on declining as one goes up the ladder of higher education. These reports further reveal that school drop out of women is higher

than of men due to various factors such as early pregnancy, early marriage, and preference of male children. As a result, a small number of women attain university education.

Mensch (1998) observes that attainment of higher levels of education influence people's perceptions and worldviews. Ultimately, those with high education are likely to embrace women's property rights better as compared to those with minimal or no formal education. As Kamari-Mbote (2007) points out people with high level of formal education are more informed of property ownership and inheritance rights. As a result, they are likely to promote gender equity in property ownership and inheritance. Similarly, Njuki and Sanginga (2013) reveal that people with high levels of formal education are likely to accord women property ownership and inheritance rights.

#### **f) Occupation of the Household Heads**

As shown in Figure 4.4, analysis of data revealed that the occupation of the household heads included in the study were in three broad categories namely; professionals, non-professionals and subsistence farmers.



**Figure 4.4 Occupations of the respondents**

The figure further shows that the majority (76%) of the respondents (47% females and 29% males) were subsistence farmers while (13%) of the respondents (1.3% females and 11.7% males) engaged in small scale businesses. Only 7% of the respondents (2% females and 5% males) were engaged in non-professional careers such as security guards and support staff in government offices within Kisii town. The remaining 4% of the respondents, 1% females and 3% males reported that they were professionals in teaching and nursing careers.

Therefore, from these findings, it was established that more female respondent were subsistence farmers while more men were involved in business and other occupations that attracted monetary rewards. This finding corroborate a report by Njuki and Sanginga (2013) which observe that

while most women engage in subsistence farming more men are mostly in formal and informal employment. This implies that men compared to women could have better financial ability to acquire properties unlike their female counterparts.

#### g) Levels of Income of the Household Heads Included in the Study

As shown on Table 4.1, a majority (76.8%) of the respondents indicated to be earning below Ksh.5, 000 while a minority (8.5%) earning Kshs.10, 000 and above.

**Table 4.1 Monthly Income of Household Heads**

Gender	Monthly Income in Kshs. Per Month						Total	
	Below 5,000		5001-10,000		Above 10,000		Freq.	%
	Freq.	%	Freq.	%	Freq.	%		
Female	145	85.8	15	8.9	9	5.3	169	100
Male	163	70.2	44	19.0	25	10.8	232	100
Total	308	76.8	59	14.7	34	8.5	401	100

It was important to establish the level of income of the household heads studied because income contributes to people's ability to acquire and own properties that can be passed on as inheritance to family heirs. Though the majority (76.8%) earned less than Kshs. 5000, the percentage of female respondents in this category was higher than that of men. Increased monthly income corresponded with decreased percentage of female respondents in each specific category. For instance, only 8.9% female compared to 19% male respondents earned between Kshs. 5,000-10,000 while a minority 5.3% females compared to 10.8% male respondents earned more than

Kshs. 10,000. Though this finding reveals that the majority of men and women had an income of below Kshs. 5,000 women's income was low than that of men. This is likely to restrain women's ability to acquire and eventually own property solely or in partnership with their male spouses. This finding corroborates the finding of a study by Njuki and Sanginga (2013) which observes that in East Africa, men have better financial ability than women, a factor that reinforces male domination in property acquisition and ownership.

#### **h) Household Sizes**

As shown in Table 4.2, a majority (66.7%) of the respondents indicated that they had between 4 and 6 children. To the remaining 18.3 percent reported to have between 1 and 3 children while the minority (15%) revealed to have seven or more children.

**Table 4.2 Distribution of Household Heads by Family Size**

Household size	Female		Male		Total	
	Frequency	Percentage	Frequency	Percentage	Frequency	Percentage
1-3	41	10.0	34	38.8	75	18.3
4-6	149	36.6	123	30.1	272	66.7
≥7	43	10.6	18	4.4	61	15
Total	233	57.1	175	42.9	408	100

This finding corroborates with the KNBS (2012) which reveals that the household sizes in Kisii County range between four and five members. Similarly, the Mzalendo (2013) report confirms that the average household size in Kisii County is 4.7 persons.

### 4.3 Types of Properties Owned by Household Heads by Gender

In line with objective one of the study, this section focused on the identification of different types of properties owned by the household heads on the basis of gender. The respondents were asked to name the various types of properties they owned and among those properties that were reported were; residential houses, land, cattle, poultry, goats, commercial plots and houses, sheep and motor vehicles as shown in Table 4.3.

**Table 4.3 Types of Properties Owned by Gender**

Types of Properties	Ownership by Gender								Chi Square	df	Asymp. Sig. (2-sided)
	Male		Female		Joint		Total				
	Freq	%	Freq	%	Freq	%	Freq	%			
Res. Houses	176	43.2	70	17.2	161	39.6	407	99.8	7.61	6	0.001
Agri. Land	182	52	55	15.7	113	32.3	350	85.9	13.3	10	0.001
Cattle	120	41.5	52	18	117	40.5	289	70.8	8.185	8	0.002
Poultry	73	27.5	88	33.2	104	39.2	265	65	17.266	8	0.027
Goats	36	40.9	20	22.7	32	36.4	88	22	13.571	10	0.193
Com. Plots	26	59.1	10	22.7	8	18.2	44	10.8	14.285	8	0.003
Com.Houses	19	59.4	3	9.4	10	31.3	32	7.8	22.398	22	0.002
Sheep	11	45.8	5	20.8	8	33.3	24	5.9	11.259	12	0.507
M. Vehicle	13	100	0	0	0	0	13	3.2	-	-	-
<b>Total</b>	<b>656</b>	<b>43.3</b>	<b>303</b>	<b>20.1</b>	<b>553</b>	<b>36.6</b>	<b>1510</b>	<b>100</b>	-	-	-

\*Multiple responses allowed.

Data analysis revealed that most of the household heads owned more than one type of property at the time of interview as shown in Table 4.3. The majority (99.8%) of the household heads owned residential houses, followed by agricultural land (85.8%), cattle (70.8%), poultry (65%), goats (22%), commercial plots (10.8%), commercial houses (7.8%), sheep (5.9%) and motor vehicles (3.2%) in that order. Further analysis through chi-square tests revealed existence of relationships between ownership of residential houses, agricultural land, cattle, poultry, and commercial houses and gender. However, there was no relationship between goats, sheep and commercial plots ownership and gender. These findings corroborate with earlier studies by (Silberschmidt, 1999; Maina and Kimani, 2010; Njuki and Sanginga, 2013) who have documented that there is existence of relationships between property ownership and gender for most of the properties owned as discussed in details in the subsequent sub-sections.

#### **a) House Ownership by Gender**

The presentation, analysis and discussions in this section are based on data collected from household heads, key informant and FGD participants. As illustrated in Table 4.3, out of the 99.8% household heads who reported residential houses' ownership, 43.2% were males while 17.2% were females. The remaining 39.6% of the respondents jointly owned houses. Analyzed data further revealed that majority of the respondents owned between one and two houses 94.4% of which were built by the respondents themselves. A chi-square analysis output of  $\chi^2=7.61$  with a p-value of 0.001 established existence of a relationship between ownership of residential

houses and gender. Hence, the assumption that there is a relationship between house ownership and gender was confirmed.

Similarly, as illustrated in Table 4.3, the findings of the study reveals that (7.8%) of the household heads reported commercial houses' ownership and majority (59.4%) of them were males. Further analysis revealed that 31.3% of the household heads owned commercial houses jointly with their spouses. A chi-square analysis output of  $\chi^2= 22,398$  with a p-value of 0.002 confirmed existence of a relationship between commercial houses' ownership and gender. Hence, the assumption that there is a relationship between commercial houses' ownership and gender was confirmed.

From the foregoing findings of this study, it also emerged that male respondents dominated ownership of residential as well as commercial houses. This finding was given further emphasis by a male FGD participant from Keumbu division who confirmed that:

*A man must own a house or houses as proof of his maturity and manhood. Among the Kisii people, a man without a house is regarded as a child because he stays in a hut which was built for male children by their father.*

On the same note, a female FGD participant from Keumbu division stated that:

*Compared to men, women spend much time at home managing their houses and taking care of children. They majorly control the activities that go on in their houses. However, house ownership rests in the hands of men who are the traditionally sanctioned household heads.*

Similarly, a female FGD participant from Township division reported that;

*During courtship, a wise woman should find out if her suitor has a house of his own. This is because owning a house is an indicator that the man she is about to marry is responsible and will be able to take good care of the family.*

All these voices confirm that men are legitimate owners of houses among the Kisii people. Women have access and user rights to houses but ownership rests in the hands of men. This finding concurs with observations made by Silberschmidt (1999) that among the Kisii ownership of houses is dominated by men. Besides, this finding corresponds with those of UN-Habitat (2009) and Njuki and Sanginga (2013) that in most communities property ownership is dominated by men.

This finding notwithstanding, the study findings unearthed an emerging trend of joint house ownership by couples as revealed by 39.6% of the respondents who reported that their residential houses were jointly owned by both husband and wife. Though not the norm, this trend is slowly taking roots in the community as reported by a key informant and faith-based leader, a catechist in the Catholic Church from Keumbu division who stated that:

*Marriage is a partnership between a husband and wife. As a result, family houses ought to be jointly owned by both husband and wife who work together to build a family. The belief that houses belong to husbands is outdated, primitive and discriminative.*

Similarly, a female key informant and civic leader from Township division stated that;

*Nowadays, women as well as men own family houses. They both work hard to build or purchase these houses. Therefore, the thought that houses belong to men is outdated. Wise women should even have their names alongside their husbands' in the titles deeds of family houses as proof of their formal ownership.*

Therefore, a mix of quantitative and qualitative analysis pointed out to two worldviews that operate in Kisii community with regards to house ownership; namely the traditional worldview that perceives men as owners of houses and the emerging trend that is gradually accommodating women as joint owners of family houses together with men. This finding corroborates the UN-Habitat (2009) and the United Nations (2010) documentation that reveal existence of gradual inclination towards joint house ownership by spouses in most communities as a deliberate attempt to guarantee women shelter over their heads. This is a basic human right which all human beings are entitled to and this study recorded some progress in women's house ownership.

#### **b) Agricultural Land and Commercial Plots Ownership by Gender**

As shown in Table 4.3, the majority (85.8%) of the household heads reported that they owned agricultural land, while the remaining 32.3% revealed that they owned agricultural land jointly with their spouses. A chi-square analysis output of  $\chi^2 = 13.3$  with a p-value of 0.001 revealed existence of a relationship between agricultural land ownership and gender. Hence, confirming the assumption that there is a relationship between agricultural land ownership and gender. This finding was reinforced by the words of a faith-based leader, a pastor and key informant from Township division who stated that:

*Ownership and inheritance of land among the Kisii people is dominated by the males who pass it down to male heirs. This pattern has been maintained generation after generation and is hard to do away with it due to fixations in the human minds.*

Similarly, a female civic leader and key informant from Keumbu division emphasized this finding when she remarked that:

*Despite my position as a leader and my understanding of women's property rights as provided for in the constitution, it will be awkward to start claiming ownership of our family land while my husband is alive. If I did this, I would be a poor role model to so many women who look up to me as their leader and representative.*

Therefore, this finding confirms other reports by Argawal (2003), COHRE (2006), Goody & Buckley (2009), International Conference Report on Agrarian Reforms of Rural Development in Kenya (2006), KHRC (2003), Silberschmidt (1999) and Aduyoye (1999) who have documented evidence that in most societies, men are perceived as legitimate household heads, who automatically assume ownership of family land. Further, these studies reveal that in most societies, women are excluded from land ownership and inheritance. Worse still, their family properties are taken away by their in-laws when their husbands die (KHRC, 2003, 2006).

Similarly, FAO (2004) report observes culture and customary practices prevent women from owning land. World Bank (2003) reports similar findings which revealed that despite obvious economic contributions made by women in agricultural production, deep rooted cultural beliefs and practices continue to support male dominance in land ownership and inheritance. These beliefs and practices hinder and negatively affect the perceptions and resultant practices on women's rights to land ownership and inheritance.

These findings have far-reaching effects on food security. Women who are key contributors in agricultural production are unable to own and control the land on which they work. This denies them the freedom to make decisions on what to plant, when and where to plant it. It also limits them from making major decisions on the land they cultivate. Besides, they are not able to

control the income accruing from the farms they work on. Women work and the men earn what women have worked for. Women cannot use their land as collateral since land title deeds bear names of their husbands. Hence, with all these constraints, women cannot improve their farms and this contributes to poor yields. All these factors discourage women from putting in their best to achieve high productivity. Consequently, this lack of motivation in women leads to food insecurity which negatively affects them at personal, familial and national levels (FAO, 2013; Mehra & Rojas, 2008).

Just like in agricultural land, ownership of commercial plots was also found to be dominated by male household heads (59.1%). Only 22.7% female respondents reported commercial plots' ownership (Table 4.3). The remaining 18.2% of the respondents reported joint ownership of commercial plots. A chi-square analysis output of  $\chi^2=14.285$  with a p-value of 0.003 revealed confirmed existence of a relationship between commercial plots' ownership and gender. Hence, confirming the assumption that there was a relationship between commercial plots' ownership and gender. This finding was reinforced by the female FGD participant from Township division who reported that;

*Most women in Kisii County have no financial ability to independently buy commercial plots. The few, who attempt to, join hands with their husbands to purchase plots. Unfortunately, at the time of transfer, purchase documents are registered using the name of the male household head since women are regarded as passive players. If a woman demands that her name be included in the title deed, she is considered as disrespectful.*

This finding corroborates with the report of an earlier study done among the Kisii people by Silberschimdt (1999) and other studies done elsewhere in Kenya (KHRC, 2006; Kimani &

Maina, 2010; NALEP, 2003), Africa and Asia (Agarwal, 2003; United Nations, 2010) which indicate that in most patriarchal societies, the male gender dominates land ownership.

In spite of the findings presented in the preceding paragraphs pointing to male dominance in agricultural land and commercial plots' ownership, there is evidence of an emerging trend that demonstrates some limited degree of women inclusiveness in land ownership. For instance in this study, 32.3% of the respondents reported joint ownership of agricultural land while 18.2% reported joint ownership of commercial plots. This implies that, though the society is conservative and change is slow, there is noticeable progress with regard to gender inclusiveness in land ownership. This is an emerging reality that counters the prevailing cultural practices. If this trend is embraced, it is likely to promote women's land rights and active participants in decision-making processes related to land acquisition, ownership and control (FAO, 2004, 2013). This in turn could improve women's commitment and motivation to work harder on their farms with an understanding that the land they work on belongs to them and they are entitled to the benefits accrued from it. This in turn could influence food production; enhance food security and improve livelihoods at household and national levels (Mehra et al., 2008).

Further analysis revealed that the average sizes of agricultural land owned was 0.99 hectares. This corroborates the Kisii County Fact Sheet (2013) which shows that the average farm size for small scale farmers is 0.75 hectares and 3.71 hectares for large scale farmers. The study also revealed that a majority (94.6%) of the household heads inherited agricultural land from their

fathers or father-in-laws in the case of female respondents. Only 5.4% of the respondents indicated that they purchased agricultural land as illustrated in Table 4.4.

**Table 4.4 Acquisition of Owned Land**

How Acquired	Gender				Total	
	Female		Male			
	Freq	%	Freq	%	Freq	%
Inheritance	159	95.8	208	93.7	367	94.6
Purchase	7	4.2	14	6.3	21	5.4
Total	166	100	222	100	388	100

Though limited in size, agricultural land was highly valued as reported by 98% of the respondents and confirmed by a key informant and coordinator of a local community based organization (CBO) in Keumbu division who remarked that:

*Land in this community is very valuable. It is the 'gold mine' of Kisii County that sustains people's livelihoods. Because of its value, land evokes serious emotions and people do anything and everything to protect the little they own.*

### c) Cattle Ownership by Gender

Analyzed data in this study revealed that majority (70.8%) of the household heads owned cattle.

Further, this study revealed that 40.5% of the respondents owned cattle jointly (see Table 4.3).

