

**THE AKAMBA LAND TENURE SYSTEM AND ITS IMPACTS ON
WOMEN'S LAND OWNERSHIP IN MASINGA DIVISION, 1895-2010.**

BY

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DECLARATION.

This thesis is my original work and has not been presented for a degree in any other university.

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DEDICATION

To my wife, Rachael and my son Emmiliano.

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ABBREVIATIONS

AFRES	African Real Estates Agency.
CAPRI	Collective Action and Property Rights
CASLE	Commonwealth Association of Surveying and Land Economics.
CEDAW	Centre for Elimination of All Forms of Discrimination Against Women.
CFS	Committee on World Food Security
FAO	Food and Agricultural Organisation.
ILC	International Land Coalition
ILO	International Labour Organisation.
IWHRC	International Women’s Human Rights Clinic.
MDGs	Millennium Development Goals.
NLC	National Land Commission.
NLP	National Land Policy.
SIDA	Swedish International Development Cooperation Agency.
UNDP	United Nations Development Programme.
UN-HABITAT	United Nations Settlement Agency.
RLA	Registered Land Act.
RNLO	Resident Native Labour Ordinance.

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OPERATIONAL DEFINITION OF TERMS

- Land tenure**-This refers to the terms and conditions under which rights to land and land-based resources are acquired, retained, used, disposed off or transmitted.
- Land Use**- Entails the ways in which people farm the land, the techniques of digging and division of labour between men and women.
- Freehold**- A traditionally western concept implying the absolute right to control, manage, use and dispose of property.
- Leasehold**- in which land belonging to one entity is, by contractual agreement, leased to another for a fixed period of time.
- Land Reforms**- Refers to organized action designed to improve the land tenure system.
- Land Adjudication**-This involves establishment of ownership, measurement, description and recording of land.
- Usufruct Right**-Rights to use land for grazing, growing crops, mining, and gathering.
- Property Rights**-Certain rights that are exercised over land and entail enforceable duty on others not to interfere with those rights.
- Security of Tenure**-This is the certainty that a person's rights to land will be recognized by others and protected in cases of specific challenges.
- Control Rights**- Rights to make decisions how land should be used including deciding what crops to be planted and to benefit financially from the proceeds.
- Land Rights**-These are certain rights that are exercised over land which in turn, entail an enforceable duty on others not to interfere with those rights.
- Property**- Denotes tangible things or rights to the use and ownership of those things.
- Food Security** - The capacity of households, communities and the state to mobilize sufficient food through production, acquisition and distribution.

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ABSTRACT

This thesis looks at the Akamba land tenure system and its impact on women's ownership of land in Masinga division. The research acknowledges the critical importance of land reform in Kenya as a country that inherited colonially structured and unequal land ownership patterns. However, there are limits to state-led, masculinised and politicized land reform when women, as gendered subjects in government policies and as a social category are not considered in theory and practice of land reform programme. The research employs patriarchy and gender as a tool of analysis theories to investigate the objectives, driving forces and the politics of land reforms, to establish the extent to which the reforms initiated between 1895-2010 created economic spaces for women and to suggest policy recommendations not only for land reform reconstruction but also agrarian development in Kenya. Whereas land reform was necessary in the context of highly unequal land ownership and poverty, this research provides information on how land reform programme diminished opportunities for women to be empowered and shrunk the democratic spaces for genuine participation of women in the development process by denying them rights to land and widening gender inequalities. The objectives of the research are: to investigate women's right to land during the pre-colonial period; to interrogate the impact of colonialism on women's ownership of land in Masinga division; to interrogate the impact of land tenure reform on women and to explore the relationship between land tenure system and food security. The research was based on the premises that colonialism impacted negatively on women's ownership of land and that subsequent independent governments did little to address this. The study adopted qualitative research design to collect data, formulate vital principles of knowledge and analyze data on land reforms. This involved the collection and analysis of data. The snowballing technique was used for identifying special cases for in-depth interviews. The study established that structural changes brought about by land tenure reforms have eroded the traditional laws that guaranteed women's right to land. This is so, despite new tenure laws that allow women regardless of marital status to own land. The research findings further indicates that the women farmer has no titled land of her own and has to depend on her husband's land for her food farming. Lack of security denies her the freedom to make major decisions concerning the land. It is this sense of insecurity of tenure which affects women's investment decisions, since the owner of the land has the ultimate legal authority over land use. The research recommends that the government should consider passing legislation that makes it mandatory for married couples to register their land jointly upon marriage. Further to this, there should be a multi-agency deliberate attempt to support women in challenging discriminatory aspects of customs and practice of patriarchy which limits women's ownership of land.

CHAPTER ONE

1.0 INTRODUCTION

1.1. Background to the Study

Land tenure system is the system of rights and duties of people with regard to the ownership and use of land (Esese,1992). Several researches abound on land ownership and control¹. Many of these studies indicate that, the tenure reform legislation provides for registration conditions of land title in the name of the 'head of family'. Registration in the name of individuals, mainly men, both increases control over distribution of land, and the dependency of women who now have no legal rights of ownership of land (Wangari, 1998).

Land is the most important form of natural resources required by society for the creation of wealth. As a direct result, control of land brings economic power, which in turn, is often the basis of social power. The centrality of land in human life made it the main reason for the struggle for Kenya's independence. Land is the mainstay Kenyan economy where 80% of its population derives its livelihoods from agriculture.

1. Allot(1961)*Towards a Definition of Absolute Ownership*.African Law vol.5.

Pala,A.(1983) "Women's Access to Land and their Role on Agriculture and Decision Making on Farm:Experience of Jaluo of Kenya. Journal of East Africa Research Development.

Wangari, W.(1998). Land Registration and its Impact on Small Scale Farming in Kenya.The case of Mbeere in Embu District.Ids,University of Nairobi,Working Paper No. 464.

This in essence means that land has a significance role in the socio-economic and political development of the country (Njuguna, 1999). Therefore, its ownership is of great concern to most Kenyans and the women of Masinga are no exception.

Often it has been asserted that land is the basic natural resource. Man has always depended on land for his survival in terms of food, shelter, clothing and fuel. Land has been, throughout history, man's ecological habitat. Thus land use has emerged as a major theme in agricultural production and socio-political studies as its use is not only economically significant but politically important too.

When people have land, which they either own or farm under secure tenure, they are likely to grow more food. Security of land is therefore, a determinant of food production. Sustainable agriculture can best be achieved when people have equal rights to land (Medley, 2002). In developing countries, the typical farmer is more likely to be a woman, planting seeds with a baby on her back. But agricultural policies in those states have generally been framed for the male (Wangari, 1998).

Women play crucial roles in agriculture as producers and providers of food. They work on land more than any other category providing 80-90% of the labour in the subsistence production and over 70% in cash crop production yet they suffer discrimination in all matters relating to land ownership (Kimani, 2008).

When land is registered on individual male-household heads, it implies that the man has a theoretical and practical legal right to dispose off the land by sale or any other means without necessary recourse to the elders in the family who would ordinarily have the power to veto in matters of land by individuals (Nzioki, 2003).

In pre-colonial Africa land assumed many forms that ordered relationship between-both the living and the dead. According to Davidson (1987), land was used as material resource in symbolic rituals as it structured relations between groups within society and was used to express a societies' attitude towards sex and gender relations. Accordingly, land was sacred , a reality which was recognized by the pre-capitalist societies.

During the pre-colonial period, natural resources were held by communities under local rules and practices commonly called customary law. For instance, in Ghana, the customary tenure varied from community to community (Agbosu et. al, 2007:30). Three kinds of customary law rights in land were recognized, namely; the allodial title held by the customary law community; a secondary law right consisting of 'customary law freehold', which can be held by an individual or a group of people who are part of the community holding the allodial title; allodial title holder in Ghana was said to be titular, holding the land in trust for the whole community (Kotey, 1999; Kasanga & Kotey, 2001). At customary law, the absolute title to land was vested in the traditional authorities. The allodial title was never vested in individuals.

Among the Fante community of Ghana, there were three types of landholding during the pre-colonial period, the first was the ancestral property of the king. This land, he could deal with it as he pleased, but with sanction of the family members. Second, there was land attached to the Stool which the king could deal with only with the consent of the councillors and lastly, there were general lands of the states over which the king exercised paramountcy (Djokoto, G.2010). Since the Fante was a patriarchal society and the political leadership was a preserve of the males, it followed that, men exercised control of land and women's rights to land was as a consequence subordinate to those of men.

Women in various countries in Africa are often denied the opportunity to own land in their own right. For instance, McCall, (1987) asserts that 98% of the economically active women in Kilimanjaro and Bukoba regions of Tanzania are small-scale farmers on land not theirs by legal right.

In Kenya, as in most parts of the Third World states, land remains one of the most crucial resources for women's basic livelihoods, particularly in rural areas. In addition, ownership of land is a pre-requisite for access to credit facilities and other benefits since land is almost widely accepted as form of security for loans. Land is central in defining women's identity and social status, as access to land is closely defined by kinship and marriage ties, and is largely dependent on marital status (Nzioki, 2003).

Among the Buluyia, generally the basic landholding unit of the people was the extended family. It was within these nucleated establishments that affinal

reciprocal rights and duties were dispensed with and therefore ethnic consciousness at this level was a social determinant for the prevailing ideologies, collective cognitions and political life. Rights of ownership were established either by inheritance of ancestral lands cultivated by one's grandparents or by clearing and cultivating a portion of bush land (*Oluangereka or Omutsuru*). In addition to these, land utilised under the control of the clan head, a section of the land served as a communal grazing land for all members of the clan (Aseka, 1989).

Among the Wanga of Kenya, land was acquired as first occupants or by incorporating other empty lands around the villages. Once acquired, the boundaries were established. Boundary demarcations were rivers, continuous ridges, valleys or an acknowledged stretch of no-man's land. The owner of the homestead organized the land use and shared out land amongst homestead members. Once land was acquired, the user had ownership and usufructuary rights but not absolute alienation rights. Any alienation had to be consented by family members and the village elders. Each member of the Wanga community was entitled to a homestead, village and clan lands under the entire community's ownership (Esese, 1992).

The rights to specific piece of land was complemented by the rights he had in sharing other communal resources. Land was individually owned and used. Each wife, married son, elderly daughter had their pieces of land, while the man had full ownership, usufructuary and alienation, the woman had only usufructuary and limited ownership. These rights were inalienable and

hereditary. Sons of polygamous family inherited land that was cultivated by their respective mothers. Women's right to land could not be alienated during their active married life and as widows (Esese,1992).

Land ownership among the Kikuyu was initially established either through prior cultivation, breaking up virgin land (*Githaka*) or purchase (*Muguri*). The first occupant then founded a clan. The founder of such a group had jurisdiction over his land and parcelled it out to his wives and married sons. On his death, the eldest son of the senior wife assumed the role of the trustee (Kanogo,1987).

Mackenzie (1993) argues that Murang'a women acquired strong usufruct rights upon marriage; rights secure enough for women, in that both male right to allocate land and female rights of access to land had legal visibility under the customary law. The male right to allocate land was subject to the economic functions of the female to cultivate it. This ensured women proprietary position in an economy that relied so heavily on their labour. This points to the fact that traditionally, the women access to and control of land was guaranteed.

From pre-colonial land tenure studies, a generalization has emerged referring and describing African land tenure as 'communal', although there has not been an agreement on how it was politically administered, whether by individual, family clan or ethnic group (Okoth-Ogendo 1976).

Nonetheless, at the community level, land was defined in terms of relations between kin, family members and neighbour. In many communities, land was held by a village or lineage male head of age who had a good knowledge of lineage history and land use patterns and was considered a trustee and not an owner of the group's land (Pala, 1978). It was his responsibility, in consultation with lineage elders, to allocate land to heads of families depending upon need and availability. One thing is clear though, that each person in a community had rights of access to the land depending on specific needs of the person at the time. Okoth writes that:

Access to land has been specific to a function for example, cultivation or grazing. Thus in any given community, a number of persons could each hold a right or a bundle of rights expressing specific range of functions...a village could claim grazing rights over a parcel subject to the hunting rights of another, the transit rights of a third and cultivation rights of the fourth,(Okoth-Ogendo, 1976).

Among the Luo of Kenya, the land tenure system provided a daughter usufruct rights of land belonging to her father's lineage, while a wife had usufruct rights to her husband's patrilineage (Pala, 1983). She further points out that such rights conferred to wives often lasted lifetime. Achola Pala's study states that women as individuals or groups did not have the legal rights to dispose or allocate of land neither did the individual men.

Pala's approach (1978), clarifies the two concepts of land owner, one referring to the one who has rights to allocate land to family members and the other, to the one who invests into the piece of land for productive purposes. In the first category were the heads of families who were men and

the second category were women. It is within this second concept of ownership that women exercised their rights in access and control matters related to land use.

Among the Taita, the clan was called *kichuku*, and this was the group that held right of occupancy to land. Each clan had rights to use both virgin land and farmland. The right to allocate land family in the pre-colonial times was inherited through the male line but this apparently *de facto* ownership of land did not give a man unrestricted rights (KHRC 2000). Ownership was rather a bundle of rights within a network of relationships.

What is important is that the individualized members were allocated definite rights and obligations with respect to control, ownership and use of the resource. Thus, the customary land tenure ensured women's rights to use land for agricultural production until colonial capitalism and the capitalist notion of land ownership replaced the "traditional" with the "modern" which has had adverse effects on women's production (Okoth-Ogendo, 1981).

During the colonial rule, Kenya embarked on land reforms to convert traditional land tenure system to private land ownership. Under this plan, the poor, women and children were excluded from land ownership. It is evident that changing land ownership from traditional to capitalist private land ownership did not improve women's land rights (Wangari, 1998).

Land is the base of Kenya's economy to which agriculture contributes the largest share. Land, whether it is inherited, allotted, purchased or seized is the

most basic resource of agricultural production. Yet an increasing number of Kenyans find themselves without sufficient land to feed their families or worse, without land at all. Kenya covers an area of 582,649 square kilometres of which 571,416 square kilometres is dry land and 11,230 square kilometres is open waters (Development plan 1984-1988). While access to land is declining, the population is growing. A study conducted in 1997 on land titles illustrated that women held 6% of land titles while men held 64.4% (Orina, 2003). This may be attributed largely on colonial and post-colonial land policies, as well as gender biases regarding women control and access to land.

As at 2010, growth rate was indicated to stand at 2.44 per cent with an estimated population of 38 610 093 people, out of whom 78 per cent were in the rural areas. Out of this population, women constituted 70%, and this rural population relies on Agriculture². Given this trend, there is growing concern over the future capabilities of agricultural producers to meet the needs for increased food production.

In Kenya, women are the major food producers (Nzioki, 2003). Their relation to land utilization is therefore, a critical factor in their ability to produce food for themselves and their families. The Government policy on nutrition and food security had worked out a strategy to increase and diversify food production at the household level. The Kenya Development Plan (1983-1993) recognized that women have traditionally contributed most labour required

2. www.knbs.or.ke accessed on 11-09-2011.

for the cultivation of food crops on family holdings. According to this plan, colonial subjugation and its attendant Victorian attitudes towards women both as workers and partners eroded women's economic and social status but Kenya was working towards the restoration of women to their active role in the ownership and control of wealth arising from economic production.

The general objective of agrarian reform included promoting equity, creating employment, raising productivity and increasing incomes of the poor. It is assumed in this study that these objectives ought to apply to women as well as men. Equity remains a central concept to development planning particularly in terms of opportunities. It is within this framework that the Kenyan woman sees herself as an equal partner in the management of household affairs. If women are to enjoy equity with men in life-long access to land regardless of their marital status, their land rights must be secure.

In Masinga, land is an important resource and women are the primary utilizers and producers of agricultural produce. In Kenya, the proof of ownership of land is the ownership of title deed. The Land Registration Act which was in force 1963-2010 provided for registration of land in the name of household heads, which in most cases are male. This denied women legal right of ownership and control of land.

Despite the fact that these studies have been carried out, scanty information exists on the Akamba land tenure system and its impact on women's land ownership in Masinga Division in the year 1895-2010. This study undertook

a historical analysis of the Akamba land tenure system and its impact on women's land ownership in Masinga Division, 1895-2010.

1.2 Statement of the Problem

In the light of the academic gap stated above, this study interrogated the impact of Akamba land tenure system between 1895-2010 on women of Masinga. The study did this by first examining the place of Masinga's women in relation to land during the pre-colonial period. Colonialism and its attendant economic policies and their implications in women ownership of land was also interrogated. The colonial government introduced the English law of private property in Kenya. These private property rights especially in regard to ownership of land through land adjudication, land consolidation and the subsequent registration in the name of the household head was further advanced by the independent Kenyan government. This marginalized women's rights to land as the concept of property ownership in Britain was applied in Africa in total disregard of the African customary practices. Finally, the study explored the relationship between secure land tenure system and food security in Masinga Division.

1.3. Research Questions

The following questions informed this study:

- (i) What was the place of women's rights to land in the pre-colonial period in Masinga?
- (ii) How did land reforms introduced in Kenya during the colonial period impact on women ownership of land in Masinga?

- (iii) How did land policies passed by independent governments impact on women of Masinga in terms of ownership and control of land?
- (iv) To what extent does women's secure tenure to land affect food security in Masinga Division today?

1.4. Objectives of Study

- (i) To investigate women's right to land during the pre-colonial period in Masinga Division.
- (ii) To interrogate the colonial impact of land tenure reform on women of Masinga Division.
- (iii) To examine how the policies on land passed by independent governments impacted on women of Masinga Division.
- (iv) To explore the relationship between land tenure reform, women and food Security.

1.5 Research Premises

The following premises guided this study:

- (i) During the pre-colonial period, women's rights to land was guaranteed in Masinga Division.
- (ii) Land reforms initiated by colonial government marginalized women of Masinga Division.
- (iii) Land reforms pursued by independent governments since 1963 have entrenched those initiated by the colonialists.

(iv) Land tenure reform and women land rights has direct relationship to food security.

1.6 Justification and Significance of the Study

Research on land reform and their economic impact abound. Such researches have been done by legal experts (Okoth-Ogendo, 1975 & Nyamu, 1999), a descriptive and also from developmental points of view (Pala, 1983 & Velma, 2001). Few studies have been carried out on historical perspective. This is especially so, to women of Masinga. This research aimed to fill this lacuna by carrying out a historical investigation into the Akamba land system and its impact on women's ownership of land in Masinga.

Generally, studies on women are scanty despite women's marginalization. This is especially so in the area ownership of land where studies conducted are generally descriptive and hardly localized. Mwangi, (2004) echoes Pala's (1978) views that local level research is needed to bring to cognition the socio-political and economic realities those women are subjected to in terms of access and control of land. In Africa generally and Kenya in particular, severe academic gaps exist at the local level and Masinga Division is one such area where this gap is evident. As far as Masinga is concerned, the forces impacting on women's ownership of land from 1895-2010 have not been studied. This research aims at creating a better understanding of factors determining women's access and control of land.

Since the Development Plan (1989-1993) recognized the central role of women's productivity and aims at the restoration of this role from effects of

colonial attitudes, this study contributes to this restoration by presenting descriptive data and insights into women's constraints in access and control of land for food production thereby giving an accurate understanding of situations women face in their food farming.

Recent literature on the role and position of African women has asserted that African women have always been subjugated. These allegations have been made without research into the Akamba land tenure system and its impact on women of Masinga. The findings of this study will therefore bridge the gap in data about the position of Masinga women in regard to land ownership. This study thus makes a contribution to knowledge and literature on the question of land ownership among the women of Masinga.

1.7 Scope and Limitation

The research was confined to the geographical limits of Masinga Division of Masinga Sub-County. Other divisions in Masinga Sub-County will be referred to only in so far as they relate to Masinga Division.

The rationale for choosing 1895 is because this is the year when Kenya became a protectorate under the British East Africa Company with the power to enact policies and laws under the Crown. It is these colonial laws which formed the genesis of mass disinheritance of various Kenyan communities.

Although 1895 was chosen as the earliest starting point of the research, it remained flexible. The year 2010 was chosen because it was in that that Kenya promulgated a new constitution. The promulgated constitution had

drastic changes in terms of land ownership and therefore, a crucial point of reference in studying land tenure in independent Kenya. While the researcher acknowledges that there are other areas that require attention but due to financial constraints and time factor, the research was limited to examining the transformation of the Akamba land tenure system and its impacts on women's ownership of land.