Further analysis using a chi-square test output of  $\chi^2 = 8.185$  with a p-value of 0.002 confirmed the

assumption that there is a relationship between cattle ownership and gender. This finding was

given emphasis by a male FGD participant from Township division who observed that:

*In a homestead, cows belong to a man. A woman can take care of cows and benefit from their proceeds but she cannot claim ownership over them or make major decisions about them.*

Similar views were echoed by a female key informant and leader of a women group from Keumbu division who stated that:

*In the family all cattle belong to the husband even if they were purchased by the wife. A respectful wife will not fight with her husband over cattle ownership.*

Likewise, a field coordinator of a local development NGO in Kisii division confirmed this view as follows:

*Among the Kisii people, cattle belong to men who are the legitimate household heads. Though it discriminates against women, the practice is considered normative and it is not questioned.*

This finding corroborates findings by (Njuki and Sanginga, 2013; Silberschmidt, 1999) which revealed that in Kisii, and indeed in Kenya, men own cattle because they use them as a mode of payment for bride wealth. Under normal circumstance, formal marriage transactions among the Kisii people cannot be sealed without the exchange of cattle. Hence, men are culturally encouraged to own as many as they can to meet this need for their own use as well as for their male adult children.

The above notwithstanding, the study further revealed another interesting perspective that cattle ownership by women was increasing as reported by 18% of the respondents (see Table 4.3). This is because of the women's empowerment campaigns that were going on in the community to

help women become self-reliant as expressed by a public administrator and key informant from Keumbu division who stated that:

*Women in this community are taking up cattle ownership very fast. In this division, they are facilitated by a local CBO that facilitates women to buy improved breeds of cows as a way of strengthening their economic base. These women's right to own the cow whose purchase was facilitated by the CBO is protected by the CBO leadership in conjunction with the division, location and sub-location administrative structures to avoid interference by the male gender. This CBO is promoting and revolutionizing cattle ownership by women in Keumbu division.*

It is therefore evident that though gradual, there is a steady trend that is emerging which supports women's cattle ownership in spite of the dominant culture that perceives male household heads as the only legitimate owners of cattle. Njuki and Sanginga (2013) confirm that indeed women cattle ownership is now evidenced in the East African region, though in smaller numbers. They observe that in Kenya, the male gender owns ten times more cattle than the female gender while in Tanzania, the male gender owns eighteen times more cattle than the female gender. However, this small representation of women in cattle ownership is an indication that there is positive attempt to include women in cattle ownership. If this trend is encouraged, it is likely to create a huge impact in improving the livelihoods of families, communities and nations. For instance, World Bank report (2012) confirms that in Latin America and the Caribbean, female participation in land and livestock ownership has contributed to the reduction of extreme poverty of the poor people.

#### d) Poultry Ownership by Gender

Similarly, Table 4.3 revealed that 65% of the household heads owned poultry and the remaining 39.2% reported joint ownership of poultry. It is important to note that the percentage (33.2%) of women who owned poultry outnumbered that of men (27.5%) in poultry ownership. Further analysis using a chi-square test output of  $\chi^2 = 17.266$  with a p-value of 0.027 did not establish a relationship between poultry ownership and gender. Hence, the findings of this study did not confirm the assumption that there is existence of a relationship between poultry ownership and gender. This finding was further reinforced by a male FGD participant in Township division who remarked:

*In the family a hen is a small bird that belongs to women and children. If my wife goes to visit her mother, and she gifts her with a hen, or if she purchases a hen out of her savings, under normal circumstances, this hen belongs to my wife and she can decide what to do with it without any consultations.*

This finding points out to the small value attached to poultry among the Kisii people. Irrespective their numbers, poultry has less monetary value and social prestige than the other animals owned in the family. Consequently, women as well as children are allowed to own and control poultry.

In some ways, this finding is consistent with the findings of a study by Okitoi, Ondwas, Obali, and Murekefu (2007) who reported that in western Kenya, poultry ownership and related decision-making processes on slaughter, gifts and management such as housing, feeding and disease control are predominantly women's and children's roles. However, Okitoi et al. (2007) observe that, by and large, men have the authority and power to make monetary and non-

monetary decisions over poultry while women are limited to non-monetary decisions even when they are the 'real' owners of poultry. Therefore, though the findings of the study by Okitoi et al. (2007) indicated that women owned poultry; it further revealed that they did not have absolute ownership and control rights over the poultry they owned. This slightly deviates from the findings of this current study which reveals that among the Kisii people, women are allowed absolute decision-making regarding poultry ownership and control. Among the Kisii people, a woman can own, control, sell, gift or slaughter poultry without consulting the husband. Hence, the monetary value and social prestige attached to the various types of properties determine which gender owns what type of property.

#### **e) Goat and Sheep Ownership by Gender**

As shown in Table 4.3, this study established that 22% of the household heads owned goats. A chi-square test output of  $\chi^2 = 13.571$  with a p-value of 0.193 revealed lack of a relationship between respondents' goat ownership and gender. Hence, this finding failed to confirm existence between goat ownership and gender. Similarly, Table 4.3 revealed that a minority (5.9%) of the household heads owned sheep. A chi-square test output analysis of  $\chi^2 = 11.259$  with a p-value of 0.507 revealed lack of a relationship between respondents' sheep ownership and gender. Hence, just like with goats, the findings of this study did not confirm the assumption that there is a relationship between goat ownership and gender. However, there was evidence of joint sheep and goats' ownership by 33.3% and 36.4% of the respondents respectively.

As compared to cattle, which were owned by 70.8% of the respondents, sheep and goats were owned by a minority; 21.6% and 5.9% respectively. Sheep and goats were not commonly reared in this area of study as confirmed by a women group leader and key informant in Keumbu division who stated that:

*Land in our community is very scarce and highly fragmented for goats and sheep rearing. Sheep and goats require open spaces for their pasture where they can freely wander as they look for tickets to eat. Due to high land fragmentation this is not possible in Kisii County. Hence, there is a remarkable reduction of the number of sheep and goats reared as land sizes shrink.*

Further a female FGD participants from Keumbu division also revealed that sheep and goat rearing is constrained by land sizes. Her views are captured as follows;

*We have very small pieces of land whereas sheep and goat rearing need more open space for grazing. Keeping such animals will result into constant conflicts with neighbours since the animals will be trespassing all the time and this will end up causing tension between neighbours.*

This finding is consistent with a report by Waithaka, Wakobi, Nyangaga, Ouma, Tineke, Biwott, Staal, Ojowi, Ogidi, Njarro, and Mudavadi (2000), which reveals that population growth and land scarcity have caused high fragmentation of land. This fragmentation has reduced the number of goats and sheep reared in Western Kenya. The report further states that although sheep and goat rearing is labour intensive, it does not attract handsome monetary gains and social prestige as rearing of cattle does. All these factors contribute to the limited number of sheep and goats owned by the respondents. This finding is in line with a study by Njuki and Sanginga (2013) which observes that women are likely to be considered for ownership of sheep and goats because they (sheep and goats) have insignificant monetary value and social prestige.

### **f) Motor Vehicle Ownership by Gender**

Notably, all 13 (3.2%) household heads who reported motor vehicles' ownership were men contrary to other properties investigated and discussed earlier that revealed some degree of ownership by the females and/or joint ownership. This is perhaps a reflection of women's weak economic status which is as a result of male domination in the control and ownership of key resources in this community as discussed in the preceding sections. A key informant and faith based leader revealed that:

*Unlike men who are excited by the thrills and prestige motor vehicles give them, women find vehicles a liability. They prefer using public transport instead of personal cars because of financial implications associated with car purchase and maintenance and the challenge of driving in congested roads in Kisii town.*

Therefore, in the analytical discussions on the relationship that exists between property ownership and gender. This study consistently pointed out that women were permitted some degree of ownership of properties with less monetary and prestigious value. Properties with high value such as land, housing and livestock were predominately the reserve of men. This practice definitely lacks gender inclusiveness in the control and management of key resources in the society. Instead, it reinforces and stabilizes male dominance in ownership and control of property.

The pattern of property ownership revealed in this study is congruent with the arguments presented by the conflict theorist who argue that the dominant group in the society control the forces of production (land houses and livestock) while the subject group are oppressed and taken advantage of by the systems of society as dictated by the influence of the dominant group.

Women assume subordinate positions in a society dominated by men. World Bank (2012) observes that this trend leads to feminization of poverty evidenced through impoverished households and communities. With the passing of time, the subject has realized the need to exert itself to counter the oppression from the dominant group. Consequently, emerging trends such as joint house, land and livestock ownership are evidenced.

Similarly, it was reported from the findings of this study that more males compared to females assume control, ownership and inheritance rights. Thus, confirming that the male gender assume high status roles that command power and authority over family properties. On the other hand, their female counterparts are culturally expected and conditioned to assume domestic and natural roles in society as argued by the social role theory. Hence, the need to promote women's property ownership of critical resources that sustains peoples' livelihoods, support and encourage the gradual emerging trend of joint property ownership reported in this study for most of the properties investigated.

#### **4.4 Household Heads' Access to, Control over and Inheritance of Property by Gender**

In response to objective two of this study, this section sought to find out if there was a relationship between household heads' access to property and gender, household heads' control over property and gender, and household heads' inheritance of property and gender. Chi-square tests were utilized to find out if there was existence of relationships between these variables. The types of properties discussed under this section were; land, houses and livestock. The

justification for investigating these three types of properties was related to the high percentage of respondents who reported their ownership (see section 4.3). These three types of properties are necessary in meeting basic human needs such as food and housing. Thus, they play a critical role in sustaining peoples' livelihoods and high values are attached to these properties by the inhabitants of Kisii County. The findings and discussions are presented in the following sub-sections.

#### **4.4.1 Access to Property by Gender**

As reported under section 4.3, it was evident that rightful ownership of most properties investigated was dominated by male household heads. However, as discussed earlier (see section 2.2, b) of this report, access to property with adequate user rights of the properties accessed contributes to the socio-economic well-being of those who use the property without necessarily owning it. Therefore, this study sought to establish the level of access to property by men and women. As much as property ownership is critical in sustaining livelihoods, its access and user rights are equally important as observed by Njuki and Sanginga (2013). Family members with access to or user rights to property could be sustained by the proceeds of these properties without necessarily claiming their formal ownership. As shown in Table 4.5, the assumption that there was a relationship between access to land and gender was refuted while the assumption that there was a relationship between access to livestock and houses and gender was confirmed. The findings are discussed in the subsequent sub-sections.

**Table 4.5 Access to Various Types of Properties by Gender**

Type of Property	Level of Access	Gender		Total	Chi-Square	Degree of freedom	P-value
		Female	Male				
Land	Full Access	154(89.5)	191(83.8)	345(86.3)	2.75	2	0.25
	Some Access	17(9.9)	35(15.3)	52(13)			
	No Access	1(0.6)	2(0.9)	3(0.7)			
	<b>Total</b>	<b>172(100)</b>	<b>228(100)</b>	<b>400(100)</b>			
Livestock	Full Access	132(91.0)	110(71.9)	242(81.2)	10.55	2	0.005
	Some Access	10(6.9)	39(25.5)	49(16.4)			
	No Access	3(2.1)	4(2.6)	7(2.4)			
	<b>Total</b>	<b>145(100)</b>	<b>153(100)</b>	<b>298(100)</b>			
Houses	Full Access	189(96.9)	166(80.2)	355(88.3)	19.59	1	0.007
	Some Access	6(3.1)	41(19.8)	47(11.7)			
	<b>Total</b>	<b>195(100)</b>	<b>207(100)</b>	<b>402(100)</b>			

#### a) Access to Land

As shown in Table 4.5, this study sought to establish if there was a relationship between access to land and gender. Analyzed data revealed that the majority (86.3%) of the household heads had full access to family land. On the other hand, 13% of the respondents reported to have had some access to family land while a minority (0.7%) said they did not have any access to family land. A chi-square test analysis with an output of  $\chi^2=2.75$  with P-value of 0.25 did not reveal any

relationship between access to land and gender. Hence, the findings of this study confirmed the assumption that there is no relationship between the level of land access and gender. Therefore, men as well as women had access to (user rights) to family land.

Therefore, this study established that women had rights to use land owned by their male relatives to do small scale mixed farming as earlier reported in the reviewed literature (see section 2.2, b) of this report. The proceeds were used for family consumption and the surplus, if any, was sold to neighbours or at the local markets and the money accrued from this was used to meet other family needs such as purchasing of food stuffs, paying fees and meeting basic medical expenses. This finding was reinforced by a male key informant and opinion leader from Township division who stated that;

*In this community women don't own land. However, with consultations, they can use land owned by their husbands. Women till the land and plant subsistence crops such as vegetables, beans and maize. Most of these products are consumed by the members of the family and surpluses are sold. Since Township division is located within Kisii Town and its environs, there is ready market for farm and dairy products such as vegetables, milk and eggs.*

This finding is consistent with studies by Bikaako and Ssekumba (2006), Njuki and Sanginga (2013) and Silberschmidt (1999) that though in most patriarchal communities' women do not own land, they have user rights that enable them to utilize this resource to their own and families' advantage. However, it is evident that most of still lack formal land ownership (NALEP, 2003; TAWLA, 2013). World Bank (2013) press release by the vice-president for Africa emphasizes the importance of improving land governance for economic growth. He states

that African women make 70% of African farmers and are locked out of land ownership. This trend is unacceptable and must be changed to include women in land ownership.

Further, Giovarelli, et al., (2013) reinforces this by stating that improving women's access to and control over land will have positive effects in reducing poverty and enhance economic development (see section 2.2, b) of this report. Therefore, secure land rights for women must go beyond mere access because women can lose access to land whenever there is change in marital status owing to marriage, divorce or death of a spouse. Once they lose access to these properties, they would be rendered homeless and their source of food would be curtailed leading to food insecurity, on their part. This has serious repercussions for the women themselves, their children and the community at large.

#### **b) Access to Houses**

Similarly, there was need to ascertain the level of household heads access to family houses and as shown in Table 4.5, the majority 88.3% of the respondents reported to have had full access to family houses while the remaining minority 11.7% reported that they had some limited access to family houses. A chi-square test analysis with an output of  $\chi^2=10.55$  with P-value of 0.007 revealed a significant relationship between access to houses and gender. Thus, the findings of this study failed to confirm the assumption that there was a relationship between access to houses and gender. However, as expected, there was no household head who reported absolute lack of access to family houses. Thus, all respondents of both genders had access to family

houses. This finding is consistent with the report of a male FGD participant from Keumbu division who stated that:

*According to the culture of the Kisii people, family houses are built by men but they are identified by wives' names. This is helpful in distinguishing one wife's house from the other, more particularly in polygamous families. In spite of the fact that women spend more time in and around the house, both husbands and wives have full access to family houses.*

Similarly, a male key informant and community leader from Keumbu division revealed that:

*Traditionally, the culture of the Kisii people allowed men to be polygamous. Consequently, they were required to build independent houses for each wife. For distinction, these houses were identified by wives' names. Each wife and her children lived in their specific house. To maintain neutrality, husbands' built and 'lived' in independent small houses referred to as 'egesarate' (man's hut) which was strategically positioned in the homestead. Husbands had full access to their wives' houses.*

This is a traditional set-up that embraced and approved polygamy and it is evident that husbands had access to the houses they built for their wives. However, in a modern set-up, polygamy has greatly declined, and couples are more likely to live in one house with their children and all the family members are entitled access to family houses. This finding is consistent with earlier findings by Njuki and Sanginga (2013) and Silberschmidt (1999) about most patriarchal societies such as Kisii. These reports confirm that both spouses have access to family houses.

This notwithstanding, it is not uncommon for married women who ought to enjoy the comfort of their marital homes to be homeless. UN-Habitat report (2009) reveals that discrimination against women in housing is common as a result of sexual and gender based violence leading to separation and divorce. Often and especially in Africa where legal awareness rights are either low or lacking, it is women who are evicted out of their marital homes in case of a conflict. If

such a thing happens, the women would not be able to access their houses, thus they would become homeless. This is also common when women lose their husbands through death and the relatives and kin of the husband evict them out of their marital houses. Therefore, having access to houses is not enough, women need to have security of tenure of the houses they access and live in as this would cushion them and their children in case of any eventuality.