Chapter Five of the Kenyan constitution intends to address issues of equitable access to land, security of land rights, elimination of gender discrimination in land, customs and practices related to land and property in land. Ownership of land by women is of paramount significance not only for the welfare and wellbeing of women and family and for the development of the economy but also because land ownership establishes one's rootedness and belongingness to the community.

According to Kenya National Bureau of Statistics (2010), out of the population of 38,610,093, 78 per cent were in rural areas, women constitute 70 per cent, and this rural population relies on agriculture. In Kenya, women are the major food producers. Their relation to land utilization is, therefore, critical factor in their ability to produce food. If women are to enjoy equity with men in life-long access to land regardless of their marital status, their land rights must be secure (www.knbs.or.ke retrieved on 17/09/2012).

The choice of the locality was based on the fact that, despite the semi-arid conditions in the area, the majority of the male population have migrated to Nairobi while women have been left behind as cultivators and their

livelihoods depend on land. This is an area where adjudication and registration of land is on-going while at the same time, customary land tenure is still in practice.

This research was also limited by the fact that it focused on mainly women. The failure to consider other social groups such as men and youth makes the research limited in terms of informing land reform policies. However, this does not mean that the research findings are inadequate.

1.8 Literature review

At the turn of the 21st century and with the launch of the Millennium Development Goals (MDGs), land has re-emerged not only as a focus of attention when discussing economic development in developing states but also women's empowerment (Chu,2011:36-38&FAO,2002).

The UN-HABITAT has been one of the global institutions committed to using land as a vehicle for gender equality and economic development. In 2006, for instance, a conference in Bagamoyo Tanzania, which was jointly organized by the Commonwealth Association of Surveying and Land Economy(CASLE),UN-HABITAT and African Real Estate (AFRES) sought to propose the way forward on poverty alleviation through sustainable land management and administration (CASLE, 2007).

In 2006, a number of NGOs were formed, namely; Global Land Tool Network, a partnership among the UN-HABITAT, Swedish International

Development Cooperation (SIDA), the Norwegian Ministry of Foreign Affairs and the World Bank. The objective of these organisations was to enhance economic development through securing and promoting equal land rights for both genders (MDG 7,). The efforts by the aforementioned organizations are relevant in interrogating the extent to which Masinga women have secured their land rights.

Economists believe in the desirability of securing land tenure for human development (Kerekes & Williamson, 2010). However, how to bring about secure tenure which is sensitive to gender relations is the subject of controversy. To understand the debate about individual and communal land rights and how this rights affect secure tenure and gender relations, it is vital to explain the concepts of property. Generally, property is seen as denoting tangible things or rights to the use and ownership of those things. It is when property is qualified by 'real' or landed-as in real property that it becomes focused on land and the rights therein. Property rights are therefore, land rights: certain rights that are exercised over land which in turn, entail an enforceable duty on others not to interfere with those rights (Abdulai, 2010). This study attempts to establish to what extent women's land rights are secure.

In pre-colonial Africa, communities had their own legal system based on customs and practices. These customs were enforced by elders, clan leaders and in some cases kings who performed both civic and spiritual duties. Land tenure system was communal: communities shared land under the authority

and advice of community elders. Bundles of right, including access and grazing rights in the same land could be held by different persons and common rights existed. Decisions about who farmed a particular piece of land were made by clan heads but often resulted from discussions in the family and clan guided by customs that took into account the need of various persons in the group. Gender, age and position in the clan were all factors that played a role (Diana, 1997). This literature is vital to the researcher as it provides him/her with knowledge of how land was administered in the pre-colonial period. However, this study looked at land tenure system on general terms but the study intends to look at specifically, women ownership of land in the traditional land tenure system and how land tenure system introduced by colonialists has impacted on their ownership of land in Masinga.

According to Bohannan, (1984b), there is no single topic that has excited many students and people of affairs concerned with Africa as that of land, yet despite this no single topic concerning Africa that has produced so large poor literature and many people have remained ignorant of Africa land practices not because of 'facts' but because of lack of knowledge of how to interpret the 'facts'. He recommends that study of land tenure should include the concept of land and the social system with spatial dimension. This research aimed at enriching the already existing knowledge on land reforms in general and how this has impacted on women in particular.

Allot (1961) has suggested that a definition of absolute owner of land is the starting point in the light of traditional and introduced laws in Africa with a

view to seeing whether it is possible to isolate one category of interest in holders in land. This work guided this research in trying to establish if women are really absolute owners of land considering that the title is registered in the name of household head, who in most cases is the man. The research examined if women right of access could be isolated from right of ownership and how this impacts on them.

Bents-Enchil (1965) suggests that the approach to the comparative study of land tenure system can be conveniently embraced in the question: who holds what interest in what land. According to him, interest holders in land are three in number. That, the first interest in land held begins with an area of jural relations and also limits of tenurial system. Second, the group as holders or owners of land, he points out to the fact that it is the group ownership that most forcibly strikes the foreign observer but likens it to the Anglo – American common law where the allodial title is registered as being vested in the state, the African one is vested in the community as a whole or the chief as a trustee for all the people. This research aimed at providing information on how Anglo-American common law introduced in colonial times has impacted on women's land rights.

Okoth-Ogendo (1981c) has criticized Western scholars, who thought about land under customary law in Anglo-American jurisprudence. He notes that the idea of ownership in colonial context was an important tool of colonial process. Land ownership was introduced in order to sell the capitalist theory

of law of land development in terms of decision making and land use. He recommended:

“A proper enquiry into the concept of property in any society must start with a clear view of how that society handles the basic question of rights, their generation, allocation and vindication” (Okoth-Ogendo 1989).

From this perspective, Okoth-Ogendo (1981c) cautions that the power of control should not be confused with the ownership of physical sollus because, control in the African property systems is to guarantee the access rights of the individual and collective over land resources and to ensure that these rights are equitably distributed through time among all members of society. He further explains that access rights related to land use activities carried a varying degree of control exercised at different levels of political organization. That, this control authority was either invested on the grandfather, lineage or clan but the exercise of this power did not involve exclusive appropriation or distribution upon will. This literature was useful to this research as it enabled the researcher to compare the traditional land tenure system with the modern land tenure system and as a consequence interrogate how the land laws introduced during the colonial periods impacted on women's access to and control of land.

Gutto (1975a), explains that the term 'ownership' units present connotation should not be used, but instead allodial rights. According to him, this is more legitimate in that the individual head of family had the right of occupation and transmission only to members of the family as the custom dictated. In this sense, Gutto warns that, this type of control should not be confused with

feudalistic system since the head of family had no authority to dispose the occupier of his rights, neither was the occupier liable to pay rentals in terms of labour or otherwise. Although Gutto (1975a) examines the concept of ownership in general, this literature was crucial as it helped this study to examine the concept of ownership of land among the women of Masinga and sought to establish to what extent women have access to and control of land and how this concept of ownership has impacted on women.

It is apparent from the reviewed literature that the term 'ownership' is fraught with great confusion largely because popular concepts of the term influence perception. That is, an 'owner of land' is a person who enjoys a demarcated piece of land registered in his name, with the right to get, transfer and will away the land. Several leading suggestions are given which the researcher adapted for this study. The pertinent observation is that there should be a clear distinction between the issue of access to land and that of control over them. To understand the social processes through which power over land rests, one needs to ask questions that go beyond man-land relations which the doctrine of ownership implies, to encourage man-man relations which create power in land-based societies.

Explaining further, Gutto (1975a) says that access questions are in the nature and variety of power over land and the purpose and conditions under which that power works. This type of data according to him will indicate that access to such power is an incident of membership in some unit of production; that they are specific to resource management or production function and that

they are tied and maintained through active participation in the process of production and reproduction at particular level of social organization.

On the other hand, control questions as seen by Okoth-Ogendo(1981c) should ask in whom does the authority to allocate rests, how is that authority controlled, for what reason is that authority vested in particular persons and not others and what are the mechanisms through which allocative authorities redistribute power in space and time between generations. Given this background, evidence (Gutto, 1974a; Okoth, 1981c; Pala, 1983a) suggests that the indigenous property systems did not discriminate against women until the received property law was enacted.

According to Gutto (1975), women had virtual control and monopoly of crop production which led to them having rights to land they controlled for maintenance of their households. It is apparent that women's status in their agricultural productive tasks was secure until the legislative programmes were designed to replace the traditional with the modern institution being argued that this would generate progress and socio-economic development (Okoth-Ogendo, 1981c). One may tentatively conclude, therefore, that tenure systems in Sub-Saharan Africa cannot be blamed for the Agrarian crisis. Despite these findings, pressure is still being mounted on the countries of Africa to pursue land tenure reforms. In the meantime, little attention is being paid to the gender consequences, including the disruption of social order, that accompany these reforms. Studies on land continue to focus on implications of the reforms for agricultural production and ignore the gender processes

attending to the reform process itself. These analyses ignore gender struggles around the control of land and their relation to changing tenure systems. It is this gap in literature which the study is designed to fill by focussing on the struggles that lie behind the institutionalization of private property rights in land.

Registration and titling programme have often disempowered vulnerable people, embroiled rural people and bureaucrats in innumerable disputes and tied down substantial state resources. Statutory registration of title has also served to weaken the land rights of women and downplayed their role as users of land (UNDP, 2005). This study took the standpoint that land is only significant in so far as it lends itself to human use and presents certain opportunities for human utilization. It will seek to demonstrate a fresh approach to disposition of land, within the individualized tenure system.

I.9 Theoretical framework

To explain the Akamba land tenure system and its impact on women's land ownership in Masinga Division, this research used gender as a set of social relations. The use of gender as set of social relations began in 1990's when scholars realized the importance of taking gender as an analytical tool.

Gender is an institutionalized system of social practices for constituting people as two different categories, men and women, organizing social relations of inequality on the basis of that difference (Ridgey, 1997; Lorber & Hess, 1999; Risman, 1998). Widely shared hegemonic cultural beliefs about gender and their impacts on social relational contexts are the core

components that maintain and change the gender system. Social relational contexts are of interest because, the process of defining self in relation to others evokes hegemonic cultural beliefs. Since gender is a social construction, the focus is not on the individual women and men but on the system, which determines gender roles/responsibilities, access to and control over resources and decision-making potentials (Musalia, 2010).

The term gender has increasingly acquired a social meaning where it defines how the male and the female gender relate in society. The social meaning denotes the social characteristics of one's biological sex which includes gender-based division of labour, whereby duties are allocated based on one's sex. For instance, the female gender is traditionally allocated duties such as cooking, washing and other domestic chores, which belong to the private rather than to the public sector, (CLARION,2001).

In gendered analysis framework, access to and control over resources is one of the principal factors determining the economic and social wellbeing of women. Calls for equality of ownership should focus on feasibilities of deriving benefits from ownership of the resources. Rhetorical calls just for the sake of granting titular ownership of resources boil to zero sum results (CODESRIA, 2005).

In Africa, social systems and ideology have influenced the African societies. In pre-independence epoch, the system of patriarchy and matriarchy not only influenced the socio-political will but also economic organization. These

systems influenced individual's access to power and productive resources (Musalia, 2010).

Women property rights are rights enjoyed by women as a category within society at any point in time. The patterns and rights of property ownership vary from society to society and are influenced by cultural, racial, political and legal factors (Argarwal,1994). The lack of control over both productive and non-productive resources places women at a reduced level of advantage in areas of accessing economic opportunities (Panda, 2005).

Development related problems faced across the globe have been increasingly linked to women's lack of property rights especially in regard to land ownership. Thus, land rights, through their impact on patterns of production, distribution of wealth and market development have evolved as one of the pre-requisite for economic growth and poverty reduction.

Though women's lack of formal control over land ownership has long historical roots, economies and societies undergoing extensive change have created deep implications for ownership rights (Maria, 1992). Because women land rights are often assumed through the security of the male, household head, some inheritance laws allocate less property to female heirs. Ongoing adherence to male-dominated traditions of property ownership in Masinga has generally meant that women cannot take advantage of the wide range of benefits associated with control and ownership of land.

According to FAO, (2005), poverty in Africa is inversely correlated with household land ownership and direct access to land minimizes women's risk of impoverishment. It further notes that in most countries in Africa, the process of land registration and issuance of title deeds has been administered with strong gender bias, with women usually denied equal ownership of land rights.

Gender differences in land tenure should be recognized if the objective of increasing land productivity is to be met. There is need for land tenure policy framework that explicitly addresses gender inclusive access to land. Without specific attention to gender inclusiveness, important segments of society may be excluded from the benefits of land administration. This was further emphasized by findings of the United Nations Women Summit that, in most societies by then, there were greater inequalities in access to land. Equitable access to land is a human rights issue. This view on importance of right ownership of land by women is further captured by United Nations Economic and Social Council Commission on the status of women which states that, land rights discrimination is a violation of human rights (UNESCC, 1998).

Patriarchy has been defined as a gendered economic system: a social network of socio-political and economic relationships through which men dominate and control female labour, reproduction and sexuality as well as women's status, privileges and rights in a society. Patriarchy is seen as a system of power relations, which underlies the organization of society into its complex matrix of unequal relations between an oppressive male presence and an

oppressed female population. In its traditional conception, 'patriarchy' literally means the rule of fathers. But today, it goes beyond the 'rule of the fathers' and includes the rule of husbands, of male bosses, of ruling men in most societal institutions, in socio-political dimensions of the society.

Patriarchy is the framework within which gendered relations of power are played out and has assumed a dominant role and relationships vis-a vis other forms of social organizations. This is to the extent that even where maternal forms of social processes survive, it is the patriarchal power relations which underpin and strongly influence the manner in which men and women live together in such societies. It is indeed conceded that in most societies, male power is embedded and rooted in the maintenance of patriarchal social relations and institutions. These institutions are underpinned by an ideology which defines the adult male as the ultimate decision-maker, controller of material resources and controller of women and children's productive and reproductive capacities (Mbote, 2005).

The cultural aspect of patriarchy in most cases takes the form of the devaluation of women's work or achievements while the ideological aspect portrays women as naturally, biological creatures inherently different but inferior viz-a viz men (Peterson, 1994). Thus conceived, patriarchy is a 'struggle concept' that denotes the totality of oppressive and exploitative relations which are viewed through the gender angle.

The socially construed roles of men and women are integral to the delineation of access rights. Control for its part entails the power to distribute and

redistribute access right to members of society. This power is determined by the power relations between members of the community. In patriarchal settings, the role is vested in the older male members of a community. Land is mainly controlled by male-household heads on assumption that the rights are held in trust for all in the households. Women have access/usufruct rights to land and to that extent, their autonomy in the socio-political and economic realms is circumscribed by their lack of control over land.

In communal land tenure system, women generally access land through their relationships with male relatives. Women's lack of authority in society also limits their control over the land resources that they are able to access. Patriarchal attitudes among members and leadership structures ensure that women do not participate effectively in the land reform process.

Gender analysis is important in the analysis of obstacles women face in relation to ownership of land in Masinga at the individual and structural level. Patriarchy ideology on the other hand highlighted the subordination of women in a hierarchical manner across the social and institutional structures. Patriarchy was instrumental in studying the perception and practice of state and legal structures in perpetuating women subordination in issues regarding to ownership of land.

To examine gender relations in the period 1963-2010, the role of the state has to be problematized in relation to gender. To exemplify, the state wields power to establish institutions that shape gender relations in society. The colonial state formulated economic policies which impacted on men and

women differently and therefore, had implications on gender relations. In Masinga division, the introduced individual land tenure system destroyed women's access and young men's rights of control to land. The independent governments did not deviate from colonial policy on land tenure system. It continued to administer land within the same principles as the colonialists up to 2010.

The constitution of Kenya(2010) introduced drastic measures to ensure women rights to land were protected. The Constitution of Kenya (2010) in Chapter Four on Bill of Rights article 27 states that women and men have a right to equal treatment, including the right to equal opportunities in political ,socio-economic, cultural and social spheres. In addition, Chapter Five on Land and Environment, under article 27 of the constitution states that land in Kenya shall be held, used and managed in a manner that is equitable, efficient and sustainable and in accordance with the principle of equitable access to land, security of land rights and on the principles of elimination of gender discrimination in law, customs and practices related to land and property (GoK, 2010).

The constitution obligates the state to recognize and protect human rights and to promote social justice that is important and relevant to women struggle for gender equity and equality. Further, it provides the general rules of international law that states that any treaty or convention ratified by Kenya forms part of the laws of Kenya (Article 2 (5) and (6) Laws of Kenya 2012). This allows for automatic application of international statutes on equality and

non-discrimination. On the same note , it expressly stipulates that the state shall define and keep under review a national land policy ensuring that the principles of equitable access to land and associated resources and elimination of gender discrimination in regulations, customs and practices related to land and property in land is observed (National Land Commission Act, 2012).

On the same note, National Land Commission Act (2012) upholds the foregoing principles and one of them is elimination of gender discrimination in law, practices and customs related to land. It protects, upholds and recognizes women in Kenya in areas of political participation, representation, property ownership, entitlements to maintenance expenses in cases of divorce and separation. These areas are inextricably intertwined as regards to the women land rights in Kenya.

With the advent of new constitution (2010) dispensation, the international laws and treaties ratified by Kenya form part of the Kenyan laws (GoK, 2010). For instance, Kenya is a signatory to a number of International treaties such as the International Covenant on Economic, Social and Cultural Rights (1966), the International Convention on Civil and Political Rights (1966) and the Convention on the Elimination of all Forms of Discrimination Against Women (1979).CEDAW observed the inaccuracies in property allocation and ownership between men and women, especially in agrarian reform measures where women predominate in the agricultural labourforce.

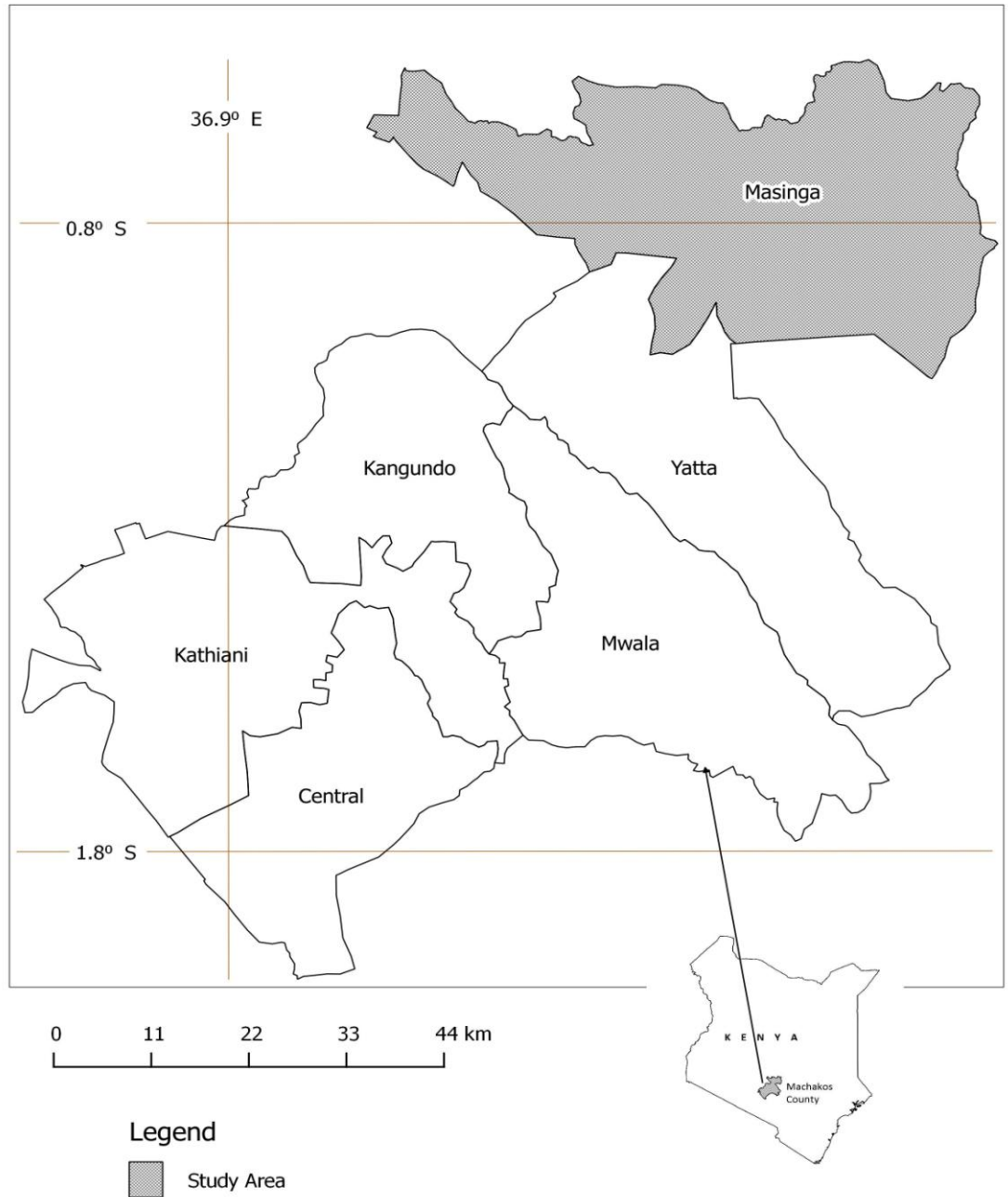
1.10.0 Research Methodology

1.10.1 Research Design

The study adopted a qualitative research design. Hence it is descriptive, explorative and interpretative so as to capture informants' unique experiences in a given historical context. This study relied on primary and secondary data to generate adequate information during the research process.

1.10.2 Site of Study

The study site is Masinga Division, Masinga Sub-County of Machakos County. Administratively, Masinga Division has six locations, covers an area of 1,088.4 square kilometres and its estimated terrain elevation above sea level is 1,092 metres. Masinga division borders Maragwa Sub-county to the North, Mbeere Sub-County to the North-East, Kitui to the East, Yatta Sub-County to the South and Thika to the North East.

Map of Machakos County with the Site of Study Shaded.

Source: Kenyatta University, Geography Department.

The economic activities of Masinga Division include farming, sand harvesting and livestock rearing. Irrigation is also practised by residents near Masinga dam. Crops grown through irrigation include tomatoes, onions, spinach and sukuma wiki.

1.10.3 Target population

Target population refers to all members of a real set of people or objects to which the researcher wishes to generalize results of the study(Orodho,2009).

The informants were selected from a cross section of the entire Masinga Division. The study targeted informants from the older age groups (55 years and above). They had to be, on most occasions,from different religious and occupation groups. Deliberate efforts were made to interview both literate and illiterate informants from the above groups in order to minimize biases or prejudices on certain issues by a given category of informants. According to 2009 Census, Masinga Division had a population of 86,070.

1.10.4 Sampling Technique and Sample Size

It was not possible for the researcher to interview all the residents of Masinga; therefore, the population was sampled to choose several groups for the study. Jwan,J.(2011)argues that the fewer the participants,the higher the quality of data,the more manageable and the deeper the data analysis process hence the researcher considered 120 respondents as appropriate sample of 86,070 population. Using purposive sampling, the respondents were carefully identified for study. They were the native born, with varying demographic factors like educational background and their status in the sub-location such

as assistant chiefs, village elders, clan elders, teachers, peasants, religious leaders. The snowballing technique was used to identify women with land ownership related issues in the selected sub-location.

The research assistants were very critical in identifying, contacting and reaching the informants. Though the government administration officials, for example chiefs, assistant chiefs and headmen were informed of the research, they were not used in contacting or interviewing the informants.

1.10.5 Research Instruments

The research instruments for this study included the use of questionnaire guides. The questionnaire combined both open-ended and closed questions. Semi-structured interviews, these were applied to assistant chiefs, village heads, religious leaders, clan elders, chiefs, land officials in Masinga Division. Oral interviews were used on specific women with land ownership related problems identified through snowballing and surveys and focus group discussions.

1.10.6 Data Collection Procedures.

Primary data for this study was obtained from archival and oral sources. Archival sources at the Kenya National Archives and the Ministry of Lands (at Masinga lands office) included District and Provincial Annual Reports, Political record books and minutes of Machakos Local Native Council.

Data from archival sources was cross checked with and supplemented by data from oral interviews. The area visited for the interviews were the locations of Kangonde, Ikaatini, Ekalakala, Kivaa, Masinga and Kithyoko.

Oral interviews comprised sessions of in-depth interviewing of elderly women and officials from the office of the presidency. These informants were identified with the help of assistant chiefs.

Focus Group Discussion (FGD) was also organized for a more interactive approach to the questions. From every location, a FGD was formed comprising two members from each category of respondents, that is landed, land poor and the landless together with administrators. The researcher ensured that the group discussed matters of concern to the study. The researcher probed the group into an in depth discussion of the matter. Data from the respondents was documented through note taking. Notebooks were used in writing down information obtained from respondents.

Secondary data constituted published books, articles, journals, periodicals, non-published theses, seminar papers, credible online sources, publication by women's organization and government departments. These secondary sources were collected from Kenyatta University Post-Modern Library. Secondary data was first used to create the background on women's access to and control of land and subsequently was referenced in the study.

1.10.7. Data Analysis.

The analysis of primary data was enhanced by information obtained from journals, books, government publications and unpublished papers, reports

and dissertations. These secondary sources were particularly useful for corroboration, comparison and interpretation of the primary data.

Once the data was collected, the researcher perused through it, identified information that was relevant to the research questions and objectives, and translated any data collected that was in vernacular language. Primary and secondary data were organized and sorted; secondary data were subjected to textual criticism and document analysis to establish their accuracy. The data was corroborated, coded and thematically analyzed in relation to various chapters of theses final write up.

1.10.8. Data Management and Ethical Considerations

The researcher obtained a permit from The National Council of Science and Technology to authorize the researcher to carry out the research in Masinga Division. In addition, the researcher adhered to Kenyatta University research code of ethics and obtained permission from Machakos County government before proceeding for fieldwork. The researcher explained the objectives and benefits of the study, how the study was to be carried out and the informants' right of withdrawal or non-participation.

The researcher undertook to ensure confidentiality of information, while acknowledging any published work. The right to anonymity was maintained. The findings of this research will be shared to all interested parties without discrimination or prejudice.

CHAPTER TWO

2.0.HISTORICAL BACKGROUND OF THE AKAMBA.

2.1 Introduction

This chapter looks at the historical background of the Akamba in the pre-colonial era. It deals with political, socio-economic organization of the Akamba. Finally, it interrogates the place of women in the community in the above spheres of life.

Origin of the Akamba

The Akamba entered Kenya from north-eastern Tanzania during the first part of the sixteenth century. They are said to have entered Kenya through Mount Kilimanjaro region and congregated around Kibwezi. The Akamba found the place around *Chyullu* hills exceedingly rocky, not well supplied with water and most impenetrable. They further migrated northwards and settled around *Nzau* hill. *Nzau* region was impoverished by a resistant lava-boulder soil and the range of the native vegetation did not provide a natural protective shield to buffer against Maasai attacks. As a result, they moved further but changed their migratory route to north-west frontier of Ukamba and settled in *Mbooni* (Ogot, 1976).

Mbooni lay in the centre of Ukamba, the *Mbooni* range possessed the appropriate environmental components for regular and long-term settlement. A high forest belt which was distinguished by remarkable fertility was enclosed securely from many incursions and it offered the prospective settler a mixture of possible village option. Agricultural economists define *Mbooni*

as a 'niche'. In that setting, the Kamba migrants began directing their energies toward creating durable quasi-agricultural settlements. This offered them the foundation for the reorganization that took the direction of greater internal definition and specialization within the community (Muthiani,,1973).

2.2 Political Organization

The Kamba society was a decentralized one, without any single over-arching political institution with influence throughout the society. The Akamba people were a patriarchal society and traditional system of government was based on the ideology of patriarchy. At the family level, the father (*tata*) was the household head and exacted obedience from the members of the family. He had absolute authority over his sons, even long after they were grown up and got married. The household head, who was usually the male, handled issues that arose from the family (Ogot, 1976).

Questions which concern several villages were dealt with and decided by a local assembly of elders, called *nzama ya kivalo* (territorial elders). The council of elders was made up of senior clan members, who had achieved the social status of *mutumia*, that is an elder. The council of elders was in-charge of day-to-day administration of the Kamba community. However, this corporation was of purely local character, and there was no authority for the whole of Ukambani. The *mutumia* grade did not carry with it the right to sit in the council of elders (Ndeti, 1972).

The most important function of the *nzama* was to act as a court in which all cases were tried and decided. It also decided on wars of aggression, this was

basically the sanctioning of raids against their neighbours especially the Maasai. In addition, a form of lynching punishment locally known as *king'ole* meted to those who committed serious crimes could also be ordered by the council of elders.

The organization of the judicial system among the Akamba was the preserve of the *nzama*. There was no superior court. The *nzama* sat on open air, the word *nzama* meant secret, and was possibly used to refer to the court, because after the disputing parties had been heard and the case debated, the oldest and most experienced *atumia* (senior most grade of the elders) withdrew from the crowd to decide on the verdict.

In a focus group discussion, the participants informed the researcher that, the council of elder was not only in-charge of politics but also the care and maintenance of the religion and offering of sacrifices. The religious duties involved carrying out ceremonies of purification, on the advent of outbreak of epidemics such as cattle plaques and drought (FGD, 2014).

2.3. Economic organization

2.3.1 Hunting

According to oral traditions, the Akamba were originally a hunting people. They had from time immemorial devoted themselves to elephant hunting. A skilful hunter had a great reputation, and was compared to a victorious leader in war. Hunting elephant provided the ivory for the long-distance trade. The leader of hunting expeditions was usually the same as those of military campaign (*athiani*). Hunting was usually carried on by a number of men

together. The hunting party(*nzyima*) was composed of an equal number of representatives from each *thome*(symbolically referred to every family)(Owako, 1969).

Religion and magic were part of the necessary preparations for either hunting or military expedition in order to ensure success. Before embarking on a hunting expedition, the Akamba went to a medicine man (*mundu mue*) to find out if the hunting would be successful. A beer party was held with accompanying sacrifices to *Mulungu*(God) and the ancestral spirits (*aimu*) amid prayers for a successful result. On such occasions, they sacrificed especially to deceased famous hunter. The medicine man gave them powder to rub on bows, bowstrings and arrows to increase their certainty of aim and an additional medicine to rub on their eyes to sharpen their vision (Middleton, 1953).

The beginner who had him killed or helped kill an elephant was on his return home at the end of the hunting, initiated into the secrets of hunting by one of the leaders as a reward. He paid for this instruction with a goat. A successful hunter usually braided a ring made of sinews of the elephant's feet round his bows for each elephant killed. If anyone was killed during the hunting, two tusks of elephant were handed over to his wife and children.

2.3.2. Agriculture

Even though cattle rearing was of great importance to the Akamba, agriculture was their principal occupation. They practised a form of agriculture that closely resembled shifting cultivation. They arranged their

fields(sng.*Muunda*, pl.*miunda*)preferably along the river banks, in depressions, in the ground and on the slopes of small hills, these were the places that were best watered. They practised irrigation by making a network of narrow and shallow ditches (*mutau*), into which the water from the streams and the riverlets of the slopes was guided (Lindblom, 1969).

Agriculture was carried out almost exclusively by women, a relic of the distribution of labour at the time when men were occupied in hunting, trading and expansion expeditions. The men occasionally helped the women especially in the task of breaking up new ground for agriculture. This was done by means of fire; bushes were cut down with a slashing knife called *nzomo* which could also be used for digging. The ground was broken up with a long pointed pole. The women then proceeded to loosen the soil by breaking up the lumps. The burning of dry remains of plants, weeds and other unwanted vegetation, which always took place before the old field were put to use, was therefore intended to fertilize the soil. The Akamba shifted cultivating after the crop yields became poor. The fallow land was left undisturbed for three to four rainy seasons. They also changed the grain sown at intervals of a few rainy seasons (Ogot, 1976).

The Akamba did not use domestic draught animals during cultivation, the women's only implement was her digging stick (*kamolo*). This was made of some hard species of wood (*munoa mathoka*), a species of acacia, flattened and pointed. The fields were prepared in good time before the rain began and sown when the signs of impending rain became visible. The sowing was done

by making holes with digging stick, put the grain in, and then covering the hole over again with her foot. In the case of small seeds like sorghum (*muvyva*) they practised broadcasting method of planting. During this time, the women were kept fully occupied by agricultural activities and occasionally the youth were allowed to help them (Muthiani, 1972).

When the corn began to ripen, the women again were involved in frightening away the birds (*kuia nyuni*), baboons, porcupines and wild boars. The fields were accordingly guarded against such predators. Scare-crows consisting of objects that move in the wind were also used. Where wild bears and porcupines were troublesome, watch was also kept during the night (Middleton, 1953).

The Akamba planted mainly three important kinds of grain, which included; sorghum (*muvyva*), millet (*mwee*) and *elusine* (*wimbi*). Several leguminous plants were also cultivated, including peas (*nzuu*), which took two seasons to ripen, beans (*mboso*), peas (*nthooko*) and cowpeas (*nzavi*). Among the root crops they cultivated included sweet potatoes (*makwasi*), yams (*kikwa*), and cassava (*manga*). Several kinds of pumpkins and similar plants were also grown. These included pumpkins (*malenge*), and calabash (*ikuu*) (Musau, 1992).

2.3.3 Land Ownership among the Akamba and Women's Right to Land

Many scholars writing on pre-colonial land tenure systems in Africa have often found it difficult to identify or generalize on a system that prevailed during this time. This has been due to lack of authentic literature on the

subject and faulty historical accounts of Western researchers of African traditional societies (Kibwana, 1990).

Nonetheless, one thing is evident that land in Africa assumed many forms that order relationship between people both living and the dead. According to Nzioki(2003), land structured relations between groups within society and between people and their ancestors. Soil was used as material resource in symbolic rituals to express a society's attitude towards sex and gender relations.

Pre-colonial Kamba system of land ownership derived from the process of pioneering into unclaimed area, inheriting the ancestral land(*ng'undu*), getting land from another village through a friend(*munyanyae*) or relative for cultivation, resident or pasture. The friend or relative could only assign him a piece of land after obtaining permission from his family members including his father, eldest paternal uncle and the territorial elders(*Atumia ma kivalo*). Several neighbours(*Atui*) were invited by territorial elders to witness the transaction. The family members could oppose such transaction.

An individual went into the commonage (*weu*) and marked out a piece of land for cultivation. Once acquired, the boundaries were established. Boundary demarcations were continuous ridges(*syanda*), rivers(*mbusi*), forests(*mutitu*) or an artificial one was erected. Boundaries were identified with the help of council of elders(*Atumia ma kivalo*) in charge of a territorial unit (*Utui*). Artificial boundaries using sisal(*ikonge*) and euphorbia(*ndau*) were rarely used unless there was a dispute pitting the new entrant into the

land. In such a case, territorial elders decided rights of each member in the dispute to the disputed land and marked the boundary. During the boundary marking ceremony, an elaborate ceremony was organised. The parties involved in the dispute slaughtered a goat (*mbui ya ikonge*), which was eaten by the territorial elders and themselves. This was a binding agreement that required careful guardianship of the neighbours.

Among the pre-colonial Kamba, One could also acquire land by inheriting part or whole of his grandfather's land (*ngundu*) or by inheriting his father's land. Land could also be acquired could also be acquired by cultivating or owning part of the land assigned to an individual after evicting the owners in a war. An individual could own two or more pieces of land acquired in different ways but legitimately. For instance, man could clear part of the forests and acquire land apart from inheriting *ng'undu* ancestral land (Wayua ,M. O.I: 26-06-2014; Muuo, M. O.I:15-07-2014)

The land so marked became a permanent and inheritable possession. The individual also delimited pasture land (*kisesi* pl. *isesi*), either around the homestead or some distance away from the homestead in a specially built cattle post (*kyengo*). Unlike cultivation (*ng'undu*) rights which were permanent, cattle posts (*kyengo*) rights existed as long as the land was being used. When abandoned, grazing land (*kisesi*) reverted to the commonage (*weu*) and nobody could colonise it (Middleton, 1992).

Generally, claims on land were agreed upon and regulated by grade of elders locally known as *atumia ma kivalo* (Territorial unit). They could limit the

amount of commonage(*wewu*) an individual appropriated or refuse to admit certain individuals into their land. Consequently, a prospective settler offered beer and a goat (*mbui ya mathanzu*) to older settlers. These items were used in a ceremony in which the new settler took the *ndundu*(traditional other greatly dreaded among the Akamba), thereby committing himself and his household to co-operation to *Utui* affairs. Such co-operation was important for defending frontier settlements from raids and for reciprocal obligations, especially in labour (Matheka,1992).

Matters of inheritance or sale of land were regulated by the *Mbaa* groups. By virtue of their common ancestry, members of *mbaa*-group owned land jointly. The principle of land inheritance was by matri-segmentation, a system that ensured that each married woman in the lineage had absolute rights of use of her farm-plot (*mbee*), and passed it on to her sons for an inheritance. Such land could not be sold without the sanction of lineage elders. If the sale was absolutely necessary, the next of kin had the first priority (Middleton, 1972; Matheka, 1992). Everything was done to ensure that the land was not sold outside the lineage. On the contrary, land that had been taken from the *wewu* was essentially in the hands of the occupier and kinsmen had no rights in it.

Even though, the traditional Kamba rights to land was inherited through patrilineal lineage, Women's right to land was guaranteed. This was because once a woman had been allocated her land(*mbee*) by her husband, She retained inalienable usufructuary right to that land as long as the marriage

lasted. In the event that, the woman became widowed and she remained unmarried or was inherited by close relative of the late husband, her right to the land could not be alienated by the late husband's lineage and if she got married outside the late husband's lineage and had sons, the land was to be inherited by the sons. In case the widow did not have sons and married outside the husband's lineage, her right to the mbee could be alienated by her late husband's lineage (Mbithe, J. O.I:25-07-2014).

The head of the family (*Musyi*) exercised authority over control and administration of land under his authority. However, this authority over control, use, ownership of land was not absolute. Absolute right of ownership was vested in the community as a whole and the territorial council of elders (*atumia ma kivalo*) in consultation with the clan (*mbaa*) group held the land in trusteeship of the community. The father allocated land to the family members upon need. The eldest son was the first to be allocated land after marriage. It is worth to mention that, whereas it was the sons who directly inherited land in the pre-colonial Kamba, an elderly unmarried daughter had usufructuary right to the family land.

The head of the family when dividing land to his sons, he usually retained a portion of land and in most cases within the homestead. This piece of land was for use by either unmarried daughters or those who were divorced, derogatively referred to as *minzyoka*. Their right to use of the family land could not be alienated within their lifetime. In the event that all daughters were married and none was divorced. This piece of land was usually

inherited by the last born son upon demise of the parent or the elderly man could through a verbal will give it to any of his sons or grandchildren. The oral will of an elderly man was valid only if it was made in the presence of his brother, paternal uncle and in rare cases his sister(Nduva,L. O.I:3-08-2014;Mbinya, K.O.I. 05-06-2014).

From pre-colonial land tenure studies, a generalization has emerged referring to African tenure as communal, although there has not been an agreement on how it was politically administered, whether by individual, family clan or ethnic group (Okoth-Ogendo, 1976). Nonetheless, at the community level, land was and still is defined in terms of relations between kin, family members and neighbours. In many communities, land was held by a village or lineage male head of age who commanded a good lineage history and land use patterns and was considered a 'trustee' and not an 'owner' of the group's land. It was his responsibility, in consultation with lineage elders to allocate land to heads of families depending upon the need and availability (Pala, 1978).

According to Okoth-Ogendo(1976), it is explicit that each person in a community had rights of access to the land depending on specific needs of the person at the time. He avers that access to land was specific to a function in that in any given community, a number of persons could each hold a right or a bundle of rights expressing a specific range of functions. He gives the example where a village could claim grazing rights over a parcel, while

another claim the hunting rights and a third cultivation rights of the same plot. All these land rights were exercised according to the needs.

Okoth-Ogendo (1979), further explains that although cultivation rights were generally controlled at extended family level, the grazing rights were controlled by a much wider segment of society. According to him, to control land was to guarantee rights to allocate to other members of society. Those who controlled land did not 'own' land to the exclusion of everybody else (Wanjala, 1990). Kibwana advances that the proper understanding of the principles of traditional land holding reveals that it was wrong to identify chiefs and or elders in pre-colonial Kenya who owned land and that these chiefs were trustees on behalf of members of an ethnic group (Kibwana, 1990).