### c) Access to Livestock

Section 4.3, (c) of this study revealed that men were the legitimate owners of livestock. By virtue of their ownership, they had access to livestock in the family. However, analyzed data revealed that majority (81.2%) of the household heads had full access to livestock. Only 16.4% of the respondents reported limited access to livestock, while a minority (2.3%) revealed that they had no access to family livestock. As shown in Table 4.5. a chi-square test of  $\chi^2 = 10.55$  and a p-value of 0.005 revealed existence of a statistically significant relationship between access to livestock and gender. Hence, the findings of this study confirmed the assumption that there was existence of a relationship between access to livestock and gender. This finding was reinforced by a female key informant and civic leader from Township division who reported that:

*Among the Kisii people, it is women and children who predominantly take care of livestock. They have more access to cows than men do as they clean the sheds, feed and milk the cows and sell the milk to neighbours or local middlemen.*

This does not mean that men did not have access to cows. It only points the fact that women are more involved in the care and management of cows. This finding corroborates with the findings

of ILRI (1999) and Njuki and Sanginga (2013) which confirm that, compared to men, a great proportion of women are involved in livestock management. It is also worth noting that though women had adequate access to family livestock, they did not have ownership rights over them, as discussed in section 4.3 (c) of this study. The implication here, therefore, is that men can make major decisions on livestock without involving their wives. This point was noted by a female FGD participant in Keumbu division:

*I woke up in the morning, milked the family cow and fixed breakfast as I did some housekeeping chores. After the family had taken breakfast, the children went to school as I found my way to the farm. While in the farm two men came to my home, they talked with my husband for a while but I didn't know what they were talking about as I watched them from afar. After about thirty minutes of deep conversation, I saw my husband untie our family cow and handed the rope over to one of the men. I got curious and rushed to where they were. By this time, the two men had started walking away with the cow. I tried to ask my husband what was going on, but he did not answer me. The men were now walking very fast towards the river while driving our cow. My frantic efforts to know what was happening from my husband fell on deaf ears. I decided to run across the river and find out where the two men were taking our family cow. When I caught up with them, they told me that my husband had sold our only family cow to them. I screamed and people came to see what was happening. When I told them what I had just learnt, some older men told me to be calm and accept that the 'owner' of the cow had sold it. I was desperate as I watched the two men walk away with the cow that fed my children with milk. My husband did not talk about our cow to me. When the children came from school and asked him where the cow was, he told them he had sold it but he would buy a better one soon. It took him three years to buy another cow. I have never forgiven him for doing this to me.*

This narration depicts the helplessness of a wife who has full access to a cow but no control or ownership rights over it. It portrays the transient nature of access to property when one does not have ownership or control rights. This story shows the sanctioning of patriarchy in cattle ownership- the older men did not see anything wrong with the man selling 'his' cow. They simply advised the woman to be calm. The husband also did not find it important to explain to

the wife why he had sold the cow. It is ironic that the man could explain to his children about the selling of the cow but not to his wife. Indeed, this is gender discrimination of the highest degree and it leaves women helpless and desperate.

Overall, as far as respondents' access to property and gender was concerned, most household heads of both gender had significant degrees of access to the three types of properties investigated. This means that with or without ownership rights, majority of the respondents had the right to access and use family properties as appropriate. It is worth noting that in all the three types of properties, a negligible percentage of respondents stated that they had no access to these family properties. These category of respondents declared that their parents, particularly the fathers, maintained control over family land since they had not sub-divided it to grant inheritance to the sons. As far as livestock was concerned, they reported that they had not been able to purchase cattle, goats or sheep of their own since ownership of livestock was acquired through purchase. When it came to houses, some of the young household heads had not been able to build houses of their own. They lived with their siblings in shared houses build for them by their parents. A bigger percentage of respondents had unlimited access and user rights to family properties irrespective of their rightful ownership and gender. Both the dominant and the subject groups were in the position to access and use family properties in spite of gender. Access and user rights do not give a person any socio-economic status or prestige.

#### 4.4.2 Control over Property by Gender

The second part of objective two of this study sought to investigate the practice of property control by gender. Property control varies from access because in controlling one has powers to make decisions about the said property in spite of its rightful ownership while in access one has no such powers. Control over property allows one to make decisions over family resources in relation to what, where, when and how it will be used. The findings are presented in Table 4.6.

**Table 4.6 Respondents' Control over Various Types of Properties by Gender**

Type of Property	Level of Control	Gender Female	Male	Total	Chi-Square	Degree of freedom	P-value
Land	Full Control	46(47.9)	246(80.9)	292(73.0)	17.59	2	0.001
	Some Control	29(30.2)	47(15.5)	76(19.0)			
	No Control	21(21.9)	11(3.6)	32(8.0)			
	<b>Total</b>	<b>96(100)</b>	<b>304(100)</b>	<b>400(100)</b>			
Livestock	Full Control	34(40.5)	156(72.6)	190(63.5)	12.83	2	0.002
	Some Control	30(35.7)	52(24.2)	82(27.5)			
	No Control	20(23.8)	7(3.2)	27(9.0)			
	<b>Total</b>	<b>84(100)</b>	<b>215(100)</b>	<b>299(100)</b>			
Houses	Full Control	145(84.3)	159(69.1)	304(75.6)	19.36	2	0.001
	Some Control	19(11.1)	66(28.7)	85(21.1)			
	No Control	8(4.6)	5(2.2)	13(3.3)			
	<b>Total</b>	<b>172(100)</b>	<b>230(100)</b>	<b>402(100)</b>			

To test existence of relationships between property control and gender, chi-square tests outputs generated revealed existence of relationships between control of land, livestock and houses and gender. Hence, the assumption that there is a relationship between control of properties and gender was confirmed for all the three types of properties investigated as discussed under the subsequent sub-headings.

#### a) Control over Land

As illustrated in Table 4.6, this study revealed that majority (73%) of the household heads reported to have had full control over family land while 21.1% of the respondents said they had some control and the remaining 3.3% of the respondents declared that they had no control over family land. Less than half (47.9%) of female respondents compared to majority (80.9%) of male respondents reported that they had full control over family land. It is therefore evident that male household heads in comparison to their female counterparts had more control over family land. Further analysis using a chi-square test output of  $\chi^2=17.59$  with a p-value of 0.001 confirmed existence of a relationship between respondents' control over land and gender. Thus, confirming the assumption that control over land had a relationship with gender. This finding was further reinforced by a male key informant and public administrator from Keumbu Division who observed that:

*Though both men and women can access and manage family land, its control mainly rests on male household heads. However, women can take up the responsibility of controlling family land when male household heads are absent and while their male children are minors, or when women remain single for one reason or the other.*

Similarly, a female FGD participant from Keumbu division concurred with this view when she stated that:

*In this community women cannot fully control land. Family land belongs to men because they are the legitimate owners of household properties. Women are custodians of family resources while men are their owners and controllers. Therefore, women can only control a section of land that she has been allocated by her husband to plant vegetables. Otherwise, the rest of family land is controlled by the man.*

Ensuing from the above, it is obvious that most women have no absolute control over family land. This confirms the findings earlier discussed under section 2.2 (b) and 4.3(b) of this study that men assume control over family land. This finding corroborates with reports by FAO (2011) and Njuki and Sanginga (2013) which observe that though women till and manage land, its ultimate control and ownership rests with men. Similarly, earlier studies conducted by FAO (2001, 2004) observed that though women can access land, men have the right to its disposal with minimum or no consultations with their female spouses. Likewise, a study by Njuki and Sanginga (2013) revealed that in Kenya, and indeed in most African countries, control of land is dominated by the male gender. Similar practices are documented as being prevalent in some parts of India (Agarwal, 2003). It is evident that women's inability to fully control land limits them from making necessary investments on their land to increase productivity that could ensure food security, economic growth and improved livelihoods. This notwithstanding and as earlier reported in section 2.2 (b) of this study, if women are involved in decision making processes and control over land, they will face less gender related discriminations and violations on property ownership and inheritance.

The findings of this study further revealed that the pattern of male dominance in property control is changing slowly as demonstrated by the percentage (47.9%) of respondents who indicated that land was controlled by the female gender. The numbers may be small but these are positive signs of better things to come. The society must boldly take the initiatives to involve women in land control. To reinforce this finding a female FGD participant and a widow from Township division revealed that:

*Since my husband died, I assumed two roles: that of a wife as well as that of a husband. I took stock of the huge responsibility I had to undertake to educate and take care of my children and decided to manage my small farm of one acre well. I divided it into small paddocks and planted different types of vegetables that I sell regularly in Kisii town. With the money I get, I pay school fees for my children and so far my children and I are doing well.*

This shows the paradigm shift that the women of this society need to have. If this trend is embraced, women will fully assume the role of controlling their land as opposed to the traditional view which expects men to control as women take a passive role in land management.

#### **b) Control over Livestock**

With regard to respondents' control over livestock, majority (63.5%) of the household heads reported that they had total control over family livestock while a minority (9%) revealed that they did not have any control over family livestock. This finding depicts that compared to men fewer women had full control over livestock. Further, a chi-square analysis output of  $\chi^2 = 12.83$  with a p-value of 0.002 established a statistically significant relationship between respondents' control over livestock and gender. Hence, the assumption that there is a relationship between

control of livestock and gender was confirmed. Further, this finding was confirmed by a male FGD participant from Township Division who stated that:

*Even when women have contributed to the purchase of livestock, they do not claim full control over them as this amounts to disrespect for the husband and is negatively perceived. As long as the male household head is alive, decisions about livestock, especially cows reared in the homestead are made by him.*

A female civic leader and key informant in Township division confirmed this when she stated that:

*Many families still uphold the traditional beliefs and practices that livestock is controlled by male household heads. Women take care of cattle while men make decisions about them.*

This finding demonstrates that though women invest a lot of time taking care of livestock, they have no control over them. This is the dominant view shared in the community and it has negative implications because it discriminates women from getting involved in making decisions that push forward the wheel of development. As stated by Silberschmidt (1999) culture dictates the limited amount of control that women should exercise in relation to livestock keeping. For instance; women can feed, milk and sell milk but they cannot manage or spend the money generated from these sales without the permission of the husband. Besides, women cannot take cows to a bull when on heat or help a calving cow because these are men's role. However, in situations where men are not at home for one reason or the other, women should be able to take control and do what men could have done to manage the situation. This is critical in homes where men have out-migrated to urban centers as pointed out by a female FGD participant from Township Division who said:

*Sharp and strict differentiation on who does what in livestock management is fast dying out. For instance, my husband stays in Nakuru where he is working. He can't come from*

*there to take the cow to the bull or help it when it is calving. I quickly make decisions as events unfold, act on them and inform him later and my husband is ok with this arrangement.*

Similar views were expressed by a female key informant and Civic leader from Keumbu who stated that:

*Things are changing very fast and women need to take up emerging challenges of the modern day. For instance, when the husband is living away from home, a wife can sell some cows to thin the flock. The husband may not know which cow to sell because he is away but he can trust the wisdom of his wife to take control of such things and make the right decisions. This is what women empowerment is all about and we are encouraging society to change and embrace this new trend.*

A male FGD participant from Township division also added his voice to this when he stated:

*Nowadays, most middle aged men have taken to heavy drinking of the local liquor. Consequently they have neglected their responsibilities of managing and controlling livestock. They wake up in the morning and go to drinking dens. This has left all the responsibilities of managing and controlling livestock to their wives. If asked anything to do with livestock in the family they refer to their wives as the ones knowledgeable about these things.*

From these findings, it is evident that the old school of thought that recognized men as the only controllers of livestock is fast dying out. It is critical for society to embrace new approaches that are gender inclusive in controlling livestock in the community. Hence, there is need to strategically encourage women's participation in this otherwise male dominated arena (Njuki & Sanginga, 2013).

### c) Control over Houses

Results presented in Table 4.6 shows that majority (75.6%) of the household heads reported that they had full control over family houses while 21.1% of the respondents revealed that that they had some limited degree of control while the remaining 3.2% of the respondents stated that they did not have any control over family houses. A chi-square analysis output of  $\chi^2=19.36$  with a p-value of 0.001 revealed existence of a statistically significant relationship between respondents' control over houses and gender. Hence, the finding of this study confirmed the assumption that there is a relationship between control of houses and gender. This finding was reinforced by a female FGD participant from Keumbu Division who stated that:

*The Kisii culture requires that a husband builds a house for his wife or wives. The wife or wives have the responsibility of managing and organizing the houses build for them by their husbands. However, husbands remain in control of the houses managed by their wife or wives. This justifies why in cases of family conflicts between the spouses, it is mainly the wife and not the husband who leaves the marital home or house.*

This finding corroborates with that of Silberschmidt (1999) which revealed that despite the fact that women spend much time doing domestic chores to manage and maintain family houses; it is men who ultimately have control over these houses and everything that is in them. Similarly, reports by KHRC (2003) and UN-Habitat (2009) observe that it is mostly women who are evicted from family houses in case of family wrangles that lead to separation or divorce. The same practice is evidenced in most African and Indian communities as observed by Aduyoye (1999) and Agarwal (2003) respectively.

However, with increasing legal and constitutional awareness on the rights of women to have decent shelter, exposed women have now started perceiving the whole process of house control differently as stated by a female key informant and coordinator of a local NGO in Township division who remarked:

*Both husband and wife must realize that the house they live in is controlled by the two of them. None of them has lesser rights because they have worked to build or buy their house together as a couple. In case of a dispute that could lead the couple to go their separate ways, the court will decide who takes their marital house based on practical needs of the two. Therefore it should not be automatic that it is the wife who gets evicted from the family house.*

Further, to reinforce this finding, a male civic leader and key informant from Township division stated that:

*Nowadays, husbands and wives work and pool resources together to build or buy a family house. As a result, each one of them tends to claim control of the said house because they both participated towards its building or purchase. They even have a say on who they can accommodate in this house and the agreements reached are based on mutual agreement and respect for each other.*

This is an emancipated way of thinking but which is not popular among the residents of Kisii County as it contradicts the dominant culture, but it is gradually finding its place in society. This is a pointer that women are trying to find their place in decision-making processes pertaining to house control. For instance, women can now contribute in making decisions on where to build, what type of house to build and in case of purchase what kind of house to purchase and where.

This move is important and if enhanced, it can go a long way to promote women's property rights among the Kisii people.

It is therefore imperative that control over family resources such as land, livestock and houses is critical in attaining women's property ownership and inheritance rights. Sara Longwe framework emphasizes this view when she argues that women's empowerment will enable them to achieve equal control over factors of production and this will lead to gender equality and ultimately women's involvement and participation in the development processes (Candida, Ines & Maitrayee, (1999). She further argues that women's poverty is the consequence of oppression and exploitation rather their productivity. This argument is valid because in agricultural economies in most developing countries, women provide majority of the much needed work force (Mumbi, Mbita, Miller & Kipsang, 2008). This implies that they have the potential to work but have no control over the resources on which they work. Hence women's empowerment is important in promoting women's property rights (Moser, 1993).

It is therefore encouraging that the findings of this study pointed out that women are positioning themselves to gain more control over the family properties. This is consistent with UN-Habitat (2009) report which affirms that every individual has a right to access decent housing and other means of production irrespective gender. The Matrimonial property Act (2013) also gives emphasis on the right of women to control moveable as well as non-movable properties. Further, the act provides for spouse entitlement to a share of matrimonial properties according to the contributions they have made in their acquisition. Hence, if all these legal frameworks are effectively implemented, they will actualize women's control of their matrimonial homes.

However, a small percentage 3.2% of the respondents revealed that they did not have any control over family houses. These were young couples who were temporarily living in small huts (*saiga*)

built by their parents for male siblings at the time of the interview. They could not exercise any form of control over a hut shared by their male siblings. They lived in these huts as they organize to build their own houses as confirmed by this male FGD participant from Township division who stated that:

*I recently got married and my wife and I live with our male siblings in a common hut which our father built for us as boys. It is now that I am planning to build my own house. In this common hut, it is very difficult to make independent decisions on how the hut should be managed. All my siblings have a right to do what they want because it is 'our' hut, not mine.*

#### **4.4.3 Property Inheritance by Gender**

Part three of objective two of this study endeavoured to investigate the practice of property inheritance in relation to gender. According to this study, inheritance is the process of passing over property from parents to designated heirs. To accomplish this task, it was important for the study to first establish the dynamics of property inheritance. The areas covered were respondents' mode of property acquisition, gender of the parent from whom the respondents inherited land, and the respondents' propensity to grant inheritance to female children. The findings and discussions are presented under the subsequent sub-headings.