The lineage head was responsible for allocating land to families and was accorded great respect and obedience but those under him had a strong sense of their own rights and obligations. The obligations included a fair distribution of land and settling disputes that might arise from land. In this way, the lineage head obtained a position of power in the administration of the land.

Land was allocated to an individual male. Upon his death, the land rights were transferred to his sons, and consequently the degree to which females inherited land depended upon the gender structure which was imposed through patrilineal kinship ideology (Nzioki, 2003). During a lifetime, the person allocated land could loan, lease, pledge, pawn a piece of land for

temporary use, but in any way were these seen as a transfer of permanent rights, that is, land was not alienated permanently without the consent of the trustee group (Okere, 1983).

To what extent can we claim that women had greater rights on land in the pre-colonial tenure structure? There are two schools of thought which attempt to answer this question. One claims that pre-colonial land tenure system benefited women (Verhelst, 1970; Pala, 1978; Okoth-Ogendo, 1981) while the others argue that land controlled by men through first-use rights disadvantaged women (Freidl, 1975). Freidl argues that because men have always cleared land in Africa, they have been able to gain land at the expense of women.

Boserup (1970) asserts that plentiful land availability coupled with low population density resulted in agricultural labour that benefited both sexes. In the pre-colonial epoch, the women had had virtual control and monopoly of crop production given the contemporary division of labour between men and women. This led to the rights of women having land they controlled for the maintenance of their households.

Karen Sacks (1979) on the other hand argues that shifts in mode of production from hunter-gatherer, and simple horticulture to more complex agriculture led to women's loss of power regarding the assignment of labour tasks and allocation of goods where control was increasingly invested in male-dominated kin groups.

The security of rights to land was guaranteed and protected by the very principle under which the initial rights were acquired, based on kinship, residence or allegiance. Land formed the nerve centre of social relations, and as long as these relations which gave rights to land were maintained, the question of insecurity of land rarely became a live issue (Velhelst, 1970). Pala (1983a), in her research of the Luo of Kenya, wrote that the system provided a daughter's usufruct rights of land belonging to her father's lineage, while a wife had a usufruct right to her husband's patrilineage. She further argued that such rights conferred to wives often lasted for a lifetime. Pala's study concluded that women as individuals or groups did not have the legal rights to allocate or dispose of land neither did the individual men.

Land was transmitted through the permanent members of the family since women got married outside the family, to guarantee access to land and it was patrilineal succession (Okoth-Ogendo, 1981). Although men were considered heads of their families, when they died, the land portion that fell directly under his headship remained intact as family property (Gutto, 1975). Gutto argues that the widow held property as trustees for their sons, while the leviratic unions helped the widowed woman to maintain the husband's property, as property rights is contingent on residence and status. In case of death of the mother, the sons still retained the mother's parcel.

Okoth-Ogendo (1981), draws our attention to the fact that although indigenous property laws excluded women from owning or inheriting land, this cannot be a symbol of an inferior status or in any way a form of

chauvinism developed by one sex for the suppression of the other. The rights over immovable property were trans-generational, and even though women were treated as permanent members to the societies in which they were married, the patri-local societies had to control the process of allocation and transmission of its primary means of survival.

In pre-colonial Masinga, as in other parts of Ukambani, private ownership of property did not exist. All property belonged to the Akamba as a people. Family land belonged to the family under the direct responsibility of the male head, who was a trustee. Land was owned communally and neither the male nor the female had absolute private ownership of land (Muthiani, 1973).

In analysing this literature, it is noted that men gained access to lands largely as lineage members and women gained access as wives. Thus, control over land through inheritance ascribe to patrilineal ideology and organization. Consequently, men controlled women's access to land and allocated their labour. For instance, the more wives a man had, the more land he accumulated and controlled (Guyer, 1984). Davidson adds that the more land a man controlled, the more wives and children he needed to help cultivate it (Davidson, 1987). This joint productive-procreative value of women is symbolized by the exchange of bridewealth to compensate her family for loss of labour and to assure the future paternity of her children. In return, her male children inherited the land she cultivated. What is significant, however, is that individual members of the family were allocated definite rights and obligations in respect to control, ownership and use of the resource.

According to Wanjala (2000), it can be surmised that tenure in Kenya before the advent of colonialism was fundamentally different from that of feudal England from which alien law was imported. The most common form of tenure during the period in question was what could be termed as 'communal tenure' whereby land belonged to no one individual in particular but to the community as a whole. The rights to access community land were guaranteed by the political authority in a given community. Such authority did not 'own' the land but rather exercised political control over the same. There was no ownership of land either by individual or political authorities in the sense of 'ownership' as known in English law.

Lack of *de jure* rights of individual ownership of land was an insurance against landlessness and a guarantee of equitable rights of access to the people of Masinga as a whole and women in particular. Absolute rights of proprietorship were vested not in a single person but in a collective authority which acted as a check and balance to the internal process of land appropriation and alienation among the members of a social group. Such a system of checks and balances in the access to and control of land laid the foundation for the internal social stability which most groups enjoyed (Kanyinga, 1998).

In conclusion, it is clear from the discussion above that the customary land tenure ensured women's right to use land for agricultural production until colonial capitalism and the capitalists notion of land ownership replaced the 'traditional' with the modern which has had adverse effects on women's

ability to food production. It is worth noting that although landholding was inclusive, nevertheless, the amount and quality of land acquired depended upon an individual's status and position in family, lineage or community.

2.3.4 Bee Keeping

Traditionally, the Kamba people were bee- keepers; the possession of beehive was an essential part of the community culture. The Akamba beehive was a barrel made from hollowed-out log. The ends of the barrel were closed by flat pieces of wood which fit inside the rim.

Beehives were hung in trees in the uncultivated common land(*wau*), and the owner had certain rights over the ground immediately surrounding the trees. No one who was not a member of the owners joint family could encroach upon it in any way which could disturb the bees. All the work connected with bee-keeping was a man's work, although it was considered women responsibility to carry harvests from the farm , it was the men who carried the hives. Women, however, carried the honey after it was harvested. Theft of honey was considered a serious offence among the Akamba (Middleton, 1953).

2.4 Social Organization

2.4.1 Kinship structure and its function

The Akamba are composed of thirty-five clans. Each member belongs to one of these clans. Katola(1987) says that, the clan is his birth certificate by which he identifies himself when he meets another Kamba. Membership into

these clans had traditionally been extremely important to the Akamba (Egerton 1971; Ndeti, 1972).

The relationship between the Akamba family and clan is similar to what Klima (1970) found of the Barabaig of Tanzania. He states that:

“Every person born into Barabaig society automatically becomes a member of a family, and at the same time acquired membership in a larger social grouping called a clan. A clan is the eargest grouping composed of male and female members who claim common descent from some founding ancestor in the distant past whose family constituted the original group. Membership in a clan is automatically conferred by birth” (Kilma, 1970:39).

Just as in the Barabaig society, it was impossible for a Kamba to change from one particular clan to another. The clan identity was also maintained after marriage. Neither the bride nor the bridegroom lost their clan identity after marriage.

Among the Akamba, the family (*musyi*) was the basic social institution. Traditionally, it comprised the living and the dead. The term *musyi* literally means ‘family’ and also a home. Therefore, the word combines both residence and affinal-consanguinal relations. Among the Akamba, *musyi* assumed at least three gamic relations; monogamy; polygyny and the extended family. Polygyny was the most popular in the past. It was reserved only for a few. The capacity of a man to marry more than one wife depended on his wealth. Only those who could afford to pay bride price(*ngasia*) could have another wife. Among the traditional Kamba, only livestock and farm produce were accepted as bride price (Lindblom, 1935).

The researcher was informed that, this has changed and in modern times cash had been incorporated in bride price payment. The feeling of the respondents about this was that, it is not a good practice because it has secularized the institution of marriage and made it to lose its ascribed traditional sacred flavour (Muithya Mary, O.I: 12-06-2014).

A wealthy married woman, whose husband had died and fail to find a new spouse, because she was too old or has only married daughters and no son to inherit her property, could take another woman. A woman so married was called *iweto* (the designated). The rich woman called on the closest male relative from a husband line of descent, and the children resulting from the union with the *iweto* belonged to her. They took her name and regarded her as their father. Men whose last names are feminine resulted from such marriages. These names persist for generations and eventually people use them regardless of sex (Penwill,1951). Such unisexual names include Mumo,Muuo,Mbatha, Kilyungi and Mutinda (Mwikali Muya,O.I:19-06-2014).

The institution of polygyny was not primarily a Kamba expression of excessive vitality. The institution functioned as a welfare custody for the old couples and was reserved for those who could afford brideprice (*ngasya*). In addition, in a society like that of the Akamba which is extremely patrilineal and patrilocal, the institution made a very strong case for the rules of inheritance. A woman marrying another woman so that she could perpetuate her dead husband's line in her name, made a very strong case for

the institution. In addition, a barren woman could take a second wife, but the children of *iweto* had to bear her name. This customs helped perpetuate the line of descent. Polygyny in nature was an adaptive principle which compensated unbalanced sexual distribution in the biological systems (Ndeti, 1972).

The last gamic relation was the extended family. The family included both monogamy and polygyny. Strong ties of consanguineous and affinal relationships over three generations, namely; grand-parents-parents-siblings and also collateral relatives are maintained primarily, it was a functional unit which allowed for dependability and symbiosis. Each member of the extended family contributed to the welfare of the *musyi* according to his/her experience, age, wisdom, skill and vitality. *Musyi* was not merely an economic alliance, but a very basic institution which carries out all the vital functions of human development. It was a composite of many institutions: family; education; religion and adaptation to environment. It is however, tied up organically with the rest of the Akamba social organization (Lindblom, 1935).

It was the duty of the living to keep good relations with the dead through giving of sacrifices. The family was father-headed. Among the Akamba, there were different social grades. The lowest grade was known as *Kana*, which was a general term referring to either a male, locally known as *kavisi* or female locally known as *kelitu*. A grown girl but not married was known

as *mwiitu* while a mature un-married male was known as *mwanake* (Musau, 1992).

Among the Akamba, a youngman who had reached the maturity age for marriage was locally known as *nthele*. Age grades above the rank of *nthele* were composed of elders (*atumia*). For one to become a *mutumia*, he had to make payment to those who were already in the grade of elders (*atumia*). The status of an elder was considered a dignified age grade attained at the age of 40 to 50. The symbol of authority for this grade was a traditional stool, locally known as *muumbo*, which he carried everywhere with him, usually hang by a chain over his shoulder. Young men had no right to use stool (Lindblom, 1979).

All *atumia* were not in the same rank. The highest in rank were those who administered the government, locally known as *atumia ma nzama* (elders of the council) and those who presided over religious functions, who were known as *atumia ma ithembo* (elders of the shrine). These two grades of elders were highly respected in the community. Their symbol of status was a pronged staff. According to the rank, the elder consumed different parts of the animal killed at public feasts and on the places of sacrifice. The attainment of a higher grade among the elders, *atumia* was chiefly a financial question. The lowest grade was easily reached by the presentation of a goat to the members of the *nzama* (council). The person presenting the goat assumed the right to eat a goat's head, and was called *mutumia wa mutwe* (elder of the head) (Ibid).

The next age grade among the Akamba was gained by giving a bull, which entitled one to the meat of the animal's lower leg. Another bull gave him the right to the upper part of the leg. When he was in a position to present another one, he advanced further. A fourth bull entitled one to eat from the hump, which was considered a great delicacy. A fifth and last bull was paid before one may eat of the tongue and head of cattle. An elder of the fifth grade had gained the right to eat all kinds of meat. To pass through different grades among the Akamba was known as *kukula*. However, very few Kamba men reached this highest grade (Muli, 1962).

It was not permissible for anyone to touch meat that fell to the share of those higher grades, even if they were not taking part in the feast. The portion of elders of the highest grade was taken to their village by the *anake*, who slaughtered animals and prepared the meat. Women and the youth ate certain parts of an animal. Women ate legs, the stomach, and the meat on sides of belly while the youth ate neck, lungs, liver, kidney and the heart (Lindblom, 1979). It should be mentioned here that, neither the age nor the number of wives possessed was a deciding factor for promotion to higher rank, but a necessary condition was payment; the animals paid were eaten by those entitled to them.

The principle of inheritance was by matri-segmentation, this applied both to land and other property. A man divided his land among his wives; on his death, they became the nominal heirs and each worked on her field until her death, when they pass to the sons (Middleton, 1953). A woman without sons

could adopt the son of a co-wife, who then inherited her chattels and individual property. During the research, it was revealed that Kamba traditions allowed a woman without sons to marry another wife to bear children on her behalf. These marriages were called *iweto*. Loko Nduva (O.I:28-06-2014), an elderly Kamba woman informed the researcher that, this was because according to Kamba traditions, women were not supposed to inherit property, especially land and therefore, women who were barren or gave birth to daughters only could only inherit property if they married another woman who bore sons on her behalf. This tradition according to her prevails even in the modern times despite numerous laws that allow women to own land.

Katile Kimuli(O.I:3-08-2014), informed the researchers that, this practice persists to date because, the Kamba society was a patriarchal society and the perception is that women are not supposed to inherit property, especially land in their maternal home. She informed the researcher that, those women who demanded right to own property were viewed as social deviants and their mothers were accused by the society of not bringing their daughters according to the way of life of the Akamba. The father of such ‘deviant’ female is ridiculed by fellow men who consider him a weakling who could not run the affairs of his family according to the traditions of the fore-fathers.

2.4.2. Religion.

The Akamba believed in Supreme Being, whom they called *Mulungu*. The *Mulungu* was an impersonal deity who was believed to live in the sky (*Ituni*).

Mulungu is a benevolent God who bestows good things upon the Akamba. However, if someone commits any wrong act against this benevolent being, in spite of the kindness bestowed, he /she had to show penitence. They also believed in ancestral spirits (*aimu*), who were thought to be innumerable and were the spirits of their departed ancestors. The Akamba believed in life after death. It was on that basis that the Akamba practised spirit- worship, which was based on the conception of the continued life of the soul after death. The spirits of the dead were called *aimu*. The Akamba believed that after death, the body was buried but the soul immediately went down where most of the departed spirit lived after death. The existence of *aimu* was an immediate continuation of what they experienced in life. A special traditional dance, '*kilumi*' was performed to appease the spirits (Lindblom, 1969).

The Akamba offered food to the dead through libation(*liu wa ngai sya musyi*). This was done by the household head especially the grandfather in the case of an extended family. It involved giving the first produce from the garden ,the first milk from a cow or a portion served to one for his consumption. They believed that failure to feed the spirits of the dead could affect the productivity of their gardens and their livestock and in some cases, the spirits of the dead could haunt them by bringing misfortunes to the family. A small portion of food/ harvests was placed on the ground and left to be eaten by wild animals and birds. Eating food meant for the spirits of the dead was a serious sacrilege and was punished by heavy fine which in most cases included providing for a bull or goat for purification(*ng'ondu*). The

process of purification(Kuya ng' Ondu) was a ritual majorly conducted by the religious elders(*atumia ma ithembo*) or an elderly member of the family (Ndinda, M. O.I:05-07-2014).

It is thought that dreams come from spirits (*aimu*). The elders of the grade of *atumia ma ithembo*(religious elders) offered sacrifices to the spirits to appease them. These sacrifices were offered in designated places of worship, especially in the forests and or near the mountains. A father and son could not belong to *ithembo*(shrine); the son could only become a member when his father retired on account of natural infirmities. The senior religious elders (*atumia ma ithembo*) main function pertained to that of carrying out the ceremony of purification, on the advent of all public misfortunes, such as the outbreak of epidemics, cattle plaques and drought (Musau, 1992).

These old men and occasionally women of the *nzama*(council of elders) were the custodians of the society's traditions. They had a duty to ensure that, the customs and the traditions of the Akamba were maintained to prevent the rise of customs which they considered harmful to the community (Ogot, 1976).

2.4.3 Marriage

The Kamba women had a right to choose their companions through life and majority of marriages were founded on mutual attachment. Culturally, it was the male who approached female and proposed marriage. If the girl accepted the proposal, then the man informed his father to the in-laws. The suitor had to make sure of the girl's consent before he sent his eldest brother. The eldest

brother was in many respects a deputy for his father regarding his younger brother and sisters (Kimilu, 1962).

If the hand in marriage was accepted, the bride price (*kuasya*) was taken at once. Normally, two goats were sent to the prospective father-in-law. They were called *mbui sya ntheo*. Later, four goats were taken to family of the prospective wife. It is worth noting that the bride price was paid by instalments and the girl was married before the payments were complete (Musau, 1992).

2.4.4 Conclusion

This chapter has interrogated the pre-colonial Kamba socio-political and economic organization. Among the Akamba, the basic social unit was the family and the father was the head of the family. Several families came together to form a larger unit that was known as *mbai*. Each member of the Kamba society was born in certain clan and this remained to death. They believed in a Supreme Being they called *Mulungu*. They also believed in life after death and therefore, offered sacrifices to the ancestral spirits (*aimu*). The homestead belonged both to the living and the dead.

Socially, the male again overshadowed the women. This was because the father was considered the head of the family and exercised absolute authority over his wife and children. Even when the husband died, the wife did not exercise absolute authority over his children because the first son was considered the deputy of the family. The Kamba believed in *Mulungu*, an impersonal deity who lived in *ituni* and was the creator of man and the giver

of life and wealth (*mwatuangi*). There was a special grade of elders (*atumia ma ithembo*) who performed religious functions to appease the ancestral spirit (*aimu*). This was because, they believed in life after death.

Economically, the pre-colonial Kamba had an elaborate division of work based on gender. There were duties strictly for women and men. They practised mixed economy. They practised agriculture, where the bulk of work was done by the women. The women were in –charge of breaking the soil, sowing, weeding, frightening away predators as well as harvesting and thrashing the grains. They used broadcasting method to sow small grains like wimbi, sorghum and millet, while larger grains were planted using a sharpened stick locally known as *kamolo*. They also gathered wild fruits and vegetables to supplement their food production. The men helped in clearing the bush and breaking the ground. Hunting, cattle raiding especially from the Maasai, trade and bee-keeping were exclusively male duties.

Politically, the Akamba had a decentralized system of government. At the family level, the father was the head of the family and exercised absolute authority over his wife and children, including the married ones. He deliberated matter at the family level. Matters relating to more than one family in the family were deliberated by a special grade of elders (*nzama*). Since the Kamba are a patriarchal society, the council of elders was exclusively a male affair. The council of elders also ensured that the traditions and customs of the community were not violated. The most senior

council of elders was called *atumia ma kivalo* and were in charge of a territorial unit called *utui*.

The Akamba too had an age grade called *nthele*, this age grade was composed of matured men who had been circumcised and considered ready to marry. Their main duty was to defend the society and also bring wealth to the society through, the culturally sanctioned cattle raids against their neighbour. The next chapter discusses the colonial land policies and their impact on women ownership of land 1895-1963.

CHAPTER THREE

3.0 COLONIAL LAND POLICIES AND THEIR IMPACT ON WOMEN OF MASINGA DIVISION 1895-1963

3.1. Introduction

This chapter focuses on the changes in the land tenure system of the Akamba and its impact on women's land ownership in Masinga during the colonial period. These changes were part of the entire social, economic and political developments among the Akamba and in the whole country.. It will be contended that even before colonial rule was firmly established in Ukambani, certain aspects of pre-capitalist land tenure system were undergoing change emanating from internal socio-economic dynamics. The basic components of the land tenure system had to undergo changes to fit and produce within the new capitalist production system.

The colonial government introduced the English law of private property rights in Kenya. This private property rights especially in regard to ownership of land and subsequent registration of land in the name of household head, who in a patriarchal society is usually the male, marginalized women and promoted gender inequality in ownership of land.

Of the influences which dualism brought to bear on the Akamba, none affected them more deeply than the colonial government allocation of land, the basic resource, between the alien and African economies. The administration in Kenya, following the pattern set in the dual societies of South Africa and Rhodesia took possession of 'vacant' land for European occupation and brought segregation to land use and land rights by creating

reserves for Africans. In this way, the British introduced sharply-defined and relatively static divisions into an area where a certain degree of flexibility had prevailed in land administration.

This colonial intrusion brought conflicts between the European- managed and the traditional economies. One such area of conflict concerned African land rights and the demand of incoming European settlers. In drawing up reserve boundaries, administrative officials, although committed to protecting the occupation rights of Africans, lacked any clear idea about the kind of 'occupation' which could grant unalienable land rights (Munro, 1968).