##### **a) Mode of Property Acquisition by Gender**

Before exploring the patterns of inheritance, it was worthwhile to find out how the respondents acquired the various types of properties they owned. This understanding was necessary in providing a link between property, inheritance and gender. Further analysis also facilitated the study to establish if there was consistency, replications or changes in inheritance patterns among

the Kisii people over time. Table 4.7 provides a general overview of how the respondents acquired the various types of properties they owned.

**Table 4.7 Mode of Property Acquisition by Gender**

Properties acquired	Acquisition Criteria								Total	
	Inheritance				Purchase				Freq	%
	Female		Male		Female		Male			
Freq	%	Freq	%	Freq	%	Freq	%	Freq	%	
Agricultural land	135	38.8	193	55.5	7	2.0	13	3.7	348	85.3
Commercial plots	6	14.0	7	16.3	10	23.3	20	46.5	43	10.5
Cattle	8	2.8	6	2.1	109	37.6	167	57.6	290	71.1
Sheep	0	0.0	1	4.0	11	44.0	13	52.0	25	6.1
Goats	0	0.0	0	0.0	40	44.4	50	55.6	90	22.0
Poultry	0	0.0	1	0.4	114	43.2	149	56.4	264	64.7
Residential houses	7	1.9	13	3.5	154	41.0	202	53.7	376	92.2
Commercial houses	1	3.1	1	3.1	7	21.9	23	71.9	32	7.8
<b>Total</b>	<b>157</b>	<b>10.7</b>	<b>222</b>	<b>15.1</b>	<b>452</b>	<b>30.8</b>	<b>637</b>	<b>43.4</b>	<b>1468</b>	<b>100</b>

**\*Multiple responses allowed.**

Majority (95%) of the respondents of both gender reported that they inherited owned agricultural land. On the contrary, majority (94%) the respondents reported that they build the houses they owned while majority (95%) and (99.6%) of the respondents indicated that they purchased their cattle and poultry respectively. Therefore, these findings revealed that it was only agricultural

land that was predominantly inherited by the interviewed household heads. Hence, in the exploration of property inheritance, only land, the property predominantly inherited was considered.

Further data analysis in this study established that land was a very valuable property in Kisii County as revealed by 98% of the respondents who reported agricultural land ownership. In most communities, land is the most important natural resource required for survival and wealth creation. Therefore, control of land brings economic, social and political power. Land has been and continues to be the mainstay of Kenya's economy, where 80% of its population derives their livelihoods from agriculture as documented by Dietz, Foken, Soeters, and Klaver (2013). Hence, land plays a significant role in the socio-economic development of the country and its ownership is of great importance to most Kenyans. The same principle applies and is replicated in Kisii County.

#### **b) Gender of the Parents from whom the Respondents Inherited Land**

After ascertaining that land was the only property that was inherited by majority (94.3%) of the household heads, it was important to establish the gender of the parent from who land inheritance was received. Data obtained and analyzed pointed out that it was the parents of the female gender who gave inheritance to heirs of the male gender. Therefore, the findings of this study established a standard pattern of male dominance in land inheritance in Kisii County as illustrated in Table 4.8.

Results presented in Table 4.8 show that majority (72.8%) of the household heads inherited land inheritance from male parents (fathers) while a minority (5.5%) of the respondents indicated that they received inheritance from female parents (mothers). Therefore, the pattern of land inheritance was found to run from male parents to male heirs.

**Table 4.8 Gender of the Parent from who the Respondent's Inherited Land**

Gender of parent from who land inheritance was obtained	Gender				Total		Chi-square	df	Asymp. Sig. (2-sided)
	Female		Male		Freq.	%			
	Freq.	%	Freq.	%					
Father	48	17.3	230	82.7	278	72.8			
Mother	16	4.2	5	1.3	21	5.5			
Both	28	7.3	55	14.4	83	21.7	12.402	2	0.002
Total	92	24.1	290	75.9	382	100			

A chi-square test output of  $\chi^2=12.402$  and a P-value of 0.002 established a relationship between parents from who the respondents received land inheritance and gender. Hence, confirming the assumption that; there exists a relationship between property inheritance and gender.

This finding was given emphasis by a male FGD participant from Keumbu division who stated that:

*Among the Kisii people land inheritance is dominated by men. Fathers grant land inheritance to their male heirs, who are in turn expected to pass it on to their sons and this pattern is maintained generation after generation.*

Likewise, a female FGD participant from Township division also added her voice to this finding when she affirmed that:

*Land inheritance is a reserve of the male gender. Female children are not considered for inheritance except under very special circumstances such as when she is the only child or she remains unmarried and has children to take care of and she has no source of livelihood.*

Similar sentiments were echoed by a male public opinion leader and key Informant in Keumbu Division who stated:

*Culturally among the Kisii people, land inheritance is passed down from father to son. It is only in exceptional cases that women are considered. Ideally, land inheritance is a reserve of male heirs.*

This finding explains why majority (72.8%) of the respondents reported that land inheritance was received from parents of the male gender and is consistent with earlier findings documented by Silberschmidt (1999), Marjolein (2002), Ngwira (2006) and Njuki and Sanginga (2013) which confirm that in Kisii County and in other African communities land inheritance is passed down from male household heads to male heirs. This pattern has been maintained over the years regardless of the international, regional and national legal frameworks that exist to promote women's inheritance rights (see section 2.2 a & b) of the literature review. This pattern of inheritance continues to perpetuate discrimination against women in land inheritance against the Constitution of Kenya (2010). Therefore, constitutional women's rights to land inheritance

continue to be violated due to the prevailing gender insensitive discriminatory customary traditions and practices that override the law (see section 2.2 b). To make this worse, traditional provisions that used to protect women's land use rights have been eroded over time as observed by Kameri-Mbote (2007) and Njuki and Sanginga (2013). Consequently, the female gender continues to be marginalized as far as land inheritance is concerned.

Nevertheless, as shown in Table 4.8, this study revealed that 21.7% of the respondents indicated that they received inheritance from parents of both genders. Besides, (5.5%) of the household heads reported that they had received inheritance from parents of the female gender (mothers). These two categories of respondents represented a section of society that is slowly changing their perceptions with regard to the gender of parents from which land inheritance is obtained. Though in reality these are not popular worldviews in the community under investigation, it is a reflection of changing perceptions and attitudes of the people with regard to the gender of the parents who grants land inheritance.

This category of respondents are a representation of the members of society who appreciate that parents of both gender play a role in their land inheritance. This finding corroborates with the observations by FAO (2011) which indicates that, though, land inheritance has been an arena dominated by men, women inclusiveness in this area is an imminent reality that society must learn to embrace. Since international, regional and national legal instruments, campaigns on human rights and women's rights persistently put emphasis on women's inheritance rights, though slow and sporadic (Ngwira, 2006), these reforms are taking effects and are facilitating

change of perceptions and attitudes of the people. As a result of this, society is beginning to embrace gender inclusiveness in property inheritance as argued by UN-Habitat (2006). This finding is confirmed by a female key informant and senior public administrator in Kisii County who remarked that:

*Change is inevitable, and it must come when it must. Amidst serious resistance to include women in land inheritance, there are a few parents in this community who have publically given land inheritance to their daughters and they stand tall as role models for others to follow. Besides, there are men in this community who have been raised by their mothers single handedly and they attest to the fact that they have received inheritance from their mothers.*

It is therefore evident that change is taking place in this community as far as land inheritance is concerned. Majority of the people belong to the old school of thought which believes that land inheritance is a preserve of men but there is an emerging section of the society who have taken bold steps to challenge the status quo as discussed earlier. It is worth noting that providing women with direct acquisition and ownership of land through inheritance is an important milestone in ensuring women's property rights. As earlier reported (see section 2.2 b) when women own and control the land that they cultivate, they are able to make decisions on the type of farm inputs to use, what to plant and how to use the produce accrued from their farms more effectively. Consequently, this could lead to high productivity and improved livelihoods of women themselves, their family members and the society at large. Besides, they may use their land as collateral to invest either in agriculture or any other sector for income generating activities. In addition to these benefits, land inheritance and its subsequent ownership by women could lead to more confidence and security of tenure necessary in land ownership. This paradigm

shift is likely to change the socio-economic landscape of not only women but their children and society at large.

### **c) Household Heads' Propensity to Grant Land Inheritance to Female Children**

As reported in the preceding sub-section (b) above, it was evident that land inheritance was predominantly a male gender affair. However, there was an indication that some respondents were slowly embracing change that pointed towards women inclusion in land inheritance. In the wake of the new constitution dispensation in Kenya that requires parents to grant inheritance to male and female children alike (The Constitution of Kenya, 2010), it was essential for this study to establish the respondents' propensity to grant land inheritance to female children as provided in the supreme law of Kenya.

The findings of this study revealed that less than half (39.5%) of the respondents were inclined to grant land inheritance to female children as required by the constitution while more than half (52.5%) of the respondents were against this constitutional provision. Though about 40% of the respondents indicated propensity to grant inheritance to female children according to the constitutional requirement, it was encouraging that majority (53%) of these respondents were of the male gender, critical in granting land inheritance to their heirs. Since this study was carried out around the time that the current constitution was promulgated, there is a possibility that the 53% males who revealed an inclination to bequeath females were influenced by the specific clauses that provide for land inheritance and ownership by the female gender (Constitution of Kenya, 2010).

If male household heads are persuaded and convinced of the logic and legality of granting female children land inheritance, the challenges to effect this provision will be minimal given the goodwill of the 'owners' of land and custodians of inheritance processes in the community. However, it is ironical that male household heads (53%) who revealed an inclination to grant inheritance to female children outnumbered (47%) the female household heads. This shows that female household heads compared to their male counterparts were more reluctant in supporting female children's land inheritance rights.

This finding demonstrates a sense of deep cultural beliefs and practices that have shaped the perceptions and attitudes of women in this community. They are comfortable with the status quo and find no justification for change even when such change is meant to benefit them. As Lord (1997) argues, in some cases the disadvantaged are brainwashed and gently forced to cooperate with their oppressors in the name of sticking to their prescribed roles. Consequently, they learn to play by the script even when it hurts them.

This finding is in tandem with the observations made by Ode (2010) that African women have not embraced the reality that they need to be liberated. They seem to have resigned to fate even before they try to find their place in society. Therefore, in this study, it is not surprising that most women were not keen in promoting female children's and indeed women's property inheritance even when there are constitutional provisions to this effect. If this trend continues without checks and balances, the efforts of promoting women's property inheritance might be futile. Therefore, there is an urgent need to empower women and help them come out of their cultural

cages and cocoons that blind them of the realities of the changing world and ideologies in their support.

#### **4.5 Determinants of Women's Property Ownership and Inheritance**

In line with the third objective of the study, this section presents the factors that influence women's property ownership and inheritance rights among the studied population. To arrive at these factors, factor analysis was used to generate key factors that influence women's property ownership and inheritance rights among the Kisii people. A sample adequacy required for factor analysis was established using Kaiser-Meyer-Olkin (KMO). According to Blaikie (2009), a KMO value of  $\geq .5$  is acceptable for factor analysis. In this study, a KMO value for women's property ownership and inheritance was 0.505. This means that the sample size for this study met the sample adequacy criteria for factor analysis. In addition to the aforesaid, Field (2009) observes that in factor analysis, the eigenvalue measures the amount of the total variance for which each factor accounts. Therefore, the higher the eigenvalue, the greater the variance explained by that factor. Further, Blaikie (2009) and Field (2009) recommend factors with eigenvalues  $\geq 1.0$  and factor loadings of  $\geq .4$ .

As shown in Table 4.9, factor analysis yielded ten items in total. However, only four items were acceptable because they had eigenvalues  $\geq 1.0$ . The four items together explained a total of 50.358% of variance for the entire set of variables as illustrated in Table 4.9. Six items were

discarded because they did not contribute to a simple factor structure and failed to meet the minimum criteria of having an eigenvalue of  $\geq 1.0$  and a factor loading of  $\geq .4$  (Neil, 2008).

**Table 4.9 Factors Influencing Women's Property Ownership and Inheritance Rights and their Corresponding Eigenvalues and Variance**

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

**\*Factors with eigenvalues  $\geq 1.0$ .**

Similarly, Table 4.10 shows the factors generated and their corresponding factor loading. From these factors, only those with factor loadings of  $\geq .4$  were considered while the rest were discarded as recommended by Neil (2008) and Blaikie (2009).

Ensuing from Table 4.9 and Table 4.10, four key factors that influence women's property ownership and inheritance rights in Kisii County were generated. They are; customary beliefs and practices, socio-economic factors, patriarchy, and legal awareness and land scarcity. Together, these factors explained 50.358% of the total variance. This indicates that they were significant in influencing women's property ownership and inheritance rights.

**Table 4.10 Factors Influencing Women's Property Ownership and Inheritance Rights Factor Loadings**

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

\*Factors with factor loadings  $\geq .4$

Factor one accounted for 14.593% of the total variance. Four items loaded successfully with range of 0.407 to 0.655. These items were; bride wealth, customary beliefs, religion and family size. Factor two accounted for 13.398% of the total variance and four items successfully loaded onto it at a range of 0.406 to 0.610. These items were; bride wealth, education, economic status and religion. Factor three accounted for 11.865% of the total variance and three items successfully loaded onto it at a range of 0.422 to 0.682. These items were; bride wealth, gender and marital status. Finally, factor four accounted for 10.502% of the total variance and two items successfully loaded onto it at a range of 0.422 to 0.698. These items were; legal awareness and land scarcity.

To enrich analysis of the factors that influence women's property ownership and inheritance rights in Kisii County, triangulation of quantitative (percentages and factor analysis) and qualitative (discussions and interpretation of the findings based on thematic areas and capturing of participants' voices generated from focus group discussions and in-depth interviews with key informants) techniques were used. These factors are discussed in detail in the sub-sequent sub-sections of this report.

#### **4.5.1 Cultural Beliefs and Practices**

The first factor generated through factor analysis was labeled cultural beliefs and practices due to the higher loading ( $\geq 0.4$ ) in the following items; bride wealth, culture, religion and family size (Table 4.10). Factor one explained 14.593% of the total variance. Analyzed data revealed that cultural beliefs and practices were critical in influencing the respondents' perceptions, attitudes and practices on women's entitlement to ownership and inheritance of key resources. Most of the respondents reported that cultural beliefs and practices influenced women's property ownership and inheritance rights in Kisii County. This finding was given emphasis by a senior public administrator and key informant from Kisii County who stated that:

*Regardless of the level of education, type of occupation and economic status of most people in Kisii County, they still remain conservative. They hold to cultural beliefs and customary practices that favour men and discriminate against women with regards to property ownership and inheritance.*

Another public administrator and key informant in Keumbu division also remarked that:

*Property ownership and inheritance rights by women in this County are far-fetched. Though great and noble in themselves, they are contradictory to the dominant culture. Hence, the resistance level faced in embracing them is very high. Culture overrides these*

*rights and people are ready to go to any heights to support culture even when there is prove that it is retrogressive, detrimental and anti-development in nature.*

Ensuing from the aforesaid, it is evident that cultural practices and beliefs of the people in Kisii County are instrumental in influencing women's property ownership and inheritance rights. In spite of noticeable progress made in many spheres of the lives of the inhabitants of Kisii County, cultural conservatism is still apparent. Hence, appreciating the importance of women's rights to own and inherit property remains a challenge.

A faith based leader and key informant from Township division also alluded to this when he remarked that:

*Religion has a potential to change the way people in Kisii perceive women's right to property ownership and inheritance. However, it was negatively introduced by the white missionaries. They made the people to believe that you can hold the Bible with one hand while you hold culture in the other and run with both of them at the same time. This explains why most of the people in Kisii County are very 'religious' but have remained cultural as well. Efforts to change these perceptions have been slow and frustrating. Religious leaders who ought to guide people through this process of change are themselves deeply rooted and entangled in culture.*

This religious leader seemed to suggest that cultural beliefs override religious beliefs. Therefore even when decisions are made by Christians, cultural beliefs are also put into consideration and often given priority. This shows the strength and depth of culture in determining the decisions that people make in relation to property ownership and inheritance by women. Similar sentiments were underscored by a high school principal in a mixed high school in Kisii County when she stated that:

*Culture controls many things in this community. It even dictates parents' decisions on how to educate their children. For example if two children a boy and a girl from the same*

*family sit for standard eight national examination (KPCE) in the same year and the girl scores more marks than the boy, the boy will be given first priority to join secondary school. In case of financial challenges, the girl is likely to drop out of school while the boy is given an opportunity to go through high school and university. This portrays cultural-based gender discrimination in the treatment given to males and females. Unfortunately, in my school administration responsibilities, these are the realities of gender disparity I regularly grapple with.*

The sentiments obtained above are a pointer that deep culturally rooted perceptions play a critical role in shaping decisions to appropriate property.

With regard to land ownership and inheritance, culture was reported to be a very influential factor in determining the practices of the Kisii people. A female FGD participant from Keumbu division underscored this when she stated that:

*With or without the constitution, women will remain marginalized in property ownership and inheritance. This is because law makers and implementers of the constitution who should be an example to the rest of the community members are serious adherents of culture. They stand in public platforms and tell people to stick to culture because he who abandons his culture is a slave. They emphasize the importance of ancestral land and why it should remain in the hands of male heirs. They openly oppose women property inheritance as a western concept. If our leaders take this stand, who are we then to do things differently?*

These views point out the need for effective implementation of statutory and legal provisions that promote women's property ownership and inheritance rights. Besides, there is need for leaders to stand out as role models to the people they lead.

These voices of key informants and FGD participants provide deep insights on the role of culture in the decision-making processes in different spheres of life, property ownership and inheritance

included. These observations are congruent with the observations made by World Bank (2003) report which documents that despite the efforts by various human rights instruments, legal provisions and other strategies that promote gender equity, gender disparity in property ownership and inheritance still exists due to cultural influence. This argument is validated by Ode (2010) who argues that cultural norms and values are the greatest undoing for women in Africa as they are embedded in patriarchal customs and traditions. Unfortunately, existing legal frameworks and development approaches support these norms and practices.

Culture was also found to be an important determinant of women's property rights because existing gender stereotypes hinged on culture lead to gender insensitivity and discrimination not only on property ownership and inheritance rights but on other rights as well. It emerged that most of the members of this community were culturally conditioned to believe that property ownership should be dominated by the male gender and land inheritance must run through the male gender because women are temporal and on transit (Steinzor, 2003). This means that they will be married off from their family of birth and transit to their marital homes where they are 'welcome strangers'. These stereotypes influence women's property ownership and inheritance rights as earlier discussed in reviewed literature in this report and confirmed by a male FGD participant in Township division who remarked that:

*Women are naturally weak and they don't think about development. They care about petty things like clothes, nails and hair. If they are allowed to own or inherit property, they might spend family resources in beautifying themselves and soon the family will be on its knees.*

Definitely these are cultural gender stereotypes that have shaped people's attitudes and practices with regard to women's ability to own and inherit property. They make society insensitive to the vital roles that women play in resources mobilization, wealth creation and property management (Mtika, 2011). As pointed out by Ode (2010), cultural stereotypes are passed on from generation to generation and without any validation they are taken as realities. This affects how community members perceive women's property rights and their resultant behaviours as reinforced by a senior public administrator and key informant from Township division who stated that:

*Most people in Kisii community, male and female alike; do not consider women as key players in resource mobilization and management. They are perceived as the weaker section of society that persistently must depend on men as far as resources management and control are concerned despite their participation in property acquisition and management.*

These stereotypes are reflections of how society perceives women. In most patriarchal societies, women are perceived as childish, incompetent, extravagant and poor planners as documented by Ode (2011).

Contrary to these views above, FAO (2013) report states that women can transform the world around them. World Bank (2013) report observes that improving land governance as a way of achieving economic growth must include women as they currently produce of over 70% of Africa's agricultural production under their constrained circumstances. Therefore, if the conditions in which they operate are improved, they have a potential to do even better. Thus, given access to, control over and ownership of key resources with which they work, women are

likely to gain impetus and work harder for the benefit of not only women but society at large as stated by a senior public administrator in Kisii County and key informant who remarked that:

*Women work very hard and for long hours. Their efforts are felt by their families, communities and nations. They are consistent, overbearing and fully committed to what they do. Given a chance they can transform the world. Unfortunately, society has given a verdict on women's potential and abilities before taking them through the trial process. This is purely stereotyping and it is not acceptable!*

Since cultural practices and beliefs are broad concepts, factor analysis generated cultural factors under Factor one with factor loading of  $\geq .4$  that influence women's property ownership and inheritance rights (Table 4.10). These factors were; bride wealth, culture, religion and family size. They are discussed in detail in the sub-sections that follow.

#### **a) Bride Wealth**

As shown in Table 4.10 under factor one, bride wealth had a factor loading of .504 and was identified as one of the factors that influence prevailing perceptions and practices on women's property ownership and inheritance rights. This view was confirmed by a male community opinion leader and key informant from Township division who stated that:

*Once a man pays bride wealth for his wife, she is perceived as "bought" and this takes away all her rights to claim for any form of property ownership or inheritance.*

Similar sentiments were candidly expressed by a male FGD participant from Township division who stated that:

*Everything in the homestead including; land, livestock, cash crops, children and wives are 'owned' by men. Women cannot claim property ownership since they themselves are 'bought' just like other properties men own.*

This finding was given further emphasis by a female FGD participant from Keumbu division who stated that:

*In some cases, women perceive themselves as their husbands' 'properties' because of the bride wealth paid for them. They cannot question their husband's authority and even if they did, men can't listen to them because women's views are not considered significant. Men have the final say on what should be done within the family.*

These voices confirm that bride wealth is a strong determinant of the way the community perceives women's property rights as reported in reviewed literature in this thesis. Bride wealth is negatively perceived as the price paid to 'buy' a woman who is being married. Consequently, the 'bought' wife cannot claim property ownership. These findings corroborate with the observations made by KHRC (2003) which confirm that payment of bride wealth exacerbates women's property and inheritance rights violations since it makes them to be seen as 'bought properties' with less bargaining powers, unable defend their rights or resist any form of property ownership and inheritance rights' violations.

However, this distorted view which perceives women as 'bought' because of the payment of bride wealth is sharply contradicted by a female senior government officer and key informant who states that:

*Marriage is a contract, and in a contract, there is the element of give and take for the parties involved. Both parties must appreciate the roles played by each part to achieve effective co-existence. When one part takes advantage of, and underestimates the role played by the other party it amounts to breach of the contract that results in oppressions and discrimination, and this is not acceptable. A couple must respect one another with or without bride wealth. A mutual relationship is more important than the monetary and material things that are exchanged to create marriage alliances and they must not be tagged to women's legitimate rights to property ownership and inheritance.*

This is a view which shows a paradigm shift from what has been culturally acceptable as a norm to the changing realities of culture. This view implies that women can also have a place to meaningfully contribute in society if gender discrimination is well managed in all spheres of life, women's property ownership and inheritance included.

### **b) Religion**

Religion was also identified as an important cultural factor that influences women's property ownership and inheritance rights in Kisii County. It had a factor loading of .427. Early in this thesis (see sections 4.2., d), it was observed that majority (99.5%) of the respondents' interviewed were Christians. Christianity is anchored on patriarchal beliefs and practices that consider men as superior to women. Christianity also upholds men as rightful household heads and legitimate owners of family property (Nash, 1984). Despite the fact that the foundations of Christianity are rooted in patriarchy, Christian faith require men to take responsibility of caring for their families, be fair and just to women by loving them and providing for their needs (Ephesians 5:22-33). This view was shared by a key informant and pastor from a faith based institution in Keumbu division who stated:

*Christian men are under obligation to love and care for women who are biblically referred to as the weaker vessels. However, religion has been negatively used to stamp gender discrimination in the name of wives' submissiveness to their husbands. Submissiveness has been abused and equated to women's helplessness as men 'religiously' dominate them.*

Further, a senior public administrator and key informant in Kisii County remarked:

*Most women in Kisii have no right to control property. Ordinarily, this does not arise as an issue or concern since women in this community have been religiously indoctrinated*

*to uphold irrational submissiveness which amounts to helplessness and dependency while the church is doing little to correct this fallacy.*

This finding corroborate the observations made by Macey (2009) which emphasizes that religious principles that requires women to respect and submit to their husbands are often interpreted to fit the context of patriarchy instead of achieving social justice and gender equality in resource ownership and management. Therefore, when religion is integrated with existing culturally assigned gender roles, they widen the gender disparity gap.

### **c) Family Size**

Under factor one; family size with a factor loading of .407 was identified as an important factor that influences women's property rights. Earlier in this study (see Table 4.3), it was reported that majority (66.7%) of the factor household heads had between four and six children while only 18.3% had between one and three children. This reveals that majority of the studied households had more than three children. Equally, this study (see Table 4.7), pointed out that land was inherited and owned by the majority (88.3%) of the interviewed household heads. Likewise, as shown in (Figure 4.4) of this study, the area of study is an agricultural zone whose population mainly depends on subsistence farming for survival. Further, section 4.4.3 of this study revealed that land is mainly sub-divided and passed on by male parents to male heirs. Considering all these facts and with the increase of population pressure, land has become very scarce, highly fragmented and competitive with majority of the household heads owning less than two hectares as reported in section 4.3 (b) of this study and documented by the National Development Plan for

Kisii Central (2002-2008). It is unlikely that a family with many children may be able to grant inheritance to both male and female children in the face of such competition. Most often than not, it is the females who are disadvantaged and this widens the gender disparity gap.

Therefore, the number of children in the family was found to be critical in influencing the entire process of land ownership and inheritance. For instance, parents with only one female child were likely to pass land inheritance to this child while parents with a number of children both male and female were most likely to consider granting inheritance to male heirs only as earlier discussed in section 4.4.3(b) of the study. This finding is reinforced by the sentiments of a key informant and senior government official from Township division who remarked that:

*A family with an only child of the female gender is inclined to grant inheritance to her instead of allowing the family estate to be taken away by non-family members. Culturally, an only female child can be persuaded to forfeit marriage, stay in her family of birth and inherit her father's estate. This female heir is expected to have children and carry forward her father's lineage.*

Ensuing from the aforesaid, there are chances of women owning and inheriting land in a small sized family when compared to a large family.

In addition to this, families with few children and adequate resources are likely to consider giving inheritance to both male and female children. A male FGD participant from Keumbu division highlighted this when he stated:

*Families with adequate resources and few children may consider granting inheritance to both male and female children as compared to families with large numbers of children and limited resources. However, it is more likely even in such families that male children are given first priority when it comes to ancestral land.*

Since majority (81.7%) of the household heads studied reported to have had more than three children (see section 4.2, (h) the likelihood of granting female children land inheritance was very limited. This finding is consistent with the findings from other studies (Steinzor, 2003; KHRC, 2003 and KHRC, 2006) which confirm that in some circumstances land inheritance is determined by the number of children in the family.

#### **4.5.2 Socio-Economic Factors**

The second factor derived factor analysis was labeled socio-economic factors. This factor was labeled as such due to the high loading ( $\geq .4$ ) of the following factors; bride wealth, education, economic status and religion. The variance explained by this factor was 13.398%. These factors are discussed in detail in the following sub-sequent sub-sections.

##### **a) Bride wealth**

This factor is recurring for the second time in factor two as it was generated and discussed under factor one (see section 4.5.1, (a). This implies that bride wealth is an important factor that influences women's property ownership and inheritance rights. In factor two, this factor had a factor loading of .429.

##### **b) Education**

The respondents' level of education was also found to be an important factor that influences women's property ownership and inheritance rights under factor two. It had a factor loading of

.610. As earlier reported in this study (section 4.2, e), majority (73.4%) of the respondents had primary and secondary level of education as their highest attained level of education. This finding shows that majority of the household heads had basic education with little professional or university training. A senior government officer and key informant in Kisii County attested to this when he remarked that:

*When people have low education, their opportunities to venture out of their community are limited and if they do, they have very limited chances of securing attractive well-paying jobs that can meaningfully improve their socio-economic status. Most often, such people remain in their rural homes and do subsistence farming and other low paying casual jobs that limit their investment opportunities and the subsequent acquisition of property. This ultimately leaves them with little or nothing to give as inheritance to their children, especially female children.*

This finding ties the ability to grant inheritance with the ability to earn more income as determined by ones' level of education. With a high level of education, one gets high income which in turn facilitates the process of sound investment and wealth creation. With enough resources at a parents' disposal, there is likelihood to consider granting inheritance to females in the family. This ability is directly related to the level of education attained and the opportunities associated with it.

Further, as a public administrator and key informant from Township division stated:

*Education is an effective strategy that could be used to help people appreciate the importance of women's property ownership and inheritance rights. It helps them to acknowledge the resourcefulness endowed in women as opposed to the existing cultural stereotypes society has always held against them. Hence, an understanding that women, just like men have abilities to own property and even pass it on to their children as inheritance is imperative.*

The same views were shared by a male FGD participant from Keumbu division who revealed that:

*Access to education which leads to employment opportunities for men and women could enable women to purchase property which they can own independently or together with their spouses or other family members. These women have a choice to grant as inheritance the properties they have acquired to their male and female children.*

This was reiterated by a male FGD participant from Township division who stated that;

*Education empowers men and women intellectually and financially in order to contribute towards the acquisition of family properties. As a result, they could have joint ownership of properties that they have acquired together as a couple. In case one spouse dies before the other, the remaining spouse takes over ownership of the family properties. Ultimately, the surviving spouse passes them over to family heirs as inheritance.*

In the light of the above, education emerged as an important factor that influences women's property rights because education opens doors of opportunities for employment and investment that allows one to have enough property to bequeath both males and females. Besides, education helps people to appreciate women's abilities and the critical role that they play in the modern society. Lack of education leaves people stuck with conservative cultural perceptions that women should not own or inherit property just because of gender.