Gender relations in land in Kenya is modified by a major intrusion of colonialism, which is accompanied by capitalist relations of production and reproduction. Such conditions of change should be seen within a historical perspective. This chapter examines the colonial land policies and consequently looks at how women relate to land given the dynamic changes over time.

3.2. Colonial Period, 1895-1954

Colonialism in the word of Kossok (1973) was not a question of simple integration, assimilation, accumulation radical symbiosis but a complex dialectic in the relations of mode of production and social political class struggle. The concern of this sub-section is with the colonial impact on the man-land relationship and how this created a gap between men and women.

The onset of colonial administration in Kenya followed patriarchal leadership style. In relation to leadership styles, the hierarchy of authority was structured in such a manner that, at the top were the male. Women existed as appendages of the male breadwinner and their sole responsibility was to provide the male with moral support (Kabira, 1993). It was within these hierarchical relations in the traditional society that, the colonial system sharply divided the domestic sector for women and the public sphere largely for male.

The colonial education system ensured that enough men joined formal education and informal public sector. Since men had better education and were employed, therefore, the colonial authority prepared them for leadership (Kabira1997). Hence, the British colonial government concept of women emphasized the proprietary and the seclusion of women from the public view.

The public sector included colonial public service, the military, police and commercial activities in the family. The private sphere included the functions associated with women such as being good wives and housekeepers of the male power. This was the Victorian concept of women which advocated for them to be trained for domestic services and confined them to homes.

This Victorian concept was a worldwide concept that originated from medieval Europe where training for domestic service was accepted as the essence of a woman's education. As a result, women thus retreated into dependence upon their fathers and their husband; with this scenario, it became commonly accepted that the woman was subservient to the man. The

Christian doctrine traces women's inferiority to the book of Genesis, and Eve's creation from Adam's rib. From this illustration, the Victorian concept ruled out the possibility of a woman living independently from man (Uchendu, 1993).

The coming of the British into Kenya in 1895 brought about a turning point in the Akamba peoples history. The Akamba and the rest of Kenyan communities came under colonial rule. During this period, nearly all the Kenya's indigenous institutions were demolished at the onslaught of European mode of socio-economic and political systems.

The origins of the tenure reform in Kenya can be traced back to 1895, when Kenya was declared a protectorate. This marked the onset of a series of Ordinances which eventually led to alienation of large tracts of land from the indigenous people (Wanjala, 1989).

The articulation of the colonial state with the pre-capitalist political and economic structures brought about changes that affected both indigenous people as well as the colonialists. The major objective of the colonial state was domination and exploitation of the indigenous people and their resource. Therefore, the moment that the colonial state asserted its dominant position, it operated on two levels. First, it operated as the ultimate institutional apparatus ensuring the reproduction and accumulation of capital. Second, it operated as agency for maintaining the patterns of class domination and subordination (Ndege, 1987).

By British declaring a protectorate status to Kenya in 1895, it committed itself to building the Uganda railway. This was purposefully to eliminate the independent economy of the Arab-Indian Empire. The existence, growth and direction of economic development henceforth depended almost completely on the British. British policy-makers, Hardinge, Eliot, Stewart and Sadler concerned themselves with the matter of who was to own the productive land and therefore, manage agricultural development was perhaps the highest priority task of the colonial administration (Wolf, 1969).

The institution of individualization land tenure system reinforced the idea of males as eligible successors to land. This was passed down from father to son. It deviated remarkably from traditional land tenure system. Previously, land was passed from mother to son within the realm of the concept of 'owner of the house' (Matheka, 1992). The change was significant in that it affected many women and their rights to land use were no longer protected by colonial state. According to Barbara Rodgers (1980), the colonial authorities found it appropriate to equate the power held by certain traditional male elders to allocate land with western concept of ownership, assuming that men owned all the land. In such cases, the women lost the guarantee of traditional systems.

In its attempt to accomplish the above, the colonial state had to devise a system that demanded destruction of some of the pre-capitalist local political and economic structures. For instance, the creation of colonial chiefs,

introduction of taxation system and individualization of land tenure were meant to bring about changes within the society (Ayot, 1990).

According to Sorrenson (1968), it was at Machakos that IBEACO established its first permanent station. It was Stuart Watt, a former missionary who was the first to alienate land in Machakos. Later, the IBEACO officials made only large grants of land. The blocks of land granted to Macknon along Macknon road between Mombasa and Kibwezi and the 100 square miles of land granted to the East African Scottish Industrial Mission at Kibwezi. The mission was started by Macknon, who believed in the dual role of commerce and Christianity.

The history of land alienation in Machakos area goes back to 1891 when Charles Hobbley suggested that parts of Kamba country were suitable for European settlement. In 1893, William Mackinnon, head of IBEACo and a firm believer in the 'civilizing' influence of commerce and Christianity, made settlement a reality by allowing East African Scottish Industrial mission a free grant of 100 square miles of land in Kibwezi (Sorrenson, 1968). In 1898, the mission moved to Kikuyu land but retained its rights to the Kibwezi land. Subsequently, the mission rented the land to European farms until 1940s when the government bought it for the Akamba people (Kenya, 1962b).

Sir Elliot from the onset was pressing for the necessity of land to be alienated to the Europeans in freehold. It is true that most of early European travellers said that they had found large areas of land without people; forest country

which was full of antelopes and lions and other wild animals. However, it should be appreciated that, this land had its owners (Ochieng', 1977).

The settlers, motivated by the fact that, they were supporting the colonial government's economy as the main actors in agriculture, began piling pressure advocating for a system of property law with regard to transfers, mortgages and leases, the content of which was English (Wanjala, 1989). These demands were implemented through The Crown land Ordinance and the Registration of Titles Act. Okoth-Ogendo (1976), observes that in order for the settler to insure security in jurisdictional sense, they demanded that all land that was considered suitable for European settlement be set aside for their exclusive occupation and use either actual or prospective. They demanded that Africans be grouped into definite reserves far from European centres.

All these developments had far-reaching consequences on the indigenous people. Although the impacts of land alienation were felt more by communities like the Maasai, Kalenjin and Kikuyus who were removed from their ancestral lands, the effects of this alienation later began to spill over to adjacent areas and this created a lot of repercussions on African land use. This resulted in discomfort among the Africans and marked the much pronounced nationalist movement advocating for return of African alienated land (Kanogo, 1987).

The colonial office hoped that European settlers would provide the cornerstone of a new multiracial Kenya in which the settlers would exert

influence. The attraction to Kenya in particular and East Africa in general was relatively the rich agricultural possibilities which raised hopes of a healthy trade both in terms of the exploitation of indigenous crops and production of those commodities that were in great demand in Britain. As early as 1893, Lord Lugard reported enthusiastically of commercial possibilities in Kenya and the entire East African region. He noted that much of East Africa was extremely fertile, had adequate rainfall which could produce much-sought-after rubber, cotton, coconut, sisal, coffee, tea, wheat and tobacco. For him, the highlands offered unlimited room for the location of agriculture, settlement and stock rearing firms (Ogendo, 1991). The law was used by the British so as to acquire African land. It all started with the extension of the Indian land acquisition act to the protectorate in 1896.

The Indian Acquisition Act 1894 provided for the compulsory acquisition of land of British subjects for public works and was put into practice by the protectorate in 1896. According to Kanyinga (1998), the administrative and quasi-legislative device set the stage for the imposition of laws and institutions that were to have fundamental consequences for the European access to and control of land. This had the effect of imposing legal institutions that, in turn greatly influenced the land-related political and economic choices made at the time. This marked the beginning of African land alienation by the British officials. The Uganda Railway Act, 1896 in addition to providing land for railway construction, also provided for the sale of land in the railway zone (Sorenson, 1968).

In 1896, the Colonial office recommended to the protectorate authority a land ordinance as an alternative to Land Regulations of 1894, which Hardinge had described as unattractive to those Europeans who aspired to settle in Kenya. This Ordinance provided for certificate of occupation of land by alien settlers for twenty-one years. On January 10, 1897, therefore, the British government officially announced that the commissioner of Kenya was authorized to grant any person a certificate of occupation, authorizing him to and occupy the land described in that certificate for 21 years (Mwangi wa Githumo, 1981). This certificate was renewable after 21 years provided that the conditions agreed upon at the time of issuance were adhered to.

To provide land for settler, the Colonial administration passed the Land Regulation Act in May 1897; this enabled the colonial government to offer a renewable certificate of occupancy for a period of twenty-one years, for those willing to take up land. This did not satisfy Hardinge, who wanted a 'freehold' of land for Europeans in Kenya. He resorted to champion for better, longer, more attractive and more secure leases than the mere certificate of occupation without owning the land.

He appealed and although he did not secure the ninety-nine year lease he had petitioned for, he nevertheless succeeded in obtaining authority to extend the term of the certificate from 21 years to 99 years. Hardinge issued a proclamation reserving for railway purposes all land within a mile on either side of the line beyond the coastal strip, subjects to any rights that proved to

his satisfaction. Hardinge's proclamation May 1897 was just in time to forestall European claims to land in Machakos. By that time, there were already twelve European applications for land in the zone in the Ukamba Province (Sorrenson, 1968).

In 1897, Charles Kitchen, applied for 10 000 Acres of land at OL Donyo Sabuk. He intended to conduct coffee growing experiments for the firm and advocated for freehold title. The Land Regulations of 1897, attempted vaguely and with little success to recognize and to safeguard only those areas which were in active cultivation or regular use for pasturage by Africans. This meant that all the areas that had been set aside by Africans for religious purposes as well as all land which had been actively used by Africans but left to lie fallow in order to restore its fertility could be granted to Europeans for ninety-nine years. In addition to this, all the lands that the pastoral peoples had left behind during the rotational grazing were liable to expropriation for the purpose of granting them to Europeans (Mwangi Wa Githumo, 1981).

By 1898, Hardinge expressed dissatisfaction of the certificate that allowed the European settlers to occupy land without the right to own freehold. According to him, this repelled rather than attracted *bona fide* capitalist settlers to Kenya. He began another campaign to extend the lease period to 99 years. As a consequence, in 1899, the British government officially and unequivocally announced that the declaration of Kenya as a protectorate in 1895 enabled the British government to claim sovereign rights over all the land in Kenya (Ross, 1968).

During the early days of colonization, the British government did not seem to show serious concern for the legal aspects of the expropriation of African land in Kenya. However, with the appointment of Charles Elliot, the British government decided to enact new land laws and to operate more legally recognized land ordinances. Prior to Elliot's arrival in March 1900, a group of crown lawyers had been appointed by Hardinge and charged with the responsibility of drafting an 'order' which would be used to expropriate land from African-occupied areas, determine the fate and status of those 'waste lands' and finally to declare that all the so-called unoccupied land in Kenya belonged to the British Crown (Kanyinga, 2000). This report of the foreign office lawyers gave rise to the East African Order in –Council of 1901.

The East Africa Land Order council in 1901 put Crown lands in the Protectorate in the Commissioner and Council General to be in trust of the queen of England. This Ordinance defined Crown Land as all public lands within the East African Protectorate which for the time being were subject to the control of His majesty, this was an important definition to the European since it was the only attempt to define Crown land prior to the 1915 Crown Lands Ordinance. It was ambiguous as it merely described 'Crown Land' as 'public lands' without attempting to explain what was meant by the term public land. This was left to the Commissioner, named in the order as the trustee for His Majesty. Virtually, all the territory outside the Sultan's ten mile strip became the property of the queen of England by this Act (KNA

34/1901). This Ordinance gave the Commissioner the power to sell, make grants or leases of Crown land in any term he thought reasonable but subject to instruction of the Secretary of State (Sorrenson, 1968; Kanyinga, 1998). The East African Order in-Council of 1901 was followed by the crown lands of 1902.

The Crown Land Ordinance of 1902 provided for more stringent and detailed land policies which opened a new chapter in the history of land expropriation in Kenya. The 1902 Ordinance opened the way for European Settlement in Kenya, making large areas of land to be alienated for settlers under the principle of ownership of interest (Sorrenson, 1968; Kanyinga, 2000). Under this act, the Europeans were given land alienated from Africans for a period of ninety-nine years. According to Hardinge, Africans only 'owned' land so long as they occupied or cultivated it. Once they moved off the land, it became 'waste'. Accordingly, the Protectorate had to assert a title to that land and all other unoccupied land, and sell or lease that land to immigrants.

Crown land was used to mean all public lands in East Africa protectorate, which for the time being is subject to the control of His majesty by virtue of any treaty, convention or agreement which might be acquired by his majesty under the land acquisition act of 1894 and all land occupied by natives of the protectorate. The colonial government was left to decide on public land whether it was waste land or unoccupied land. Hence, the principal usage was to recognize all unoccupied land as crown land and everything attached to it was left to the administration to deal with at its

advantage (Ogendo, 1991). This meant taking away the native rights in land reserved for their occupation, vest all land on the crown and left the natives as tenants at will of the crown.

It must be stressed here that according to African concept of land ownership, all land owned and occupied by each group, family, or community included cultivated areas, those left to fallow for the purpose of restoring their fertility, and areas set aside for grazing and religious purposes. The land was always in active occupation, whether the original owner lived there or not. In other words, there was no difference between active ownership and active occupation as the Crown Lands Ordinance attempted to stipulate (Mwangi Wa Githumo, 1981).

It is worthy to note here that in the pre-colonial Kenya in generally and Masinga division in particular, there was no distinction between the ownership of the country and the ownership of land. It was the Crown Lands of 1902 which made the distinction, thus transferring the ownership of entire country from the rightful, natural owners to the aliens.

In Machakos, Ulu and Kikumbuliu reserves were set aside as closed Districts in May 1906. After 1906, much of the land along the railway line was taken up by Europeans engaged on the collection and processing of *Sansevieria* fibre. By January, according to the Secretary for Native affairs, the best land had been alienated to Europeans. The Native secretary suggested more land alienation in Kikumbuliu reserve by three-fifths (KNA/C.O 533/58; Memo by Holis, January, 1909).

The year 1908, saw the Crown Land Ordinance which conferred power upon the commissioner to make grants of 99- year leases to the settlers. The Land titles Ordinance of 1908, on the other hand allowed the subjects of the Sultan to register private property in order to help the protectorate determine what public and private land was. By January 1908, a group of settlers who had established cattle ranches at the foot of Mua Hills started to covet the fertile hills and to ask the government to move the Akamba to another part of the reserve. This created a hot debate in the ranks of the colonial administration. Generally, the provincial administration opposed the proposal while senior government officials supported it. For example Jackson,F, the then Acting Provincial commissioner, recommended that the Akamba be induced to move because the land was not only suitable for White settlement but Akamba were very rich, extremely lazy and indolent. The secretary for Native affairs declared that the Akamba reserve was too big and the 50 square miles in question would be opened to White settlement (KNA/DC/MKS/10A/8/1).

Land alienation was undertaken through direct seizure, conquest pressure on chiefs and every other means open to the colonialists (Ochieng' 1975 & Tanui 2005). In Machakos case, the territory adjacent to the railway and the fertile region of Mua hills was by pressuring the Akamba to move away. For instance, one Akamba was fined Rs 70 and an ox by a settler after the former's cattle wandered into the latter's land (Matheka, 1992). Under such pressure, some of the Akamba moved out of the hills voluntarily. Those who remained were forcefully removed by the administration and taken to

Matungulu Hills, though already occupied by other Akamba, were purported to be an exchange for Mua Hills (Sorenson, 1968).

This pressure caused some Akamba to migrate to the areas of Ol Donyo Sabuk area while other migrated to Yatta and later moved on to Masinga (Muthio, A. O.I:26-06-2014).

Between 1902 and 1915, the settlers chiefly engaged in trying to make their farms and their land speculations yield profits. Both objectives drove them to seek longer leases than the 99 years stipulated in the 1902 Ordinance and to reduce the requirements stipulated that settlers make physical improvements of specified minimum values on alienated properties (Wolf, 1969).

The Crown Land in 1915 empowered the Governor to reserve any Crown land which in his own opinion is required for the use of the colony (East Africa Royal Commission report, 1953). Kanyinga (2000) argues that this Ordinance declared all waste and unoccupied land in the Protectorate Crown Land and thus subject to governor's power of alienation. Land adjacent to the railway line and that was already occupied by Africans was earmarked for expropriation.

The Ordinance took away all the Africans rights to land and vested such right to the Crown. This ordinance increased the lease period from the initial ninety-nine years to nine hundred and ninety –nine years (Zwanenberg, 1975). By 1915, 8242 square miles of land had been alienated on behalf of about one thousand white settlers, but it was very unevenly divided; 20 per

cent was held by five individuals, namely; Delamere, the two Coles, Grogan and the East African Syndicate. In other words, thirteen individuals had control of 894 434 acres of land out of a total of 4 500 000 acres granted to settlers.

This Crownland Ordinance(1915) took away all previous indigenous rights to land. The subsequent allocation of land was purely a matter for colonial administration of Native reserve (DC/MKS/10A/22/1). The document further points out that, land in the protectorate in occupation of communities and natives was not prior to 1915, Crown land and was not alienable. A correspondence between Chief Native Commissioner's office and Machakos District Commissioner stated clearly that, Crown Lands Ordinance 1915 meant that the land set aside by the Crown for the beneficial use and that the final title was vested in the Crown and that no native had any title to the ownership of land (DC/MKS/10A/22/1). A further letter by District Commissioner Machakos states that individual land tenure did not exist in Machakos prior to colonialism. It goes on to state that the Kamba people of Machakos recognized the rights of occupations but not the right of ownership. The trees and crops on the land were the property of the occupier or occupying family but they had no property in the land itself which was held to be the property of God.

This ordinance, allowed a land registration scheme to be started for settlers. The African became tenants at will of the colonial government and could, therefore, be turned off their land at the governments' pleasure. During the

period of 1895-1923, the Colonial government in Kenya had alienated and awarded to itself and to the European settlers thousands of acres of Native land without taking into account the native interests (Ochieng', 1977).

This ordinance gave the governor the power to veto the transfer of land from the holder of one race to would be holder of another race. All lands actually occupied by Africans were 'native reserves', but even in the reserves, the Africans were only tenants. When two Africans, Wanaina and Muuto argued in court in 1922 about their rights to land, the judge reminded them that they had no such rights (KNA 37/1923).

In Justice Barth's view, the effect of Crown Lands Ordinance of 1915 and Kenya Annexation Order in Council 1920 by which no native rights are reserved, and the Kenya Colony order in council is 1921 is clearly *inter alia* to vest land reserved for use of the native tribe in the Crown. If that so be, then all native rights in such reserves, and the natives in occupation of such Crown lands become tenants at will of the Crown on the land actually occupied (Ross, 1927).

This Ordinance was historically significant on the part of Europeans because not only did it nullify the remaining African legal rights to land, but also brought almost every inch of land in Kenya under the legal authority of the Crown by defining Crown lands which hitherto did not include land occupied by Africans. Accordingly, not only did the protectorate have complete control of all lands occupied by Africans, but it was also made clear that Africans had no right to claim any of their land, whether they occupied it

or whether it was reserved for their use, as land reserved for Africans could at any time be cancelled, sold, leased to Europeans, or otherwise disposed of under the provisions of this ordinance (Kilson, 1955).

This Ordinance thus marked the complete disinheritance of the indigenous Kenyans from their land by colonial authorities. As long as the colonial government based her activities on the ordinances, they believed their actions were legal. The future policies concerning land by the colonial government owe their origin to this period (Wanjala, 1989). After this Ordinance, there was a well-calculated imposition of English property law and agrarian changes in the colony (Sorenson, 1968).

The restriction of the Indigenous people 'Reserves' was not made law until 1926. Until then, Africans land rights under Kenya's colonial law were defined by occupation, cultivation and grazing, so that only when land was left unused did it became Crown land. The demarcation of 'Native Reserve' was strongly recommended in 1909 but little was done except in the Maasai areas. The land was reserved for the use of the native tribes in the Crown.

The establishment of Native reserves had an additional profound consequence. The reserve eroded the virtues of customary structures of access to land, for in the reserves individual families rather than clan or kinship evolved as an important medium of acquiring land (Kanyinga, 2000; Okoth-Ogendo, 1976 & Migot- Adholla, 1994). Relatedly, boundaries designed for the reserves made it impossible for people to acquire land rights elsewhere because they restricted migrations to frontier land and

thereby adding pressure to the land-carrying capacity which the African customary tenure practice addressed whenever there was a population increase or shortage of land.