### **c) Economic Status**

Economic status was identified as an important factor with a factor loading of .405 under factor two. Therefore, economic status is an important factor that influences women's property ownership and inheritance rights. Earlier in the study (section 3.2), it was reported that Kisii County is densely populated with very high rates of land fragmentation and an average farm size

of 0.75 hectares (Kisii County Fact Sheet, 2013). This study established that majority (76.8%) of the household heads involved in the study had a monthly income of less than Kshs.5,000.00 (section 4.2.(g). Further, in this study (section 4.3. b), it was established that land was one of the most important resources that the household heads owned (Table 4.4) and on which the livelihoods of the people depended. However, this study revealed that Kisii County has very high fertility rates of 5.2 children per woman and an average land size of 0.99 hectares. All these facts show that Kisii County, though endowed with rich fertile soils suitable for agriculture, has very high population density which put pressure on the limited land. This leads to poor productivity from land which is the primary resource. Ultimately, this implies that the County has a weak economic status caused by scarcity of resources, especially land and this has an influence on which gender receives inheritance. Most often than not, males will be considered at the expense of their female counterparts. This finding was confirmed by a senior public administrator in Kisii County and key informant who stated that:

*Most of the people in Kisii live below the poverty line. Their incomes are meager and they live from hand to mouth. They lack financial ability to meaningfully invest and create wealth with which they could re-invest, acquire more property and grant inheritance to both men and women. Their main property is limited to ancestral land which is passed down as inheritance to male heirs by male parents. However, land as a resource is fast diminishing due to high rates of population growth.*

This was given further emphasis by a male FGD participant from Keumbu division who revealed that:

*Land is the main resource that the people in Kisii County depend on, but it is very scarce and highly fragmented. This has made it difficult for us to do any meaningful farming on the small portions that we have. It does not make economic sense any more.*

These findings reveal that scarcity of resources, particularly land is a reality in Kisii and this further diminishes women's chances of consideration in land ownership and inheritance. These views are well articulated by a male FGD participant at Keumbu division who remarked:

*Due to scarcity of resources (land), it will be difficult to think of promoting women's property ownership and inheritance rights in this community. Men, who are legitimate heirs and household heads, do not have enough to meet their needs and sustain their families. Where then will land come from to give to women? Let those who talk about women's property rights keep on talking, it is because they do not understand the realities at the community level.*

Therefore, this finding is relevant because the position of women with regard to land inheritance is further jeopardized by the decreasing land holdings per family. This finding is consistent with the observations made by Njuki and Sanginga (2013) and Silberschmidt (1999) who reveal that as land continues to shrink, the chances of including female children and women in property ownership and inheritance will be low. Therefore, with this understanding, there is need to find out other viable economic activities that can be undertaken by men and women to diversify the resource base people depend on for survival as underscored by a female government officer in Kisii County who stated that:

*To improve the economy of the County and consequently promote women's rights to property ownership and inheritance, people must stop focusing on land and find other avenues of generating income that can help them towards wealth creation and self-sustainability. Otherwise, dependence on land will increase people's resistance to women's property rights.*

The above suggestion is a suitable alternative. If adopted invariably, it will enhance women's property rights in this community because as earlier discussed; it is only land as a resource that is mainly inherited. Further, culturally, land inheritance runs from fathers to sons while women are

not considered. If this approach is used, the base of property ownership and inheritance will extend beyond land which is dominated by the men. There could be a possibility for women to inherit the other types of properties. This will then reduce the pressure on land and its importance may eventually decline and ease the pressure currently exerted on it.

#### **d) Religion**

Religion was once again identified as an important factor that influences women's property ownership and inheritance rights with a factor loading of .484. Religion is an important factor influencing women's property ownership and inheritance rights because it was identified in factor one as well as factor two. Its recurrence affirms its importance as a factor. As reported under section 4.5.1(b) of this study, religious affiliation of the respondents was found to be an important factor that influenced women's property ownership and inheritance rights. Similar findings were also recorded in factor two. This confirms and reinforces the finding of this study that religion has a major contribution towards shaping property ownership and inheritance practices.

#### **4.5.3 Patriarchy**

The third factor generated was labeled patriarchy due to the high loading by the following items; bride wealth, sex and marital status. Patriarchy was found to be an important determinant of women's property ownership and inheritance rights because it explained 11.865% of the total variance. Patriarchal system dictates that men are household heads and rightful owners of property. It also means that property inheritance is passed on from male parents to male heirs as

discussed in (section 4.4.3 b) of this report. On the other hand, patri-local residence of the couple which means that after marriage the couple resides in the family of the man reinforces patriarchy. These practices emerged as important determinants that contribute to denial of women's ownership and inheritance rights among the Kisii people as confirmed by a senior government officer and key informant from Kisii County:

*Women in this community work harder than men and they help their husbands to accumulate wealth. However, they individually own nothing, in some cases they are culturally perceived as part of the husbands' properties because they are married into men's homes and when they come they come with nothing. By the time of marriage, it is assumed that men already own land, hopefully a house and other properties. Women find these properties in their marital homes. Hence, they cannot have ownership claims over them. This is an orthodox cultural perception that promotes male chauvinism but unfortunately, it is acceptable by majority of people in this community without any objective rationalization.*

Similar sentiments were expressed by another senior public administrator and key informant from Kisii County:

*Among the Kisii people, property ownership and inheritance are the reserve of men who are perceived as rightful heads of household with a final say on what should be done with them. Women can only access and use what is allocated to them by male relatives (fathers, brother or husbands). Since our society is a patriarchal one, people of both genders have been socialized to accept this as a normative practice without questioning its rationality.*

These sentiments were further confirmed by a middle-aged male FGD participant from Township division who underscored this view:

*Under normal circumstances, men are considered as the legitimate household heads. They own all the properties in the homestead such as land, houses and livestock. Cultural extremists also perceive their wives and children as part of their properties.*

From these voices, it is interesting to note that what men own before and after marriage is recognized as men's properties. However, society fails to recognize the contributions women make to facilitate property acquisition by the couple after marriage since it is still assumed that even what has been jointly acquired by the couple belongs to the man (KHRC, 2006). This is because of the belief that women are welcome 'visitors' in their marital homes. On the other hand, it is believed that at the time of marriage women come with nothing, forgetting that it is not just material goods that matter. The flexibility of women to think, work, manage a family and create wealth is a significant contribution that women make in the acquisition of family properties. Unfortunately, they are not factored in when it comes to property ownership. Some men put their wives in the same category with other properties they own and treat them as objects. This perception dehumanizes and degrades women, furthering the problem of gender discrimination.

Another cultural factor closely related to patriarchy and identified by the interviewed household heads was the practice of patri-local residence of married couples. In patriarchal societies, married women leave their families of birth and join their husbands in their homes to start a family. This transition in a way deprives women of the ability to claim ownership of property in their marital homes. As stated by a male FGD participant from Keumbu Division:

*Women are welcome "strangers" into their husbands' families. They are not qualified to own any property, especially land, houses and cattle. In case of dissolution of marriage, they leave empty handed because they came with nothing at the time of marriage.*

It is therefore obvious that the rights of women to property ownership and inheritance are undermined by this 'stranger' status in their marital homes. Women cannot be treated in the same way as men who are born and remain in their families of birth after marriage. This sentiment was given further emphasis by the remarks made by a public administrator and key informant in Keumbu Division:

*Women in this community own nothing substantial both in their family of birth and marital families. In their family of birth, women are seen as 'transient' and 'temporal' while in their marital families they are perceived as 'strangers'. Just because they are women they are given a raw deal as predetermined by their status in the marriage relationship. In return women assume subordinate positions while their male counterparts have an upper hand in everything, including property control, ownership and inheritance.*

Similarly, female FGD participants in Township division reiterated these sentiments when he stated that:

*Women don't have authority over property ownership or inheritance in their marital families because they are treated as 'outsiders' with no major stake in family properties. This explains why women in some instances are evicted from family properties by their in-laws when their husbands die.*

This finding corroborate the observations made by Silberschmidt (1999) that property ownership among the Kisii people has been and is still a reserve of men, who are considered as the rightful owners of all family resources while women are just custodians of what men own. Also Morjelein (2002) documents that in most patriarchal societies in Africa, family resources are vested in the hands of men and are passed down by male parents to male heirs. This practice is also reported by Agarwal (2002) who reveals that women in some parts of India are treated as

mere objects or property. The irony in this is that most women-folk seem to be contented with the practice (Ngwira, 2006; Oduyoye, 1999; Silberschmidt, 1999), confirming the argument by Swedberg (2014) that once assigned social roles are ingrained in people's psyches, people learn to act the 'script' without questioning its rationality.

Ensuing from the discussions above, though women give in their best contributions in making the society better, their efforts and contributions are not always appreciated as significant. They are always perceived as 'outsiders' or 'strangers' even when they have been in a marriage relationship for a long period of time and they have given their all to make their marriages work. This perception corroborates with the observations made by Aduyoye (1999) that women's bargaining powers for property ownership and inheritance rights are jeopardized because they are the ones who leave their families of birth to join the families of their husbands upon marriage. Under patriarchy, three main factors were identified and they are discussed in details in the following sub-sections.

#### **a) Bride Wealth**

Bride wealth was identified in factor three as an important factor that influences women's property ownership and inheritance rights. It had a loading factor of .442. This factor has been discussed in details in factor one under sections 4.5.1 (a) and highlighted in factor two under section 4.5.2 (a). Its recurrence as a factor for the third time, that is in; factor one, factor two and factor three explains its importance as a critical factor in determining women's property

ownership and inheritance rights among the Kisii people as earlier discussed in section 4.5.1. This is further evidence that cultural sentiments concerning role of bride wealth seriously entrench discrimination and disfranchisement of with regard to property.

### **b) Gender of Children**

The gender of the children being granted inheritance was identified in factor three as an important factor that influence women's property ownership and inheritance rights. It had a factor loading of .682. From the findings of this study, there was evidence of cultural inclination of male preference in this community over females when it comes to ownership, access to, control over and inheritance of resources (sections 4.3 & 4.4). This is because the community under investigation has a patriarchal structure that recognized the male gender as household heads. Similarly, family lineage is traced through male off-springs. As a result of this, most parents prefer male children over female children because they are the ones who carry forward family names as captured by a female FGD participant from Township division who stated:

*As a woman and mother, you feel accomplished when you have given birth to a male child. It does not matter how many female children you have, your joy is complete with the arrival of a male child. Male children carry forward the family name, are the heirs of family land and they are a source of security to the aging parents. If you don't have a male child you are despised and ridiculed in society. This leads to preference of male children over female children who are married away from their families of birth.*

This perception is common in most patriarchal societies where male children are given preferential treatment just because of their sex. Male children are treated with respect while female children are not highly regarded. When it comes to property ownership and inheritance considerations, male children are given priority while female children are not even considered.

A male FGD participant from Keumbu division reinforced this finding when he revealed that:

*Male children have unquestionable birth rights to land inheritance. However, female children are only entitled to access or user rights of their father's land before marriage. Once married, this right is transferred to their husbands' land.*

The male child preference was also confirmed by the remarks of a female FGD participant in Township division who stated that:

*In this community the birth of male children is celebrated with four shouts of jubilation while that of female children is celebrated with three jubilations. This means that boys are regarded more highly than girls' right from the time of birth. Later as they grow, male children are treated better than their female counterparts; they do less domestic chores, are fed better, given better opportunities to go to school among other benefits while their female counterparts do more domestic chores at home, eat last and are denied opportunities to advance themselves. Instead they are encouraged to get married at an early age, cutting short their future dreams.*

This finding corroborates the work documented by Silberschmidt (1999) that female children and women are treated as second class citizens while male children are highly regarded and taken good care of. Male children and in this case men, are entrusted with the control, ownership and inheritance of family resources such as land, livestock and houses (see Table 4.6, 4.7 and 4.8). Similarly, UNICEF (2010) report also confirms that female children are given secondary treatment in relation to pursuance of formal education particularly, post-secondary education. Worse still, women with only female children could be denied access to family property while women with male children receive property on behalf of their sons.

In spite of the findings discussed above, there is evidence that things are changing in this community and some people are starting to appreciate children of either gender. In some cases,

female children are openly appreciated as being more responsible than male children. A male key informant from Keumbu division stated that:

*These days it is better to have more female children than males ones. Female children are more responsible and caring for their ageing parents. When male children get married, they forget about their parents and focus on their wives and children while female children still remember and support their parents. People should be empowered to know that it is rewarding to educate and give the best to female children.*

This is an emerging perception that has begun to appreciate female children though not culturally sanctioned. These categories of parents are the ones who reported the propensity to give property inheritance to female children as earlier discussed in this thesis report (section 4.4.3(c)).

### **c) Marital Status**

In factor three, factor analysis revealed that marital status with a factor loading of .457 was a critical factor in influencing women's property ownership and inheritance rights. Earlier in this report (section 4.5.1(a), the study established that unmarried women accessed family properties through male relatives (fathers and brothers) while married women were assured of user rights or access to family properties through their husbands as long as they remained married to them (sections 4.4.1 and 4.4.2) of this study. Probably, this could explain the low percentage of the respondents who reported to be single 13(3.2%) or divorced 2(0.6%) in this study (Figure 4.2). This finding was also confirmed by a female FGD participant from Township division who stated that:

*Married women have access to the properties owned by their husbands, more especially land, houses and livestock. They can use these properties, but they cannot claim their formal ownership. The reality is that wives can access their husbands' properties as long as they remain married to them.*

Therefore, women's right to access their husbands' properties was closely related to their marital status. According to the (KHRC, 2003 & KHRC 2006), women's rights to access their husbands' properties comes to an end as soon as their marital relationship comes to an end through separation or divorce. The Human Rights Watch (2003) report confirms that many women in Kenya are excluded from accessing family property upon divorce or separation. Often, they are evicted from their marital homes without any form of property. In the light of the foregoing, the ability of women to access family properties is hinged on their marital status. Further, the KHRC (2003) report reveals that married women have little control over, ownership of family property. Though the law recognizes women's right to control, own and inherit property, in practice, this does not always happen because of poor implementation of these laws (Kameri-Mbote, 2006) and the influence of culture (section 2.2 (a) & (b) and section 2.4).

Despite this finding, further analysis revealed that in Kisii County, there are single women who have acquired property regardless of their marital status. As single women, they have sole ownership of properties they have purchased or inherited from their parents as revealed by the chairman of the land tribunal board and key informant from Keumbu division who stated that:

*Some single unmarried women with children and no source of livelihood have come to our tribunal court to request that they may be considered for land inheritance by their parents. The board advises such parents to give their daughters a share of land where they can build, cultivate and live with their children. If parents do not comply, the daughter is advised to seek legal redress.*

This claim by the chairman of the land tribunal board at Keumbu division was underscored by the tribunal board beneficiary, a female FGD participant in Keumbu division who disclosed that:

*I am a mother of two sons. I am not married, I have no job and I live in Keumbu market. I have been living from hand to mouth even though my parents had big land with only three sons. All my sisters are married and they are settled in their marital homes. Since life was very hard for me and my children, I approached my father to give me some portion of land where I could cultivate to feed my children. He accepted but my brothers refused because my father had already sub-divided this land amongst them. Efforts to persuade them landed on deaf ears. I went to the land tribunal at Keumbu and told the chairman my story. My father and my brothers were summoned by the board and advised to be kind and human enough to give me a share. Two of my brothers still refused to comply. After several attempts with no success, the tribunal board advised me to go to court, after many months and several court visits, the verdict was finally given and my brothers were ordered by the court to give me a portion of land. The surveyors came and re-subdivided the land afresh, and I was legally assigned my portion. All this time my father and my elder brother were on my side and this made things easier for me.*

Thus, though it is normative for women to access property through their spouses, in some exceptional cases, single women are able to access, control, own and even inherit land from their parents. As a result they are better placed than married women when it comes to property control and ownership. Women who have never been married and have children but have no source of livelihood may be given property inheritance by their fathers, given their circumstances. Therefore, a woman's marital status can hinder her from ownership and inheritance rights while the unmarried women stand a chance of owning or inheriting property. It is worth noting that though single women can inherit land from their fathers; this is done amidst many challenges. It requires strong-willed people who are committed to pursue justice. Currently this process is hard, but it is possible and achievable.

#### 4.5.4 Legal Awareness and Land Scarcity

The fourth and last factor derived from factors analysis computation was labeled as legal awareness and land scarcity. This was due to its high loading by the following factors; constitution and land scarcity. The variance explained by this factor was 10.502%. These factors are discussed in details in the sub-sequent sections.

##### a) Constitution

In factor four, factor analysis generated constitutional provisions as an important factor which influences women's property ownership and inheritance rights. This factor had a factor loading of .422. Lack of awareness and ignorance of women's property rights as provided in the constitution and other existing laws were found to be a major determinant of the current status of women's property ownership and inheritance practices among the Kisii people. Though statutory laws that promote gender equity in women's property rights exist, most of the respondents were not aware of them. This was confirmed by the sentiments of a public administrator in Keumbu division and key informant who stated that:

*Awareness of women's property rights and the laws that promote women's rights to property is generally low in this community. Not much has been done to ensure that civic education reaches all the people at grass root levels. As a result, most of the members of this community are not aware of women's rights to property ownership and inheritance and the corresponding legal provisions that promote and protect women's rights to key resources.*

Likewise, a female FGD participant from Township division confirmed that:

*Most of us are not aware of women's rights to property ownership and inheritance. Often, customary practices are used to address matters related to property. Culturally, it is men who are mandated to inherit and own property. Women are not considered for*

*property ownership and inheritance and that is how things have been. We are not aware whether things have changed to include women in property ownership and inheritance.*

Ensuing from the above, it is evident that the constitutional and legal provisions awareness level of the people with regard to women's property rights was low. This makes it difficult to meaningfully promote, protect and implement women's property rights. Therefore, the status quo remains, and biased gender-based cultural practices prevail over women's property ownership and inheritance rights despite existing legal frameworks. This finding corroborates with findings of early studies (KHRC, 2003; Kameri-Mbote, 2007) which confirm that in Kenya, awareness of legal provisions that support the promotion of women's property rights is low. Consequently, those affected by gender related discrimination in property rights are unable to take full advantage of existing legal provisions due to ignorance.

On the other hand, constitutional and other legal provisions that protect women's rights have enabled some members of the society to gradually embrace women's property ownership and inheritance rights even when this trend is not culturally sanctioned or expected. This explains the 39.5% of the respondents who reported that they had an inclination to grant land inheritance to females as required by the constitution (section 4.4.3(c)).

#### **b) Land Scarcity**

Likewise in factor four, land scarcity was identified as an important factor that influences women's property ownership and inheritance rights. This factor had a factor loading of .698. As earlier discussed in section 4.3(b) of this report, land was owned by majority (85.8%) of the interviewed household heads. However, the average size of owned land was found to be very

small (0.99 hectares). This means that in this community under investigation, land as a resource is limited, scarce and very competitive and as shown in Table 4.3 and 4.6, its ownership and control are dominated by the male gender. Similarly, in section 4.4.3 of this report, it was reported that men dominate land inheritance as it is passed down from father to son (Table 4.8). All these facts limit the chances of women to own property and inherit land in spite of the statutory provisions that protect their rights to property.

Overall, factor analysis indicated that four factors discussed in the preceding sections influence women's property ownership and inheritance rights. It is worth noting that all these four factors focus on socio-cultural-economic-political (legal) structures of the society. Hence, to promote women's property ownership and inheritance rights; social, cultural, economic and political factors must be taken into consideration.

#### **4.6 Need and Strategies to Enhance Women's Property Ownership and Inheritance Rights**

In response to objective four of the study, deliberate efforts were made to establish the strategies that could be used to enhance women's property ownership and inheritance rights. To achieve this goal, it was crucial to; find out if the household heads interviewed perceived a need to promote women's property rights before exploring into the strategies that could be used to promote gender equity in property rights among the Kisii people. The findings are discussed in the subsequent sub-sections.

#### 4.6.1 Need to Enhance Women's Rights to Property Ownership and Inheritance

The interviewed household heads were asked to state if there was need to promote women's property rights among the Kisii people. This was to uphold the bottom-up approach of establishing the felt needs of the people by allowing them to articulate their conviction, their views and their inclinations about a particular issue. The findings are presented in Table 4.11.

**Table 4.11 Need to Promote Women's Property Rights**

Promote women's property rights	Gender				Total		Chi-Square	df	P-value
	Female		Male		Freq	%			
	Freq	%	Freq	%					
No	38	22.4	58	25.0	96	23.9	.378	1	0.311
Yes	132	77.6	174	75.0	306	76.1			
Total	170	100.0	232	100.0	402	100.0			

The majority (76.1%) of the household heads interviewed reported that there was need to promote women's property ownership and inheritance rights while 23.9% of the household heads did not find it needful to promote women's property rights. The percentage of men and women who indicated existence of the need to promote women's property rights was almost the same.

Further analysis using a chi square test output of  $\chi^2 = 0.378$  and a P-value of 0.311 established no statistical relationship between the respondents' views on the need to promote women's

property rights and gender. Hence, respondents of the male as well as the female gender reported the need to promote women's property rights in this community.

This finding justifies the need to promote women's property rights in the community under study. Further, this was clearly captured by the words of a public administrator and key informant from Kisii County who stated that:

*When it comes to women's property ownership and inheritance, most members of this community are gender insensitive. We seriously need to be empowerment through awareness creation campaigns for us to appreciate the need for gender equity. Without serious civic education on this subject, it will take time for any desired change to be realized.*

Thus, it was evident that the need to promote women's property rights was felt in this community. This corroborate with what is documented by KHRC (2003; 2006) and Kameri-Mbote (2007) who confirm existence of this need in enhancing the promotion of women's rights as provided by the legal provisions that promote women's property rights.

#### **4.6.2 Suggestions for Enhancing Women's Rights to Property Ownership and Inheritance**

After ascertaining that promotion of women's property rights was needed in this community, the respondents were asked to suggest suitable strategies that, according to them, could be used to enhance women's property rights and as shown in Table 4.12. Analyzed data revealed several strategies that the household heads felt could be adopted to enhance women's rights to property ownership and inheritance. Awareness creation was ranked highest with 68.7% of respondents while conducting research on women's property rights was ranked the lowest with 0.3%

respondents. Further analysis revealed more details in each of the preferred strategies as discussed in the subsequent sub-sections.

**Table 4.12 Strategies to Promote Women's Property Rights**

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

#### a) Awareness on Women's Property Rights

As shown in Table 4.12, the majority (68.7%) of the household heads interviewed revealed that women's property rights can be enhanced through deliberate efforts geared towards creating awareness on this subject as provided for by the legal framework and statutory laws discussed in the reviewed literature. Raised awareness level on women's property rights could sensitize the people to appreciate these provisions and utilize them as appropriate. Otherwise, currently their

utilization and application is minimal or lacking as stated by a female FGD participant from Keumbu division who remarked that:

*Most women in this community are not aware of the laws that protect women's property rights. We have heard of the new constitution that allows female children to inherit land from their fathers but we have not been clearly explained to how this will work. We need to be taught to understand these emerging changes. Without us being sensitized, these provisions will remain unknown to us.*

A similar sentiment was captured from a male key informant from Township division who stated that:

*Unless we are told we cannot know and if we do not know we are prone to making mistakes. Teach us and those who will go against what they have been taught will take responsibility of their actions.*

A senior public administrator and key informant from Kisii County also stated that:

*Civic education to create awareness about emerging issues has been low. It is important for governmental and nongovernmental agencies to take up the challenge and create awareness on women's property rights in this community. Who knows, the people might be persuaded to change if they understand the justification behind these provisions.*

The above voices points to the need to create awareness on women's property ownership and inheritance rights. They all echoed the need to understand the relevant provisions and make informed decisions whether to follow them or not. This finding corroborates with the findings of Kameri-Mbote (2007) and KHRC (2007) that most people in Kenya do not observe women's property rights because they are largely ignorant of their provisions.

A female FGD participant at Kisii Township made a very interesting observation when she said:

*These provisions are made for us poor women in the community, but how can we appreciate and take advantage of them when we are largely unaware of them. We can't*

*even complain when our property rights are violated because we are not aware of existing avenues that we can use to seek legal redress.*

This is a serious remark which points to the gap that exists between the legal provisions and their implementation. Affected women cannot demand for their property rights because they are not aware of them (KHRC, 2003). Therefore, with awareness creation, women will be aware of their statutory rights to control, own and inherit property. Ultimately, this will put women in a better position to bargain for their rights when violated as argued by Kameri-Mbote (2007) in her documentation which confirm that awareness of women's property rights will encourage gender-sensitive attitudes and actions that can lead to enhancement of women's rights to key resources in this community.

#### **b) Effective and Efficient Implementation of State Laws**

Another strategy suggested by 51 (15.5%) of the respondents was effective and efficient implementation of state laws that promote women's property rights (see Table 4.12). The household heads interviewed revealed existence of laxity in the implementation of laws that promote women's rights to property and suggested timely, effective and efficient implementation as a strategy to enhance women's rights. This was rightly echoed by a key informant and public opinion leader from Township division who stated that:

*If a woman went to the assistant chief, chief, police and other leaders in the community to report about property rights violation, usually the response is discouraging. Women are meant to carry the burden of guilt even when violated. In case of court proceedings, the process takes long for a verdict to be given. This discourages most women from even thinking about seeking legal redress on matters related to property violations. More often than not, cases are referred back to the community to be resolved customarily. Majority*

*of those in the customary courts are men with gender biases towards women's property rights. As a result, fairness and justice are denied to most female victims in favour of their male counterparts.*

It is clear that the process of addressing women's property rights through the existing formal agencies is long, costly and frustrating. This discourages women from trying to seek formal redress. They resort to keeping quiet about their violations hence they suffer silently. These findings reinforce reports by early studies by ICRW (2004) and the International Women's Human Rights Clinic (2009) on women's right to property which observed that poor implementation and enforcement of the law are serious challenges faced in Kenya as far as promotion of women's property rights were concerned. Further a report by UN-Habitat (2006) report also revealed that poor implementation of statutory laws was a major hindrance to enhancing women's housing rights. Therefore, if progress in this area has to be made, it is imperative for the legal enforcement agencies to be pro-active and commit themselves to support and promote this process.

### **c) The Girl Child Education and Women Empowerment**

Another strategy that was suggested by 7.6% of the household heads was to give emphasis to the girl child education and empowering of women. As discussed in the reviewed literature under sub-section 4.5.3 of this study, low level of education can be an impediment to realizing women's property rights. On the contrary, education can be used as an instrument of empowering female children and women by exposing them to different worldviews, statutory laws and policies that promote women's rights to property and equip them with life skills

necessary to navigate the dynamics of property violations. Once aware of their rights to property, women will be encouraged to take charge and find their place in property ownership and inheritance without fear as confirmed by a public administrator and key informant in Kisii County who stated that;

*To promote women's property rights, there is need to give emphasis to the education of female children who are often the victims of property rights violations. Once educated, female children are likely to have a voice and claim for their rights. Besides, good education will provide them with opportunities to get good jobs, earn good salaries and get financial muscles to purchase and own properties. In case of any violations, their education and exposure can help them know how to stand for their rights and demand justice. Therefore, education can liberate women from property violations experienced in this community.*

A similar view was reported by a female FGD participant from Township division on women empowerment:

*Empowering women with relevant information on women's property rights will make women sensitive to property rights violations common in this community, though they are quite often viewed as normal. With adequate understanding of their rights to property, they may demand for justice and this will lead to gender equality in property ownership and inheritance.*

Therefore, education for the girls and empowerment for women were reported as critical in ensuring women's property rights. These findings are consistent with the International Women's Human Rights Center (2009) report which identified lack of education and awareness of women's rights to property as a major bottleneck to realizing women's property rights.

#### **d) Discarding of Discriminatory Cultural Practices and Beliefs**

As shown in Table 4.12, (7.3%) of the respondents suggested that women's property rights could be enhanced if the community was ready to discard the gender discriminatory cultural practices and beliefs that fuel denial of women's property rights. This was echoed by a government officer and key informant in Kisii County who observed that:

*There are cultural beliefs and practices such as female genital mutilation, stigmatization of single or divorced women, denying widows the right to remarry and denial of women's property rights that are harmful and retrogressive to this community. If these cultural beliefs and practices are abandoned and better ones adopted in their place, it will give women an opportunity to interact with men using the same platform and hence, experience fairness and equity in many spheres of life, including women's rights to property.*

Therefore, customary practices and beliefs embodied in culture that pin women down need to be done away with. Besides, cultural stereotypes that label and stigmatize women need to be removed to create an even playing ground for both men and women. This will help remove attitudes such as this one shared by a male FGD participant in Keumbu division when he stated that:

*Women should not be allowed to own or inherit property as a way of taming them. If not kept under check, women will become tough headed, misuse owned or inherited property and despise their husbands.*

A similar view was shared a male FGD participant from Township division who stated that

*Women are not supposed to own or inherit property because they themselves are considered as men's properties 'purchased' through the payment of bride wealth.*

Unfortunately, these attitudes are negative and the intentions that inform them are evil and retrogressive. Women's ownership and inheritance of property should not be taken as a threat to

the family's well-being. Instead, these efforts should be seen as complimentary to those of the husband. Unless these negative perceptions are removed, the efforts to promote women's property rights will remain a mirage, difficult to realize.

#### **e) Embracing Joint Property Ownership**

Further, the findings of this study revealed that 0.6 % of the interviewed household heads stated that women property rights could be enhanced through joint property ownership of key resources such as land, livestock and houses as stated by a senior government public administrator and key informant in Kisii County:

*To help women from property violations and abuse, there is need for the government to facilitate the process of joint property registration and it make easy for husbands and wives to jointly own property. Once key properties are registered in both names, women will have security of what they jointly own together with their husbands. This will give them an opportunity to be involved in decision-making processes that relate to these properties. With this, men will not single handedly manage property, but they will do it in consultation with their spouses.*

If this is done, it will accord women ownership rights over key family properties. As it is now most of the properties are solely owned by spouses of the male gender (see Table 4.4) and these leave women at the risk of losing out in case of any family discord. This finding corroborates with the observations made by Marjolein (2002) who argues that, without legal ownership of properties such as land and houses by women, they run the risk of becoming landless or homeless in the event their husbands sell family properties without consultations. Likewise, after the death of male spouses, most widows are evicted from their family properties by the relatives of their deceased husbands. This is because women have no legal evidence to proof that their

deceased husbands' properties also belong to them (KHRC, 2003). Hence, joint property ownership will ensure that both husband and wife have legal entitlement to family resources.

**f) More Scientific Documentation on Women's Property Rights**

Finally, a minority 0.3% of the respondents identified the need to conduct more research in relation to women's property ownership and inheritance rights as a strategy to create better understanding of the situation and what could be done to make women's property rights a reality. Further research will shed more light on the negative implications of denying women property rights and the benefits associated with women's rights to property. Empirical research will enhance the understanding of women's property rights dynamics based on the context of the communities in question. Eventually, this will lead to better appreciation of the gaps created by male dominance in property ownership and inheritance and pave way for gender equity in relation to family and community resources. This view was also shared by a senior public administrator and key informant from Kisii County who revealed that:

*The need to conduct more empirical research in the field of women's property rights to enhance understanding of the challenges, gaps and opportunities lost when women are excluded from the process of ownership and inheritance of key resources in the community is an urgent one. It is an area worth investing in as far as research is concerned.*

This may have been suggested by very few people but it is a very essential area of intervention. Research is an eye opener that can shed light on the grey areas that need to be worked on to achieve gender equality in property rights in the society. It is an urgent and vital strategy that can be used to intervene in this field.

## **CHAPTER FIVE: SUMMARY OF FINDINGS, CONCLUSIONS AND RECOMMENDATIONS**

### **5.1 Introduction**

The first section of this chapter presents a summary of major findings arising from the study. The second section highlights the conclusions drawn from the major findings of the study and the third section present policy and research recommendations that emerged from the findings of the study. These sections will be discussed in cognizance of the study objectives outlined in chapter one of this study.

### **5.2 Summary of the Findings**

In addressing objective one of this study, the findings of this study revealed that common types of properties owned were residential houses, agricultural land, livestock and poultry. Apart from poultry whose ownership had no relationship with gender, ownership of the other properties rested on the male gender. As far as objective two was concerned, this study sort out to establish who had access to, control over and inheritance of the major properties investigated on the basis of gender. In line with this objective, the findings of the study revealed that there was no relationship between access to residential houses and agricultural land and gender. However, there was a relationship between access of livestock and gender. As pertains to control over property, analyzed data established a relationship between control over houses, land and livestock and gender. Similarly, the study established irrefutable relationship between property (land) inheritance and gender.

The third objective endeavoured to investigate the determinants of women's property ownership and inheritance rights and the findings of this study, through factor analysis scores uncovered cultural practices and beliefs, socio-economic factors, patriarchal systems and beliefs and statutory and legal provisions and land scarcity as the main determinants of women's property rights as they explained 50.358% of variance for the entire set of variables. Finally, the fourth objective of this study endeavoured to proffer strategies that could be used to enhance women's property ownership and inheritance rights. Ensuing from the study findings the following strategies together with their responding percentages were suggested; awareness creation of women's property rights (68.7%), effective and efficient implementation of state laws that promote women's property rights (15.5%), promotion of girl child education and women empowerment (7.6%), avoidance of discriminatory cultural beliefs and practices (7.3%), embracing joint property ownership (0.6%) and more documentation on women's property rights (0.3%).