By 1939, all land in Kenya could be categorized as follows: Native Reserves, where particular tribes has exclusive rights; The Highlands, protected and controlled by the Highlands Boards for the exclusive use of the Europeans and the Northern Frontier and Turkana districts (Zwanenberg, 1975).

The 1939 statute was intended to be final. Within each area, land was supposed to be divided according to the tenurial customs of the group to which it had been allocated. Europeans could practise their system of freehold and leaseholds, while Africans could continue in their traditional ways. The marking of distinct regions for Europeans and Africans undermined the foundations of the old system in Kenya.

3.3 Kaffir farming and taxation.

The impact of the colonizers on existing agricultural systems varied widely between and within territories. Essentially, the colonizing powers introduced two basic innovations to Kenya and Uganda, that is, cash crops and new concept of land tenure. The advent of colonialism in East Africa and the establishment of the White highlands in Kenya and the Buganda Agreement had different consequences on land use and tenurial practices in each territory (Zwanenberg, 1975).

In Kenya, 41 630 square miles or basically 18 per cent of the total land area was alienated on behalf of between 4 000 and 14 000 European

settlers at any one time during the colonial era. While 82 per cent of good land supported up to five million people by 1948. The effect of land shortage on Kenya's agricultural history cannot be over-emphasized. It created squatter people who were pushed out of the traditional areas and moved out to eke out a living by farming scraps of land to which they had no legal right. This is scenario led to rise of squatter system and later kaffir farming (Zwanenberg, 1975).

Kaffir farming, which like the squatter system derived its name from South Africa, referred to a practice whereby a large European land owner would allow an Africans to use his land for grazing and cultivation in return for payment in cash or kind, the latter in the form of milk, manure livestock or crops (Kanogo,1993). Kaffir farming existed alongside the squatter phenomenon and evaded the scrutiny of administration. By 1910, there were about 20,000 Kikuyu Kaffir farmers representing about five thousand families.

In Kenya, Kaffir farming was blamed on the small impoverished European settlers who, through financial impecuniosity, were prevented from engaging in productive agriculture on their farms (Sorrenson, 1968). Some form of kaffir was practised by majority of European farmers throughout the colonial period, for instance, The Ukamba quarterly report on December 1910 noted 67 villages of African tenants on one farm in the province. For the right to use land, these tenants paid between eight to thirty rupees, or handed over part of their crops or profits from its sale. These

squatters did not normally work for the European land owners (KNA, PC RVP 6A/25/3).

Even after the institution of the 1918, Resident Native Labours Ordinance(hereafter RNLO), which was set up to convert squatter residence in the settled areas from a tenancy into a labour contract, some European continued to demand a certain amount of squatter maize crop, milk or manure as part of their labour contracts (Kanogo, 1993). Kaffir farming though a mutual agreement, was a form of primitive accumulation in which the cost of reproducing and maintaining human labour was transferred to the squatter family. Thus, the squatter family produced its own subsistence besides paying rent to the settler farmer(Matheka,1992).

Kaffir farming involved a landlord- tenant relationship between European settler and the African squatter, and some settlers were almost entirely depended on the African producers who resided on their farms. Land without labour to work on was not of little use to the settlers nor could general development proceed without effective authority over the African population. There was, therefore, need for a system of native administration not only to help with the collection of taxes but also procure cheap labour (Ochieng', 1985). This was the reasoning behind the village Headman Ordinance of 1902.

The Africans joined the labourforce due to taxation. The imposition of taxation is often cited as a major force in producing labour, yet by itself it could not determine the increase in labour because in most parts of Kenya this could easily be met by sale of produce or livestock. In Machakos, during the first decade of colonial rule, taxation was met almost exclusively by sale of livestock. In 1909, Ainsworth wrote that the economic pressure which increased with efficient tax collection was resulting in stimulation of trade, expansion of land under cultivation and the introduction of production for export (Jalang'o-Ndeda, 1991). As early as 1900, rudimentary system of tax collection was begun.

In 1901, the hut tax amounted to one rupee but was raised to three rupees in 1903 and to five rupees in 1905. In 1910, the poll tax for the unmarried was introduced. It is worthy to note that, women were not paying taxes because the colonial policies on taxation and land were based on the Victorian concept of women.

This concept in turn reinforced African practice of patriarchy. In patriarchy, male power is embedded and rooted in the maintenance of patriarchal social relations and institutions which are underpinned by ideology which defines the adult male as the ultimate decision maker, controller of material resources and controller of women and children's productive and reproductive labour (Musalia, 2010). The cultural aspect of patriarchy takes the form of devaluation of women's work while the ideological aspect portrays women as natural, biological creatures inherently different but inferior in relation to men (Peterson, 1994).

The colonial government responded to 'improve' the African reserves at least to avoid a major political upheaval (Mwaniki, 1982). Administratively, the colonial government realized that individualization of tenure can be used to defeat Kenyan nationalism in that a landed class of conservative people was to be created through replacement of customary land tenure with a tenure that permitted few people to own land. Such a class would in turn act as a buffer between the settler and the landless (Kibwana, 1970).

In terms of Agriculture, the colonial government was advised that the challenge to Africans reserve was embedded in their land relations termed 'communal'. The only remedy was to reform the African tenure system. Arguments put forwards were that, the structure of access rights encouraged sub-divisions of holding leading to small units of sub-economic sizes (Swynnerton, 1954). These arguments were to lead to a land tenure reform programme relentlessly pursued by the colonial government throughout the colonial period. The solution to them lay in the individualization of land tenure which had far-reaching impacts African in the domain of Land ownership and women of Masinga in particular.

3.4 Land Tenure Reform, 1954-1963

Contradictions in the colonial settler economy and mode of state formation engendered pressures for the land tenure reform. The state's neglect of African agriculture in favour of the settler one gradually resulted in political unrest and an economic crisis both for which could only be addressed by paying attention to the demands of the Africans for more

suitable land and for their integration into the expanding economy (Kanyinga, 2000).

The settler economy was based on the principle of the development of European agriculture and an official neglect of the African one but a re-thinking of how the latter could be promoted, in the wake of the effects of the Second World War and the need to increase production in the colonies saw a considerable amount of attention being given to the idea of land tenure reform (Brett, 1973).

The Swynnerton plan of 1954 provided a definitive statement on land tenure policy. This was aimed at intensifying African agriculture on the basis of land tenure. According to this plan, sound agricultural development is dependent upon a system of land tenure. The plan proceeded to point out that the reform required for such development was one that would provide the African farmer with a security of tenure through indefeasible title to encourage him to invest his labour and profits into the development of his farm (Swynnerton, 1954). The plan concluded that reserves experience significant economic growth only if the customary tenure constraints were removed and replaced with an alternative system based on private land ownership in the form of individualized holdings (Kanyinga,2000).

Kanyinga(2000) argues that the Swynnerton Plan was aimed at the privatization of land ownership through the displacement of indigenous land tenure systems in the native reserves and their replacement with a system that entrenched private property rights along the English land law. He further

argued that customary law was increasingly interpreted in ways that suited the colonial state's mode of domination and expropriation which was materialized through 'regime of compulsions'.

According to colonial government, customary tenure created a barrier to socio-economic development. Through a report of East African Royal Commission, it was declared that policy on tenure and disposition of land should aim at individualization of land ownership and a degree of mobility in the transfer of land without ignoring existing property rights, was to enable access to land for its economic use (East Africa Royal Commission Report, 1954). The report further upheld the view that individual rights to land should be systematic adjudication and registration.

The colonial government intended to initiate the agrarian revolution through change of land tenure system in the colony. To achieve this, a series of meetings were held. Among this was the Arusha Conference of 1956 that discussed the issue of African tenure. The conference argued against the traditional African tenure system saying that in communally owned land, permanent crops and better farming practices were impracticable. Individual tenure was recognized as the most applicable form of tenure. The conference advanced that individualized tenure system provided adequate incentive to the individual in putting efforts and capital to increase productivity and to take measures on soil conservation (KNA/LND/32/1/1226).

Land consolidation began on a large scale in 1955. Prior to that, although the Carter Land Commission (1933) had advocated reforms towards

individual land ownership, no African had any security of land tenure. His rights to the land were under constant challenge in the then African courts. There was no negotiable title to the agricultural holding and no acceptable collateral to offer against necessary development loans. The Native Trust Ordinance under which 12,500,000 hectares of African land were administered made no provision for individual titles to land (Morgan, 1972).

The conference advocated for individual land tenure and issuance of title deeds to affirm individual land ownership. Issuance of title deeds was seen as providing security to the individual farmers against external aggression (KNA/LND/32/1/IV).

Further to this, the Arusha Conference of 1956 recommended that governments should be advised to encourage the emergence of individual tenure in areas where conditions are mature for it (Report of the Conference on African Land Tenure 1956). As a consequence of this conference, the colonial government announced in June 1956 that, it was the policy of the government to encourage individualized tenure among Africans and to institute a system of registration of negotiable titles (KNA/32/1/IV/1226b). The Native Land Registration Ordinance of 1959 effected the recommendation of the 1956 Arusha Conference by setting into motion the land registration process.

In 1957, the policy of individualization through a process of land rights and subsequent registration of absolute titles was vigorously pursued. According to the Mission on Land consolidation and Registration in Kenya,

individualization of tenure marked terminal practice of communal ownership of land.

Colonial conquest fundamentally changed pre-colonial economies. Under colonial rule, Africans were forced to produce the agricultural raw materials European wanted such as peanuts, cocoa, cotton and coffee. These processes of conflict and accommodation involved in colonial restructuring of traditional economies had a significant impact on women's economic activities and social options (Hay, 1995).

Scholars (Hay,1975,Boserup,1970 & Sacks,1979) points that the combination of capitalist exploitation and European ideas about appropriate economic domestic roles for women destroyed the economic independence exercised by African women in the pre-colonial era.

Conclusion

There is no doubt that colonial capitalism dramatically transformed the gender relations to land. The solutions imposed by the colonial system aimed at intensifying agriculture and introducing cash crops with emphasis upon male controlled agriculture was a primary determinant of Akamba women's loss of status and power in land and agriculture.

It is necessary to understand that given the labour division, Akamba women were the backbone of rural farming. They were responsible for growing subsistence crops for feeding the whole family. The men helped with clearing land for cultivation. Therefore, women's role in agriculture and food

production was recognized by customary right of access to land. But with the advent of colonialism, former patterns of land use and occupancy were drastically altered. Access to agricultural land was restricted and the consolidated lands were owned by men.

In the process, the women's procreative labour in Machakos began to be devalued by capitalist production relations. Less emphasis was placed upon food production and their labour in this sector was uncompensated, while men's labour in agriculture assumed exchange value. The customary rights of women continued to be eroded by the new reforms that promised to generate progress (Nzioki, 2003).

The end result of colonial capitalism was the re-structuring of gender roles. The introduction of cash crops for export brought about greater gender segregation in labour tasks with men increasingly becoming agricultural managers (Davison, 1987). The next chapter shows that men rather women benefited from reforms and re-structuring of customary practices of tenure.

CHAPTER FOUR

4.0 THE POST COLONIAL PERIOD AND WOMEN'S LAND OWNERSHIP IN MASINGA DIVISION, 1963-2010.

4.1 Introduction

This chapter looks at how the independent government in Kenya addressed the issue of land in general and how the policies initiated in these period enhanced or hindered the acquisition of land by women in general and the women of Masinga in particular. Since independence in 1963, Kenya has had four regimes. This chapter will be divided into three sub-section, each for each regime up to 2013.

At the time of the transition to independence, the land question directly influenced the debate on the constitutional and economic arrangements that the country was to assume. On the one hand, the constitutional debate revolved around whether Kenya should adopt a unitary or federal form of government, while on the other hand, the economic one centred on whether market or political processes should determine the allocation of basic resources. Also, central to these issues was the question of the status of colonial settlers and what was to become of landed property in the country (Harbeson, 1973; Bates, 1989 & Kanyinga, 2000).

Group interests on land and their approach to the land question caused socio-political divisions that spilled over to the political party formation processes. The main political parties then were the Kenya African National Union (KANU), for the Kikuyu-Luo alliance; Kenya African Democratic Union (KADU) for the Kalenjin, Maasai, Turkana, Samburu (KAMATUSA) and

the Luhya groups; New Party of Kenya for the settlers; and several other smaller parties representing smaller groups and interests (Kanyinga, 2000).

Divisions around the land issue, therefore, became the foundation for different projects for national independence. On the one hand, KANU preferred a unitary form of government and stay on further land reforms until political independence. On the other hand, KADU motivated by fear of domination by the Kikuyu and the Luo, preferred a federal system of government with regional assemblies whose most significant duty would be the administration of land matters (Bates, 1989).

Internally, both African parties were also deeply divided over the land reforms. In KANU, a radical function, led by Oginga Odinga and Bildad Kaggia, rooted in nationalist position on the issue of land championed for wholesale seizure of the expropriated land in the White Highlands to settle the landless and squatters. Opposed to the radical wing were groups of liberal capitalists, led by Thomas Mboya and Jomo Kenyatta, who sought to encourage the emergence of a free market in land in order to promote more rapid economic growth and provide a basis and greater security for accumulation by the landed elite (Kanyinga, 2000). The liberal group feared that any radical departure from what the land reforms had achieved would jeopardise economic growth by antagonising relations with foreign investors.

KADU, led by Daniel T. arap Moi and Ronald Ngala made it clear that they wanted a constitutional provision that guaranteed their ethnic groups fair compensation for land that had been effectively expropriated by the colonial

government. They also emphasized that respect for property rights in land should apply to individuals as well as ethnic communities (Harbeson, 1973).

The political conflict at the time of transition to independence and the defeat of the radicals led to an evolution of a constitutional arrangement that favoured the sanctity and inviolability of private property rights, which provided for protection from deprivation of property without compensation. Second, it resulted in the adoption without alteration of the legal framework on which the colonial reform on land tenure was based (Kanyinga,2000). This formed the basis for land administration in post-colonial period.

4.2. Kenyatta Regime, 1963-1978

Kenya gained internal self-government in 1963 with Jomo Kenyatta as the Prime minister and became a Republic in 1964, with Kenyatta as the president and Oginga Odinga as the vice president.

The Kenyatta administration was keen not to disturb the legal framework on development laid down by the colonial state. They were convinced that private property rights in land would lead to intensified agricultural productivity on which the economy depended on. The result of this, Kenyatta regime adopted, without alterations of the legal framework on which the colonial reform of land tenure depended (Kanyinga, 2000).

In 1963, The Land Tenure Reform continued in independent Kenya as a matter of policy. The Development Plan (1970-1974) pointed out that, the land tenure system in Kenya should be changed so that farmers could be issued with title deeds to their lands and that, fragments of land be

consolidated into one holding (Development Plan, 1970-1974). The process of tenure reform involves three distinct stages.

4.2.1 Adjudication

This is the means by which a final ascertainment is made of existing rights in land, by recognizing and confirming rights which are actually being without creating or altering the rights. This process is contained in the Land Adjudication Act cap 284. Fragments of land are measured and the area of each fragment is recorded under the name of its owner, his ownership is determined by a committee (Laws of Kenya cap 284).

In Machakos County, land consolidation began in 1970, following the enactment of The Land Adjudication Act 1968. The process of Land adjudication marginalized women. This is because all members of the land adjudication committee in Machakos were composed of men. The appointment was done by the then Provincial Commissioner in Upper Eastern to Machakos District Commissioner vide letter LA/LND/16/6/35 of 1969. (KNA/DC/MKS//106).

According to Kamba tradition, matters touching on land were purely the preserve of the male. Since the Kamba community is a patriarchal society, men were the ones who were selected to deliberate on issues related to land ownership during this period in Masinga. This meant that women, as social category were denied the opportunity to own land (Muoka Mbithe, O.I :10-07-2014).

The process of land adjudication carried out during the Kenyatta administration marginalized the women of Masinga. This is because, the government did not explain to the women of Masinga what the process entailed and its legal implications as far as the ownership of land was concerned. The women of Masinga thought that, the process was confirming their usufruct rights to family land and that, the head of family was being confirmed as the trustee of the family land. Since the notion of private ownership of land did not exist among the traditional Kamba meant that the women ignorantly allowed their husbands to register their names. This marked the beginning of women exclusion from legal ownership of land (Mbithe Kyalo,O.I: 16-06-2014).

4.2.2 Consolidation

In the context of land reform, it is a measure designed to remedy the division of rural property into undersized units unfit for rational exploitation and excessive dispersion of parcels forming parts of one farm. The process is contained in The Land Consolidation Act (1968) chapter 283 of laws of Kenya. The Land consolidation Act which was formed based on recommendations of Swynnerton's plan was complemented, in some areas by, the Land Adjudication Act (1968). The reason was that the consolidation exercise accompanied by disputes over land had become unpopular overtime. There was also general complaint that the customary tenure system of some communities prevented consolidation from taking place (Kanyinga, 2000).

According to International Women's Human Rights Clinic (hereafter IWHRC), land adjudication and consolidation were enacted to determine existing customary rights to land and convert them to single, registered freehold parcels of land. Because customary law prescribes that men control land and property but women do not, the bodies that determined these land rights did not recognize women's claim. The organization further argues that these Acts were bound to exclude most women from acquiring titles to land since they had only rights of use while men retained those of allocation under customary law (IWHRC, 2009).

4.2.3 Registration of Titles

After land adjudication and consolidation, the Registrar prepared registers under the laws of Kenya, the registered land Act 1963 chapter 300. The impact of this is to convert the land owners of the Land Adjudication Act into the proprietors of the Registered Land Act. This Act was further amended in 1987 to replace the land certificate with a title deed. The title deed evidenced absolute ownership of land registered under the 1987 Act. The Registered Land Act of Kenya replaced what was essentially continuous communal law with individual ownership. This Act conferred an absolute and indefeasible title on the registered owner. This eroded the principle of multiple rights in land and enforced exclusivity as espoused in the land reform programme (Barrow, 1996; Kanyinga, 2000).

Titles have rarely come in the hands of women, thus alienating them from control over land. Land titles are invariably in the name of a man, and a

woman's access to land is only through her relation to men. With land titling, the customary rights of men gained legal force and market value. When land is registered, the registered person is conferred with absolute rights and can therefore, evict any occupier at his discretion. Hence, women's security of tenure in the land that they occupy or have access to was threatened by the registration process. This was the situation that the Masinga women found themselves in after the registration process failed to recognize the women's right of use of family land. The Registered Land Act(1963) did not recognize women's right of access as registrable interests on land (Loko Nduva,O.I:3-08-2014).

According to this statute in existence before 2010 when Kenya passed the new constitution, absolute sole ownership rights vested men. The Registered Land Act insulated the rights of men gained through adjudication and consolidation process by vesting them with absolute ownership of land and failed to acknowledge even the derivative rights of women to land. The Registered Act in section 27 provided that the registration of a person as the proprietor of land was to vest in that person the absolute ownership of that land together with all rights and privileges belonging to that holder. According to Kenya Land Alliance, men were the first to register land and so men gained absolute ownership of land to the exclusion of women (KLA, 1999).

Under this Act, the customary rights of women to access land use were neither registrable nor protected as overriding interests. This negatively

impacted on women, the result of which women held a mere five per cent of title deeds despite the fact that they provided the vast majority of agricultural labour and are the household heads of about 32% of Kenyan households (KNCHR, 2005).

In practice, although under The Registered Land Act up to five people could be registered, registration was normally done in the name of just one male family member. Customary rights of occupation and use were rarely noted in register; thus the customary rights of men were given a legal force and market value. The customary rights of women were extinguished, and land ownership rights that they were given were by reference to their relationship to a man (World Bank, 2006).

Under the customary law, women depended on their spouses for access to land, and social sanctions operated to prevent men from interfering with those rights. However, customary law and sanctions were eroded, and those rights jeopardised. Where land adjudication and registration occurred, the rights of women became questionable. The growth of land market made the rights of women more insecure. The RLA(1963) replaced what was essentially continuous communal land with individual ownership. The process of adjudication and registration insulated the rights of men to land and failed to acknowledge the derivative rights of women to land(Kalekye, O.I: 09-06-2014).

Insecure land rights limited women from making the necessary investments in land to increase its productivity and economic value. This scenario is also

true of the Akamba women. Accordingly, if claims to land were uncertain, households living at the margin were unlikely to see the value of investing scarce resources in soil quality or irrigations schemes. Secure land title is positively correlated with Agricultural investments and output (World Bank, 2006).

In most cases, families designated the household head, usually the male or the eldest son to be registered as the absolute owner without realising the latitude that such a person would have to deal with the land once so registered. According to that registration statute, a right of occupation at customary law would only be protected if noted on the register which many women of Masinga ignored (Muthei, O.I:9-06-2014 & Mutile, O.I:15-07-2014).

An interview with Kangonde Location chief, who has been the area chief for 18 years, revealed that the process of consolidation as was understood by native women of Masinga was the vesting of trusteeship in the family and not the expropriation of family rights by an individual as the registration turned out to be. The registration process, therefore, had the impact of weakening the position of women in that registration was monopolised by men and large population of Masinga women do not have title to land. Registration conferred certain powers which strengthened one's economic power. Since majority of Masinga women did not have title courtesy of this Registration Act, it followed that, the tenure reform negatively impacted on them (Mang'ee Sebastian, O.I:15-06-2014).

It must be mentioned that the whole process from Adjudication, Consolidation and Registration was manned by men and male groups. The women participation in this process was almost non-existent. The adjudicators, the consolidators and land committees and board members were almost always men. It was argued that by custom, women did not take part in land disputes (Okeyo, 1980).

Clearly, women in Masinga did not participate in the process of land adjudication and registration of land from the beginning. Thus, there was no woman in the Land Board committee during the Kenyatta regime. In pre-colonial Kamba, elders were in charge of allocation of land for cultivation and grazing. The cultivated land was allocated to each married woman. However, the Swynnerton Plan, from where the concept of land adjudication and registration was borrowed, allocated land titles to men and not women. It did not take into consideration the significance of women's former usufruct rights in land. Women from Masinga did not benefit from the process of land registration and titling. Berry notes that peoples' ability to exercise claims to land is closely linked to membership in social network andnd. Women from Masinga did not benefit from the process of land registration and titling. Berry notes that peoples' ability to exercise claims to land is closely linked to membership in social network and participation in both formal and participation in both formal and informal processes(Berry, 1989). Land transfer to an almost exclusive male, individual tenure system was an imposition by the colonial policy, but it was institutionalized within a short

period. However, patriarchal arrangements in Nandi closed out women from participating in all these processes.

The Kenyatta regime did not attempt to secure women rights to land. In a focuss group discussion, the researcher was informed that women were not given Identity Cards and this gave men advantage over them because possession of an identity card was a pre-requisite to land registration. When we asked the opinion of participant to what extent did Kenyatta regime enhance women acquisition of land, the response was:

The administration failed to explain to Masinga women the legal implications of land being registered in the name of househead and equally failed to give them identity cards which was a requirement during land registration. My opinion is that the regime lead to marginalization in the area of ownership of land(FGD, June, 2014)

Kenyatta administration marginalized women in areas of ownership of land. This was done through carrying out the process of registration of land within the parameters established by the former colonial masters and ignoring the African practices on land ownership. The British had erroneously equated trusteeship within the traditional Kamba context to ownership within the Victorian concept of property rights. It is this practise that ignored the usufruct rights of women to land as overriding interests that marginalized women in area of land ownership during the Jomo Kenyatta administration.

4.3 Moi Regime ,1978-2002

President Daniel T. arap Moi became the second president of Kenya after the death of the founding father of the nation, Mzee Jomo Kenyatta in August,

1978. The constitution in force then required that with the death of the president, the vice president would assume office.

Upon ascendancy to presidency in 1978, President Moi was as interested in the land question as he was while in KADU in the 1960s. As early as 1980, and in the process of constructing his own independent base of political support, he began to order the rapid individualization of farms owned by land-buying groups and the registration of titles for the individualized shareholders (Kanyinga, 2000).

It was during Moi's regime that, the African Charter on Human and Peoples' Rights (ACHPR) was adopted in June, 1981 by the Organization of African Union (OAU), now African Union to provide a human rights framework for Africa that takes into account the peculiar circumstances of the continent. The ACHPR gave recognition to rights of women by stating that every individual was entitled to enjoy the rights and freedoms recognized and guaranteed in the charter without distinction of any kind such as race, ethnic, colour, gender, religion, political or any other opinion. The charter by extension prohibits discrimination against women even on the issue of women's property and land rights (FIDA, 2013). By the provisions of the Act, member states were required to eliminate every discrimination against women and ensure the protection of the rights of women and the child as stipulated in international declarations and conventions.

The Law of Succession (1981) was also enacted during Moi's regime. The law of succession provides a mechanism by which property devolves from its

deceased owner to the people he/she left behind. This law was gender neutral, it gave women and men equal rights to inherit, own and dispose of property. The Law on succession, though stated in neutral terms, contained discriminatory provisions, for instance, it provided that when a spouse died and had no children, the spouse was only entitled to the first Kshs.10,000 or twenty per cent of the residue net of the instate estate and life interests in the whole remainder, so long as in the case of women, she remained unmarried. It further marginalized women in that it states that if the surviving spouse is a woman, her interests in the property terminates if she remarries while a surviving husband's interest does not terminate upon remarriage (FIDA,2013).

Traditionally Kamba women did not own property such as land. Although it did not discriminate on women in Machakos in general, and Masinga division in particular, culturally women did not inherit land from their fathers. This Act could not in its own give women right to land.

In our research, a respondent informed us that:

“That law of succession did not make sense to the Kamba because, when a husband died, his wife was inherited by his brother, or sons of the elders wives if she was young, and from a polygamous marriage” (Mueni Mutinda,O.I:14-06-2014).

The magistrates' jurisdiction Amendment Act of 1981 decentralised the arbitration of land disputes. The Act reinstated the traditional role of elders in handling land disputes in accordance with African customs and traditions. This gave power to the elders who were men and hardly ruled in favour of

the women because men believed that the right to own land was reserved to the men(Kavesa,M. O.I 9-07-2014; Kanyiva,M. O.I:11-07-2014). This move was not able to solve land disputes in Kenya. Focussing on the question of which institution had jurisdiction to hear and determine land related disputes-elders as opposed to courts of law, the government was treating symptoms rather than the cause. Land ownership problem remained unevenly distributed in Masinga and Kenya as a whole.

The Moi regime did little to address the plight of women as regards ownership of land in Kenya in general and Masinga women in particular. For instance, during Moi's regime, the Lands Control Boards were headed by the respective Provincial Administration officer's majority of whom were male. The Kamba of Masinga being a patriarchal society, it follows therefore that, all the members of Land Control Board were men. This was because the Kamba tradition did not allow women to inherit land and could not sit on land arbitration committees (Uvyu Rose,O.I:16-05-2014).Based on presidential directives, the Disputes Tribunal Act (1984) removed the jurisdiction to determine land disputes from the courts and instead placed it in the council of elder's court, who were men.

During the research, a respondent informed the researcher that, it did not matter whether land issues were to be addressed in a court of law where the customary law was held in ransom by modern laws on land and its security, or were to be arbitrated by community elders because either way, the right of

women to own land was overshadowed by patriarchy on one hand and the Victorian concept of women on the other (Kamene Muema, O.I:6-06-2014).

This state of affairs marginalized the women in terms of ownership of land because patriarchy was embedded in both the so called modern laws on land and the customary laws on land which identified the men in society as having exclusive rights in control of productive resources at the family level.

In 1998, the government tabled the Draft National Policy on Gender and Development, which was subsequently approved (GoK, 2003). The aim of the policy was to provide a framework for transforming the international instruments on gender into reality of the domestic context. The policy outlined pragmatic strategies for removing gender inequalities. It also focussed on socio-political, cultural and economic factors that influence control over and access to development resources.

It was during Moi's regime, that a road map towards the enactment of a new Constitution in Kenya was laid. The Constitution of Kenya Review Act 1997 was passed to provide a framework for constitutional change. Following extensive negotiations between the government and the civil society, changes were effected in that law through the Constitution of Kenya Review (Amendment) Act, 1998. The new changes managed to incorporate a people-driven constitution-making process, the insistence by those in government and the ruling party, KANU, that it was only parliament that could review the constitution stalled again. It was at that point in time that, the Ufungamano Initiative was formed, a citizen's lobby group on constitution

led by the religious sector came into life. The mandate of that group was to facilitate the making of a constitution for Kenyans by Kenyans. Following the intervention of Prof. Yash Pal Ghai, the parliamentary group and the Ufungamano initiative merged to form one Commission (Maingi, 2012).

The Constitution of Kenya Review Commission (CKRC) was formed through the enactment of the CKRC (Amendment) Act, 2001. However, after consultation that lasted less than a year, the march towards new constitution was stopped when parliament was dissolved in October, 2002 to prepare for general election in the end of that year. Moi lost the presidency to Mwai Kibaki who won on a National Rainbow Coalition (NARC) ticket. NARC was a collection of opposition parties that included Democratic Party; Forum for Restoration of Democracy led Kijana Wamalwa; National Party of Kenya led by Charity Ngilu and a KANU splinter group, Liberal Democratic Party(LDP) led by Raila Odinga, Kalonzo Musyoka and the late Prof.George Saitoti.

Although, the President Moi regime did not give women's right to own land a legal force, it nonetheless made some attempt to women right to land. This was through giving the women right to be issued with an identity card. Acquisition of identity card was of paramount importance for the Masinga women. This is because possession of an identity card is a pre-requisite for land registration. Equally, through a presidential declaration Moi had declared that girls had a right to inherit property including land from their

parent. However, it is worth to note that, this was not followed by a constitutional provision to make it mandatory for women to inherit land.

4.4.0 Kibaki Regime, 2002-2010

Former President Mwai Kibaki ascended to power in 2002. During the campaign period, he campaigned on the platform of giving Kenyans a new constitution. Once on power, his administration restarted the process of drafting new constitution of Kenya.

It was also during President Kibaki's tenure, when Kenyans held a referendum on the New Proposed Constitution, popularly known as the Wako Draft on November 21, 2005. The draft constitution had proposed significant changes to land administration in Kenya. The issue of land reform was prevalent, as it sought to deal with issues of ownership of land by foreigners. The proposed constitution would also have permitted women to legally own land through inheritance. The president vigorously campaigned for the constitution but unfortunately, the constitution was defeated during the November 21, 2005 referendum (Maingi, 2012).

The constitution was defeated because there were some contentious issues which a section of the Kibaki government felt that, they were in conflict with their culture. One of the main contentious clauses was the one that allowed women to inherit land in their maternal homes. Kenya being a patriarchal society, this clause was heavily politicised and may have largely contributed to the defeat of the constitution.

Majority of people in Masinga voted against the constitution(2005), surprisingly even women did not overwhelmingly support the draft constitution despite the constitutional clauses that would give them right to own land a legal backing. This is attributed to the patriarchal nature of the Kamba community. Ownership of land is considered a male affair and any woman who tried to support the draft constitution (2005) was seen as been rebellious and an affront to the social order. Such women were ridiculed while men who supported the draft constitution(2005) were said be henpecked and seen as if they were not even in-charge of their families(Kanyiva Mbove,O.I:23-06-2014).

4.4.1 The National Land Policy

The Kibaki administration came up with The National Land Policy (2009). The process of initiating the establishment of policy was a direct consequence of the Ndungu report recommendations. The Ndung'u Commission of Inquiry into Irregular and Illegal Allocation of Public Land was appointed by the NARC government in 2003 to investigate irregular allocation of public land in Kenya and to recommend legal and administrative measures for the restoration of such lands to its proper title and purpose (Ndung'u Report, 2004).

The Ndung'u Report established that the post-colonial government used the land formally held by settlers for patronage purposes. This was meant to solidify and build alliances for political purpose. This trend continued and intensified in the successive Moi regime.

Klopp(2006) argues that when faced with declining patronage, Moi and his clique increasingly turned to public land for patronage and as an instrument to maintain control. Public land was an attractive patronage asset because it was accessible, with the president illegally converting his constitutional power as trustee of public land to *de facto* ownership powers. For illustration purposes, the table below shows the beneficiaries of irregular allocation of land in Kiptagich forest

Table 4.1: Beneficiaries of irregular allocation of Kiptagich Forest

Beneficiary	Owner and Position in Moi Regime
Kiptagich Tea	President Moi
Jane Cherotich	State House Comptroller
Kipchumba Lokorio	State House Controller
Col. Jonathan Rono	Aide De Camp-Moi
Samson Cheramboss	G.S.U Commandant
Hosea Kiplagat	Co-operative Bank Chairman
Zakayo Cheruiyot	PS-Internal Security
Lee Njiru	Director-Presidential Press Service
Joshua Kulei	Personal Assistant to President Moi
Francis K. Baya	Permanent Secretary-Ministry of Lands
Joseph Lotodo	MP Baringo East
Musa Sirma	MP Eldama Ravine
William Cheruiyot	Ministry of Works and Public service
Francis Sang	Director, CID
Edward Sambili	Deputy governor, Central Bank of Kenya
David Kimaiyo	Deputy Commissioner of Police

Source: Ndung'u Report, 2004

The data in Table 4.1 above indicates how land was used during the Moi administration to reward those who were considered loyal to him. It is worth

noting that, these irregular allocations not only entrenched political hegemony but also were highly gender insensitive. Men benefitted more from these allocations than women. In addition, the beneficiaries of irregular allocations of land in Karura forest are listed as J.J. Kamotho, Hezekiel Karanja, Samson Mureithi, Singh Viridi and Gushran Kaur. These trend marginalized women in terms of land ownership.

The Ndung'u Report recommended the establishment of Land Titles Tribunal, The National Land Policy and the National Land Commission. The National Land Policy was approved by the cabinet on June 25, 2009 and the Minister for Lands was instructed to prepare a Sessional Paper in this regard. The paper, The Sessional Paper no.3 of 2009 on National Land policy was prepared by James Orengo, who was the Minister for Lands then.(NLP, 2009).

The goal of this policy was to guide the country towards efficient, sustainable and equitable use of land for prosperity and posterity. This policy recognized the need to protect customary rights to land. It further called for recognition and protection of derivative rights from all categories of land holding. It was within these derivative rights to land, that women achieved the greatest victory towards land ownership.

This policy laid down land principles which includes intra and inter-generational equity and secure land rights. It recommended that the status of land rights of women required a special attention. To protect women's rights

to land, it called for the repeal of laws and outlaw regulations, customs and practices that discriminated against women in relation to land.

The policy further, advocated for joint spousal registration and documentation of land rights and for joint spousal consent to land disposal applicable for all forms of tenure (NLP, 2009).

The National Policy was a win for women, as it called for secure inheritance rights of unmarried daughters and emphasized the need for government to carry out public education campaigns to encourage the abandonment of cultural practices that bar women from inheriting family land and ensure proportionate representation of women in institutions dealing with land at all levels.

This policy is critical to women's ownership of land because it addressed the main obstacles which women faced since the advent of colonialism when their derivative rights to land were not protected by any law. This put the women at the mercy of patriarchal institutions that operated in total disregard of women's right to own and control land.

4.4.2 The 2010 Constitution of Kenya

The promulgation of the constitution(2010) is an achievement for the Kenyan women. Women's right to land is a critical factor in their social status and economic wellbeing. Land is a basic source of livelihood which provides employment and a major determinant of a farmer's access to other productive resources (Perpetua, 2014). The new constitution provides for an equitable

way of access to ownership of land and distribution amongst the people of Kenya generally and the women of Masinga in particular.

As earlier mentioned, Kenyan land laws were developed against customary laws which gave women limited rights to land. It is worth mentioning that, capitalist competition, the colonial legacy of sexist laws and social stratification of society served to elaborate on the pre-existing gender inequalities and to create substantial legal, socio-economic and political inequalities between sexes, which have manifested themselves in inequitable land tenure relations (Otieno, 2014).

Once married, it was clear that the Kenyan woman was at the mercy of a legal system that did not provide a clear criteria on how ownership and equal access to the use, management and control of matrimonial property was to be achieved. The married Women's Property Act of 1882, which the Kenyan legal system assumed was an antiquated British Law, which contained the sole technical clause available to courts to regulate property distribution between spouses, these often deprived wives/women of equal share to matrimonial property (Otieno,2014).

The discrimination on women flourishes where no law exists to define and address the control and management of matrimonial property. Gender discrimination is one factor that constrains sustainable use of land in Kenya. The old constitution increased women poverty by failing to recognize land as a socio-economic factor that governs the lives of Kenyans and instead lumped it with other aspects of property. It further failed to protect private

property regardless of how it was acquired leading to increased exclusion and poverty of women in a patriarchal society where men are the absolute owners with absolute rights over any transaction concerning property (Perpetua, 2014).

As a result, women in Masinga suffered the degrading consequences of lack of property rights and the resultant absence of economic security. This denial of equal property rights put the Kenyan woman at a greater risk of poverty, disease, violence and homelessness. These challenges in regard to women and property ownership occupied the mind of those who drafted the Constitution of Kenya, 2010.

During the research, we discovered that, rules alone do not ensure land ownership by women. An interview with the chief of Kangonde location (Mang'ee, Sebastian 15-06-2014), revealed that despite the provisions in constitution that allow women to own land, the Kamba tradition reigns supreme in matters regarding inheritance of land. When asked whether he was aware that the new constitution allows women to inherit land, his response was that he was aware but there was a difference between what the law on paper says and the reality on the ground. In Masinga division, women have access to land but lack control and ownership which prohibits them from using land as a form of collateral.

This is so because the practice of registering the matrimonial property in the name of household head, who is usually the male in patriarchal society still persists. Since the Title deed gives the proprietor legal protection and that

majority of the women of Masinga do not have this title, they can only access the family land and have no legal power of appropriation

Nzomo(2003), argues that despite the gender neutrality of legal provisions, equal rights and priviledges cannot be assumed to have been realized. Gender neutral laws guaranteeing women equal rights with men have, in many instances, resulted in *de facto* discrimination. This is so because, law does not operate in a vacuum, it operates in a socio-economic and political context. Kenya being a patriarchal society, certain norms of customary law are ingrained in people's mind that to deal with them necessitates robust strategy.

4.4.3 Gains For Women Under The New Constitution (2010)

The constitution (2010) guarantees gender equity under national values and principles of governance which include: equity; social justice; inclusiveness; equality and non-discrimination and protection of the rights of the marginalized in society. Gender equality is also anchored in the elaborate Bill of Rights in the constitution. The constitution obligates the state to recognize and protect human rights and promote social justice that is relevant to women's struggle for gender equity and equality (Constitution of Kenya (2010).

The constitution establishes broad principles on land and recognizes land as a principal source of livelihoods and material wealth. The principles includes equitable access to land; security of land rights; elimination of gender discrimination in law, customary practices related to land property.

The constitution advocates for creation of a National Land Commission to uphold these principles and one of the main task is elimination of gender discrimination in law, customs and practices related to land, the constitution, therefore, upholds and recognize women in Kenya in areas of property ownership, especially land and political participation.

The National Land Commission Act (2011) aimed at giving effect to the constitutional provisions for the establishment of a National Land Commission (NLC) to manage land in Kenya. The act elaborates the functions of the NLC as to ensure equitable access to land. This includes women's right not only to occupy and work on land, but also to equitably own it.

The commission further has the mandate to ensure security of land rights; this was essential in the advent of large scale commercialization of land resources. The right of women who, for example, are at risk of being thrown out of their matrimonial homes upon breakdown of marriage or upon demise of a spouse can be secured by invoking this requirement. These provisions if well utilized, can result in the improvement of Masinga women's lives at society level, considering the significant roles they play in production of food.

Women property rights are encapsulated in a number of international instruments. Earlier, Kenya was a signatory to these instruments but discrimination against women was inevitable because these laws were never recognized in the domestic law. With the advent of new constitutional

dispensation, the international laws and treaties ratified by Kenya form part of the Kenyan laws (Atieno, 2014). For instance, Kenya is a signatory to The Convention on Elimination of All Forms of Discrimination against Women (CEDAW), 1979.

CEDAW is exclusively concerned with promoting and protecting women's human rights which operates from the premise that patriarchy is a global reality. It is often referred to as the international bill of rights for women as it offers the most comprehensive coverage of women's rights for both public and private spheres by bringing together all conventions and treaties that protect and promote the rights of women (FIDA, 2013). CEDAW observed the inaccuracies in property allocation and ownership between men and women, especially in agrarian reform measures where women predominate in the agricultural labourforce (CEDAW, 1979).