### **5.3 Conclusions**

From the major findings presented and discussed in chapter four and in line with objective one, the study concluded that; agricultural land, residential houses, livestock and poultry were the main types of properties owned by the Kisii people. Agricultural land was mainly inherited while houses were built and other properties purchased. Land was highly valued and was the primary resource on which people's livelihoods depended. However, due to population pressure, land as a resource was quickly shrinking leading to very high land fragmentation with no economic value.

As pertains objective two of the study, it can be concluded from the findings of this study that though women had access to properties, their control and ownership was dominated by the male gender showing existence of gender discrimination and inequality. As far as objective three was concerned, it can be concluded that cultural beliefs and practices, socio-economic factors, patriarchy, and legal awareness and land scarcity were the main factors that influenced women's property ownership and inheritance. These factors are centered on socio-cultural-economic-political (legal) systems of the society. This implies that social, cultural, economic and political systems of the society need to be taken into consideration while designing strategies that could enhance women's property ownership and inheritance rights.

Finally, to address objective four, this study established the need to enhance the promotion of women's property ownership and inheritance rights in Kisii and suggested the adoption of contextualized, multi-dimensional, relevant, appropriate and holistic strategies to enhance the promotion of women's rights to property ownership and inheritance. These conclusions are congruent with the conceptual framework of this study, (see Figure 2.1) that points out a number of intervening variables such as education, legal frameworks, improved income levels and women's participation and inclusiveness which could be adopted to facilitate the attainment of gender equality in property ownership and inheritance rights. Introduction of these intervening variables into the systems of the society could lead to change of perceptions, attitudes and behavior for the dominant as well as the dominated group who will learn to adjust and assume the roles that have not been primarily theirs as a way of promoting women's property ownership

and inheritance rights to accelerate the development process of women at personal levels as well as the society at large.

All in all, the findings of this study revealed that there has been significant progress made towards embracing women's property ownership as demonstrated by joint ownership reported in almost all the properties investigated. Though progress is slow and definitely not the norm, it is an indication towards the right direction that society is responding to the international and national legal provisions that address women's property ownership and inheritance rights. Hence, these efforts need to be appreciated and encouraged to accelerate the realization of women's rights to property.

#### **5.4 Recommendations of the Study**

This study was conceptualized with a view to contribute to policy and scholarship in the area of women's property rights, more specifically, women's property ownership and inheritance. It is in the light of the foregoing that policy and research recommendations were generated as discussed in the sub-subsequent sections.

##### **5.4.1 Policy Recommendations**

Formulation and implementation of sound policies in relation to women's property rights reflects the government's commitment to pursue this agenda. Therefore, it is hoped that concerned and relevant arms of government and other development partners in the field of gender might

appreciate and adopt the recommendations that emerged from the study. The policy recommendations were as follows:

- a) There is need for the government to formulate property rights related policies that will ensure existence of institutionalized and systematic awareness creation to sensitize to empower members of the community on statutory and constitutional provisions relevant to women's property rights, make them more responsive and receptive to women's property rights' campaigns. This could be done through informal community-based educational forums, strategically planned civic education campaigns related to women's property rights at different levels, community seminars and workshops, mass education through the use of different media channels, community exchange programmes and modeling. These strategies are likely to raise society's level of understanding and appreciation of national, regional and international instruments that promote women's rights to property. Ultimately, this may lead to behavioural change and role adjustments as a way of embracing gender equality in women's ownership, control and inheritance of key resources in the society.
- b) As a way of promoting women's property ownership and inheritance rights, it is important focus on the social, cultural, economic and political factors that influence women's ownership and inheritance of properties.
- c) The government of Kenya through the Ministry of Education and other policy enforcement agencies including the legal courts should emphasize effective implementation of existing gender sensitive policies in formal education school settings starting from pre-primary school to university. This could help learners to develop positive attitudes and life skills

appropriate for enhancing gender equity and equality in property rights and other areas as well. Once learners are socialized to appreciate and internalize the ideals of women's rights to property ownership and inheritance, they will be able to believe in themselves and their resultant behaviours will be influenced by these realities. Besides, there is need for gender sensitive educational systems that give emphasis to the girl child education with an intentional purpose of empowering female children and women and help them come out of the unending vicious cycle of gender marginalization and discrimination in different areas.

- d) Government agencies through parliament could create additional policies focused on affirmative action as a way of promoting gender mainstreaming in essential decision-making positions and activities. This will in turn affect women's participation in property control, ownership and inheritance as women will be in the center stage of decision-making in matters related to resource conservation, utilization and management at the local and national levels. Eventually this could reverse cultural gender specific roles that have been studying in way of women's involvement in property ownership and inheritance.
- e) The government of Kenya should make it mandatory for a couple to jointly own family properties to cushion women from property violations when their husbands are dead. Joint property ownership will reduce the rates of women marginalization in property ownership rights and exploitation of widows.
- f) Law enforcement agents including the local public administrators and the judiciary should appreciate and stress the importance of effective and efficient implementation of formulated laws that promote women's property ownership and inheritance rights without any cultural bias or stereotypes.

- g) There is need for strict implementation of policies that could facilitate discarding of gender related discriminatory cultural beliefs and practices that promote dominance of men and subordination of women and in the process hold back the promotion of women's ownership and inheritance rights. Such practices as female genital mutilation, preference of male children over female children, rigid gender specific and insubordinating roles of women, lack of women involvement in decision making process and discrimination of women against property should be prohibited by the law and serious penalties imposed to those who violate them.
- h) Women should be encouraged to be pro-active and break the yoke of timidity and oppression caused by cultural assigned social roles, gender stereotyping, prejudices and discrimination and in its stead take up the challenges they face in relation to property rights and find solutions that could address their practical and strategic gender needs appropriate in their unique circumstances and environments.

#### **5.4.2 Areas for Further Research**

Based on the study focus and findings, the following are the suggestions for further studies.

- a) Similar studies should be done in other counties to ascertain the state of women's property ownership and inheritance in Kenya.
- b) There is need for further studies to explore alternative ways of diversifying the property base in Kisii County. Instead of the County depending on the already over utilized land as the main resource on which their livelihoods depend.

- c) It will also be critical for studies to be done to establish the role of social, cultural, economic and political (legal) factors in changing and shaping people's perceptions about women's rights to property ownership and inheritance rights.
- d) It is critical to investigate the effect of the law, especially the constitutional provisions in promoting women's property ownership and inheritance rights among the people in Kisii County.

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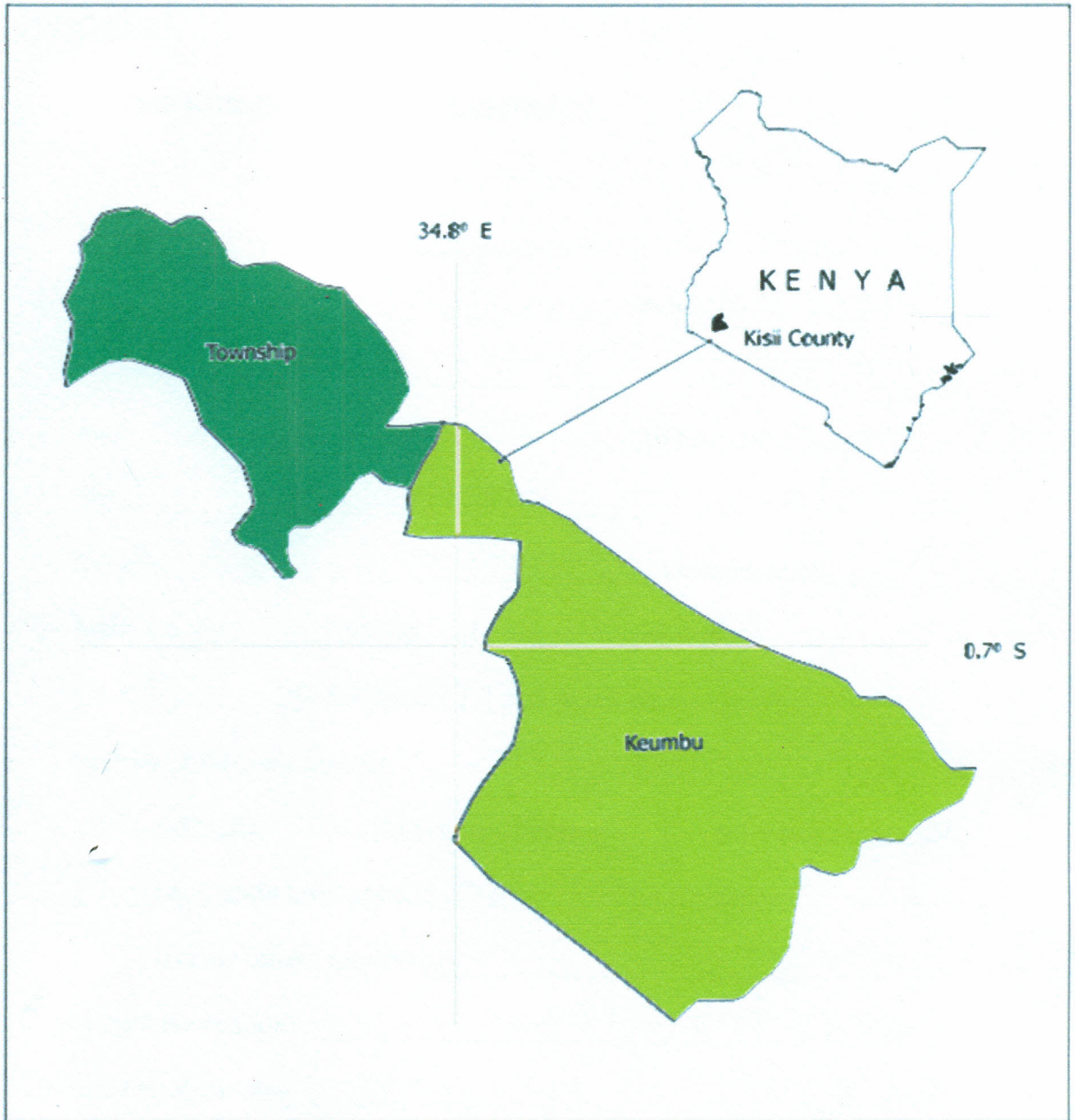
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APPENDIX 1

MAP SHOWING LOCATION OF KISII COUNTY AND THE STUDY SITES



## APPENDIX 2

## SEMI-STRUCTURED INTERVIEW SCHEDULE FOR HOUSEHOLD HEADS

SERIAL NO. \_\_\_\_\_

## I BACKGROUND INFORMATION

- 1 Name (Optional) \_\_\_\_\_
- 2 Division \_\_\_\_\_ Sub-  
location \_\_\_\_\_
- 3 Sex: [a] Male [b] Female
- 4 Age \_\_\_\_\_
- 5 Religion \_\_\_\_\_ Denomination \_\_\_\_\_
- 6 Marital status: [a] Married [b] Single [c] Widow  
[d] Divorced [e] Any other, please specify \_\_\_\_\_
- 7 Highest education attained:  
[a] None [b] Primary Level [c] Secondary Level  
[d] Middle level college [e] University  
[f] Any other (specify) \_\_\_\_\_
- 8 Current occupation? \_\_\_\_\_
- 10 Number of children \_\_\_\_\_
- 11 Monthly Income in Kshs.

[a] Below 2,000

[b] 2,001-5,000

[c] 5,001-10,000

[d] Above 10,000

## II TYPES OF PROPERTIES, HOW ACQUIRED, PERCEIVED VALUE AND OWNER.

12 Types, Sizes/quantities and values of properties owned, how they were acquired and their perceived owner.

S. No	Type of property	Size/Number	How acquired			Perceived Value			Perceived Owner		
			Inheritance	Purchased	Gift	Very Valuable	Valuable	Not Valuable	Man	Woman	Both
1.	Land: Agricultural										
	Commercial										
2	Livestock: Cattle										
	Sheep										
	Goats										
	Donkeys										
	Poultry										
3	Houses: Residential										
	Commercial										
4	Motor Vehicles:										
5	Others-Specify										

## III ACCESS, CONTROL AND OWNERSHIP OF PROPERTIES

13 In your view, how much access and control do you have over the following family properties?

Tick the most appropriate response for you. Use the following key:

[1] Full

[2] Some

[3] None

S.No	Type of Property	Access			Control			Reasons For your Answer
		1	2	3	1	2	3	
1	Land							
2	Vehicles							
3	Houses							
4	Livestock							
5	Others (Specify)							

14 In your opinion, who is the rightful owner of your family properties?

[a] Husband

[b] Wife

[c] Both

15 Are your properties legally registered or customarily owned?

[a] Customary Ownership

[b] Legal Registration Ownership

[c] Both

16 If legally registered, in whose name (s) are your properties registered?

[a] Husband

[b] Wife

[c] Both

17 Who inherited the land you own?

[a] Husband

[b] Wife

[c] Both

Explain your Answer \_\_\_\_\_

---

---

18 From which parent by gender did you inherit land?

[a] Father                      [b] Mother                      [c] Both

Explain your answer \_\_\_\_\_

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19 In your opinion, from who should married women inherit properties?

[a] Their Husbands Only                      [b] Their Parents Only                      [c] Both Parents and Husbands

Explain your answer \_\_\_\_\_

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20 As a parent, to which of your children are you likely to grant land inheritance?

[a] Male Children                      [b] Female Children                      [c] Both Male and Female Children

Explain your answer \_\_\_\_\_

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#### **IV DETERMINANTS OF WOMEN'S PROPERTY OWNERSHIP AND INHERITANCE**

21 In this community what determines whether a women will own Property \_\_\_\_\_

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22 In this community what determines if a woman will inherit family property \_\_\_\_\_

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**IV RECOMMENDATIONS**

23 In your view, do you think there is need to promote women's property ownership and inheritance rights in this community?

[a] Yes

[b] No

24 If yes to Question 23, what do you think should be done to promote women's property ownership and inheritance rights? \_\_\_\_\_

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**Thank you**

**APPENDIX 3****SEMI-STRUCTURED INTERVIEW GUIDE FOR KEY INFORMANTS**

SERIAL NO. \_\_\_\_\_

**I BACKGROUND INFORMATION**

1. Position Held by the Respondent \_\_\_\_\_
2. Sex \_\_\_\_\_

**II TYPES OF PROPERTIES OWNED, HOW ACQUIRED AND THEIR OWNERS.**

3. What types of properties are owned by the members of this community?
4. Under normal circumstances, who is perceived as the rightful owner of family properties?
5. How are the properties owned acquired by the owners?

**III ACCESS, CONTROL AND INHERITANCE OF PROPERTY.**

6. In your opinion, do men and women have equal access to family properties in this community?
7. In your view, do men and women have equal control over family properties in this community?
8. How is the process of property inheritance managed in this community?

9. If property is legally owned, in whose name (s) are they registered?

#### **IV DETERMINANTS OF WOMEN'S PROPERTY OWNERSHIP AND INHERITANCE**

10. According to your understanding, what are the factors that determine women's property ownership and inheritance rights in this community?

11. In your view, should married women inherit properties?

a) If your answer to question 13 is yes, from whom should married women inherit property?

12. What is your view on female children's land inheritance?

#### **V STRATEGIES TO PROMOTE WOMEN'S PROPERTY OWNERSHIP AND INHERITANCE**

13. In your view, do you think there is need to promote women's property ownership and inheritance rights in this community?

14. If yes to question 15, suggest what could be done to effectively promote women's property ownership and inheritance rights?

**Thank you**

**APPENDIX 4****FOCUS GROUP DISCUSSION GUIDE**

1. What types of properties are commonly owned in this community?
2. What are the patterns of acquiring the properties owned?
3. Do men and women have equal access to family properties?
4. Do men and women have equal control to family properties?
5. Do men and women have equal ownership rights to family properties?
6. In the family, who is perceived as the rightful owner of family properties?
7. Why are they perceived as owners of family properties?
8. Men and women have equal access to property inheritance?
9. Should married women inherit property from their fathers?
10. What are the determinants of women's property ownership and inheritance rights?
11. Do you think there is need to promote women's property ownership and inheritance rights as provided by statutory laws?
12. What strategies can be used to promote women's property ownership and inheritance rights?
13. Who should be involved in the promoting women's property ownership and inheritance rights?

**Thank you**

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