Under article 14 of CEDAW, member states have an obligation to ensure equal treatment of women and men in land and agrarian reform. Land rights and inheritance laws should be based on equality. Article 16, further advocates that land tenure reform must ensure women's property rights during marriage, at divorce and in the event of her husband's death (FIDA, 2013). These provisions have been incorporated into the Kenyan Constitution and if implemented as per the spirit of the constitution, discriminatory obstacles that women face in terms of ownership of land will have been removed.

The constitution of Kenya (2010) provides for gender gains for women of Masinga. This is so because it provides a legal backing for ensuring equality in terms of ownership of land and property by women. Article 45 section 1 states clearly that parties to marriage were entitled to equal rights at the time of marriage, during the marriage and at the dissolution of the marriage (The Constitution, 2010). This was intended to ensure equal rights of women and men to jointly own property including land. Following the inauguration of the new constitution of 2010, numerous land laws, including the trust Land Act, The Land Adjudication Act, The Registered Land Act were repealed. The Acts relied on customary law, under which men controlled the land. These set precedents which were discriminatory against women of Kenya in general and Masinga women in particular. Indeed, under the customary law which these Acts invoked, women could not own land. This was inconsistent with the new constitution and therefore, they were repealed (Monash, 2012).

The parliament was to repeal the Registered Land Act(1963) to conform to the letter and spirit of the constitution. The Registered Land Act(1963) conferred absolute and indefeasible rights of ownership to the registered proprietor of land. Since the Kamba people are generally a patriarchal society, it follows therefore that women of Masinga were marginalized because the land was to be registered in the name of household head. The household head in Masinga is the man. Section 4 the RLA(1963) protects land registered under the act from any other law, procedure and practice which is inconsistent with its provisions. The Act did not recognize the

traditional usufructuary rights of Masinga women as registrable and overriding interests. The repeal RLA(1963) should allow and recognize the usufructuary rights of Masinga women as registrable and overriding interests on land. If it so happens, then the women of Masinga perpetual marginalization in the area of ownership of land will have been addressed.

Where a spouse who holds land or a dwelling house in his/her name individually and undertakes as sale of that land or dwelling house, the purchaser shall be under obligation to inquire whether the spouse has consented to the sale. If the consent has not been obtained and the non-consenting spouses challenges the sale, then the transfer to the purchaser is void (Mona, 2012).

Land and land tenure constitutes a central place in human life, the fact that over-emphasis by the Kenya government policies is on industrialization strategies; land remains the major means of production in the country's main economic activity. The question of land tenure reform which is the basic unit of production should favour not only the masses of rural population but women in particular. Since women represent over half the agricultural labour force in Kenya, with an increasing number becoming *de jure* and *de facto* household heads, and land being the primary resource of their existence. Private property in land has far-reaching consequences for women's relationship to land. It is critically important to examine women's right as regards the land tenure reforms and its impact on women.

Conclusion

This chapter has looked at the historical background to the land tenure reform in Kenya. Contrary to the pre-colonial period, where land was owned communally. At the community level, land was defined in terms of relations between kin, family and neighbours. During this period, land was held communally and the lineage head was considered as a trustee not an owner of the land. Lack of legal rights of individual ownership of land was an insurance against landlessness and a guarantee of equal rights of access. Absolute rights of proprietorship were vested not in a single person but in a collective authority, this was the case in Masinga Division. During this period, neither the male nor female could alienate land permanently without the consent of the trustee group. It is worth to mention that, since most Kenyan societies were patriarchal, men and women did not have an equal authority over land. Whereas men in Masinga could not unilaterally alienate land from women, they had the right of control to land while women exercised usufruct right to land which was guarded by the customs of the community.

Second, the study revealed that land tenure reform in Kenya can be traced to 1895 when Kenya was declared a British protectorate. The advent of colonialism with its capitalist political and economic structures brought about changes that affected the indigenous people. This led to institutionalization of individualized land tenure system which reinforced the idea of males as eligible successors to land. This deviated remarkably from traditional land

tenure. In this colonial period, the colonial authorities equated the power held by certain traditional male elders to allocate land with Western concept of ownership, which was erroneous. This notion of private ownership as opposed to communal ownership reinforced the ideology of patriarchy which views women as appendages of men. As a result, the women's usufruct rights to land which were protected under the pre-colonial practices and customs were diminished because, under the English law on land, use rights was not registrable.

The colonial authorities, in an attempt to transform the traditional land tenure to English land laws passed a series of land ownership ordinances aimed at alienating Africa's land and introduced the notion of freehold title.

The independent government pursued land policies initiated by the colonial masters, which marginalized women in terms of ownership of land. For instance, The Land adjudication Act sought to affirm patriarchy, this was so because all the members of land adjudication committee (1970) in Machakos were men(KNA/DC/MKS/106). Moreover, the process of land consolidation, adjudication and registration were done within the realm of customary law which prescribes that men control property. These Acts excluded women from acquiring titles to land. The Land Registration Act (1963) replaced what was essentially continuous communal land with an individual ownership.

This act conferred an absolute and indefeasible title on the registered owner. This eroded the principle of multiple rights and enforced exclusivity as espoused in the land reform programme. The consolidation and adjuration

insulated the rights of men to land and failed to acknowledge the derivative rights of women to land. This chapter has shown that gender relations in land have been modified by intrusion of colonialism.

The next chapter examines how the land tenure reform initiated during the colonial period and pursued by independent government of Kenya impacted on women of Masinga division.

CHAPTER FIVE

5.0.LAND TENURE REFORM AND ITS IMPACT ON WOMEN OF MASINGA AND FOOD SECURITY

5.1 Introduction

This chapter discusses the impact of land tenure reform on women of Masinga Division. The data interpretation here is drawn from a field survey collected from Masinga division of Masinga sub-county. The data were collected in the months of June and July 2014. These data are representative sample of 115 households in Masinga division. The result given in this chapter is an effort to get the basic information concerning women's rights on land.

This section provided an opportunity to ask questions about and view women's real life situations as regards land tenure reform and how this relates to their development in terms of agricultural production. This study began by determining whether indeed land adjudication and registration had taken place in Masinga division. The result showed that 74 % of the land had been adjudicated while 23% had not been adjudicated. Table 2 shows the adjudicated land in Masinga division.

Table 5.1: Adjudicated land in Masinga division

	Percentage.
Land Adjudicated	74
Land not adjudicated	23
Not stated	3
Total	100

Source: Masinga Sub-County Lands Office-2014.

Upon realization that land adjudication had indeed taken place at Masinga Division. The study sought to establish whether actual adjudication was confirmed through land registration and issuance of title deed. The result was as shown in Table 5.1 shows the status of registered land in Masinga division.

Table 5.2. Status of Registered Land In Masinga.

Status.	Percentage
Titled land	51
Adjudicated land but not titled.	46.3
Not Stated	2.7
Total	100

Source: Masinga Sub-County Lands Office-2014.

Table 5.1 shows that in by June 2014 in Masinga division, some parcels of land were adjudicated, registered and provided with title deeds (**51 per cent**), while others have been adjudicated but title deeds have not been provided

(46.3 percent). Following this certainty that adjudication and registration of land in Masinga division was on going, the researcher asked the question:

5.2 Land Reform 1963-2010 And Women's Acquisition of Land

Before colonialism, land in Kenya was administered communally and governed by customary law. An individual did not own land. The concept of individual ownership of land was introduced during the colonial era and it implied that an individual owned a piece of land to the total exclusion of others as discussed in chapter three. English law introduced the concept of land tenure to define the kind of interest owned (Njuguna, 1999). It is on the principle of this colonial legacy that informed later land tenure reform policies.

The fundamental question in this study was to establish whether land tenure reform initiated by colonial government and advanced by the independent government of Kenya enhanced women's acquisition of land in the country generally and the women of Masinga in particular. As earlier indicated, the advocates of individualized land tenure system justify the process by arguing that it enables a person of either gender to acquire land thereby creating equality between the sexes.

A study carried out by FIDA (2009), indicated that Kenya's myriad land statutes discriminate against women by invoking customary law. This law generally conferred exclusive control of land on men, by vesting in men absolute ownership rights and adopting procedures that insulate customary laws from appeal and judicial scrutiny. They further argued that, Kenyan

land laws failed to recognize women's land rights (KLA 2006). The land adjudication Act, The land Consolidation Act and the Land Dispute Act relied on customary law under which men control the land. As a consequence of this, men acquired the legal right to appropriate land to the total exclusion of the women because under the Registered Act (1963) women's usufructs rights were not registrable interests.

According to the Adjudication Act of 1968, the arbitration on issues regarding ownership of land were to be addressed according to the traditional customary law. It is worth noting that, Kamba customary law regarding women rights to land only recognizes their use rights and not control rights. Further to this, all members of the Adjudication committee appointed in Machakos in 1970, further compromised women's ability to own land as they were made up of only men (KNA/DC/MKS/3/106).

This position was also supported by an assistant-chief from Kangonde area who said that local administration officials also apply customary law when they were unfamiliar with written laws (Peter Munyasya, O.I: 9-06-2014). It was thus of great importance to determine whether women indeed owned the land they cultivated.

A study by International Women's Human Rights Clinic (IWHRC) found that, indeed women were still marginalized in terms of ownership of land in Kenya with only 5% registered jointly and 1% registered in the name of women. The report further avers that Kenya's land statutes discriminate against women by invoking customary law which generally conferred

exclusive control of land on men; to govern land; vesting in men absolute sole ownership rights to registered land and adopting procedures that insulated customary land law from appeal and judicial scrutiny (IWHRC, 2009).

The World Bank state that ownership of land shapes equity because land ownership is one of the major asset held by households; that land influences efficiency since it is one of the economies main productive assets and it is important for agricultural production (World Bank, 2001).

A number of women when asked whether they owned land, responded in the affirmative, while further probing revealed that a number of them referred to their usufruct rights and not legal rights. Because of the ambiguity of term 'ownership' in both customary and statutory laws, the question was redefined to ask if the women had land registered in their names. The response indicated that out of the study sample of 115 women, only 9.7% of the women owned land registered in their names, while 91.3% used the land they did not own as it was registered in the name of their husbands.

It is worth noting that a similar study by McCall (1987) shows that 98 per cent of the economically active women in Kilimanjaro and Bukoba regions of Tanzania are small-scale farmers on land not theirs by legal right. These findings mean, that the process of land reform has not effectively enhanced women acquisition of land in Masinga. This situation was so because, the Land Adjudication (1963) required that, during adjudication process, the name of the household head is entered in the land register. This meant that

men in Masinga had an advantage over women to patriarchal nature of the Akamba of Masinga. This implied that, the tenure changes did not strengthen the position of women in the economy but rather the individualization of land weakened their proprietary position (Pala, 1989). A study by World Bank showed similar results that women held only about 5-6% of registered land titles in Kenya (World Bank 2006).

A focuss group discussion was designed to find out whether the land tenure reforms were enabling more women to own land more than in the past. Seventy-six per cent of those involved felt that not many women have acquired land in their own name in Masinga. There was a general consensus that, women who claim that they own land were mostly widows. Few women bought land in their own names even if they had money. Those who claim to own land, especially the widows do so in trust of their sons. The respondents noted that, those widows still had the land registered in their late husbands' name and there was no deliberate effort to transfer its ownership to them. Once the sons matured, they took over the land (FGD, June, 2014).

Further interrogation of the responses from women who allegedly owned land revealed that 80% of them were widows and were custodians to their late husband's land, 10% had bought the land, 6% had acquired land as a permanent gift while the other 4% had bought some parcels and inherited others. This indicates that women of Masinga generally do not understand what ownership of land entails. For them, trusteeship on land is equated to

ownership but this is not the case because, under the Kenyan law, the only proof of ownership of land is the possession of title that bears the name of the proprietor. Since the majority of Masinga women are custodians of land registered in the name of their late husband, the rate of legal ownership of land among them is still very low.

This implies that despite registration of family land in the name of household heads, who are usually the men, women do not have legal ownership of land but still have the usufruct right to land which was guaranteed under the traditional land tenure system.

The proponents of individualized land tenure system such as Demsetz,(1973); Balibar,(2002) and (De Soto, 2000) argued that individualization of land has created equality between women and men as it enables both sexes to acquire land by other means and not by inheritance, which hindered women from owning land. This research finding contradicts this position. This is so despite land tenure laws in post-independence period that allow women regardless of marital status to own land, very few women own the legal right to land. According to the Registered Land Act Chapter 300 of the Laws of Kenya, possession of a title deed is the only legitimate proof of ownership of land. The legal institutions alone cannot create equality as long as the socio-cultural attitudes do not allow that equality to exist.

A study by FIDA (2009) shows that despite the fact that women provide majority of agricultural labour, including 89% in subsistence farming and over 70% of labour in cash crop production, legal land ownership among

women is still very low. This situation is still the same despite Kenya having promulgated a constitution in 2010 which sought to give women right to own land. This implies that there is a disconnection between the land laws and the practice of land administration among the Akamba. This scenario prompted the question, what factors hinder women from acquiring land? The reactions to this question were that majority did not own land because they did not have money to buy land. Others argued they did not see the need to acquire land as they had access to the family land among other reasons.

The respondents reaction indicated that 78 per cent of women interviewed in Masinga still enjoyed access rights to family land for agricultural production. As a result of this, a considerable number (56%) saw no reason in owning land. This is perhaps an indication that the implications of individualized tenure have not been fully understood by the majority of women since they still perform their agricultural activities within the customary tenure system which safeguards them.

This findings led the study to attempt to establish whether women would acquire land in their own names if they had money to buy land. Out of 115 respondents, 44% said they would, 41% said they would not while the rest did not respond. Further probing of those who did not wish to buy land even if they had money, 68% felt that they could not buy land in their own name because it was wrong culturally for a woman to own land and therefore their husband would not allow it.

A Majority of the married women who said that they had bought land and registered in their name, were those who indicated that they had O-level education. This position was supported by Nzisa Nthuli, (O.I:10-06-2014) , a graduate teacher; Mutile Kyalo (O.I:19-06-2014), a nurse and Sabina Kioko (O.I: 10-06-2014), a form four leaver and a business lady. They were all married and claimed that they had bought land and registered it in their own names.

Given this trend, it is emerging that individualization of land has created new rights for particular women who did not have such rights under the traditional tenure system. Nonetheless, these new rights tend to privilege those women with access to education at the expense of those who are poorer and have no access to education and skills for employment. The latter form the majority of women who continue to depend on land for their livelihood.

5.3. Women's Rights to Land

The study also sought to determine who the owner of land was. The analysis showed that land in Masinga was majorly registered in the husband's name (59%) and son's name (25%). It further indicated that most land was being transferred to male heads of household, while daughters are almost entirely excluded. It is important to note that out of 115 households surveyed, not any single family land was registered in the name of a daughter. Only 11% of the women had land registered in their names. This means that women do not own land legally.

This result revealed that women were still marginalized even in the face of the land reforms. This was because, according to The Land Registration Act of 1963, the only legitimate proof of ownership of land in Kenya was possession of title deeds. Since only 11% of the respondents had title deeds shows that the land tenure reform has not achieved its objective of equality on ownership of land.

In an interview with Ngina Mutinda (O.I:12-06-2014), the research asked her whether she was aware of Land Registration Act of 2012. Her response was that she was aware of it and that it allowed for joint registration of land between the spouses. On probing further to find if she had made any step toward registering her family land jointly with the husband; her response was:

“I cannot do that because, according to the Kamba traditions, wives are the property of their husband and therefore if I told my husband so, he may divorce me because that is challenging his traditional authority of absolute ownership and control of all property. I am his property and the land is his property too”.

Apart from the question of who owned land, it was necessary to find out who had the right to allocate land for use. The respondents were asked who allocated land. The researcher realized that women came to possess the land through the relatives-in-law. Husbands and father's in-law had the highest allocative rights to family land used by women. This allotment to wives had been termed as allotment to the usufruct alone creating no title in formal law. Therefore, land tenure reform does not only confirm men's traditional power of deciding on land use and appropriation but also constitutes the legal end of

customary protective measures for women as land users. Registration of land in the name of household heads, who are mainly males give them the power to deal with it without the consent of their wives. This was not the case during the traditional tenure system. Pala (1978) argues that men did not have the power to transfer or dispose off the land at will since they were considered as trustee not the owners of land. This was because the notion of private accumulation of land did not exist in the traditional tenure system and that the land was held communally.

The research revealed that women do not inherit land in their place of birth, but are expected to possess land where they are married. This excludes daughters from owning land for use unless they buy it. The respondents were married and therefore had been allocated land by their in-laws. This shows that women's ownership of land was largely dependent upon their relationship to men and their marital status.

These investigations revealed that women used land that was in most cases registered in the name of a male spouse. For a son to inherit land from his father, the land had to be sub-divided for each son and his family. This sub-division of land already adjudicated and registered in most cases was never recorded with the land registry. More often than not, sons and wives continued to live and use the land which was not legally registered as theirs. The findings further indicated that the male gender in Masinga division have got an upper hand in decision regarding the allocation of land. That the male

had more say in issues of allocation of land implied that women's rights to land were subordinate to that of the males and therefore, they were not likely to benefit out of this largely male controlled process.

These data are concurrence with argument by Daley that, the root cause of discrimination against women in access to land and other natural resources is pervasive patriarchy, expressed in attitude which creates legal, political and economic limitations to the advancement of women. Patriarchy and deep rooted gender stereotypes are the main obstacles to women ownership of land (Daley, et al, 2013).

The constitutional provisions prior to 2010 on land provided for registration of titles to the land in the name of the 'head of family'. The registration of land titles in the name of individuals, mainly men increased men's control over distribution of land and the dependency of women who had no legal access to land. Deduced conclusion from this study reveals that, land reform initiated upto 2010 when Kenya promulgated a new constitution, did not promote women's legal ownership and inheritance rights but in essence it undermined women's traditional usufruct right under customary tenure system by registering land in the name of a husband/male head.

This study further indicates that few women benefits from individualized tenure and even those few who are benefiting are financially better off women. During field interview, it was established that, those women who had indicated O level education and above claimed to have had bought land and

registered it in their names. This was further noted during the focus group discussion, where women cited financial independence and the constitution of Kenya 2010 as their greatest motivation towards their desire to own property, especially land and have it registered in their names (FGD, June 2014). As a result, the legislative changes on land tenure may have the effect of benefiting the elite who least need them. This position was also held by Cohen (1973) in his study on Ethiopia's land reform concluded that land tenure reform does not summarily benefit everyone in society but only those who are conscious of the reforms and excludes those who are ignorant of the changes in tenure.

The majority of rural women had neither legal access to land nor money to acquire it. However, since food production and feeding the family remained the responsibility of women, men were obligated to allocate their wives certain plots to use although the rights to these plots are not definitive. Therefore, married women are dependent upon the whim of their husbands and the availability of land to grow food.

Even though the majority of women in Masinga had access rights to land for their farming, it is essential to make a distinction between access and control of land. While control is power and implies the ability to dispose of land, access implies only the right to use or consume with the permission of those who hold the right to dispose it (Mason, 1984). Women's indirect access to land does not give them the official status of 'holders'. For this reason,

planners overlook women's rights and only make decisions with the recognized holders of title deed. The truth of the matter is that land tenure reforms have denied women of the power of control of land they use. This marginalizes women and gives men legitimate power to control resources and their labour. The access rights women have are insufficient to generate control over land so that they can benefit from it as collateral to improve their farming. This state of affairs was clearly captured in the words of Nzioki:

“Adjudication and registration were conducted on the basis that the power of control in indigenous property was equivalent to ownership in the male members of society without at the same time imposing obligations towards women on account of their membership in the society in which they marry” (Nzioki, 2003).

With this reality, one can argue that the land tenure reform does not promote women's legal ownership and inheritance rights. It even undermines the women's traditional use rights under customary land tenure by registering the name of the husband on family land. Pala (1978), **points** out that in contrast to past practices, the on-going land adjudication process over-emphasizes the structural points of allocation and inheritance of land at the expense of use rights, which is the area in which women stand to be more affected by the scheme.

Following Pala's concern, the central issue in this study is that land is being transferred almost exclusively to male individuals leaving no provision on how women's access rights are to be defined. What this meant was that land reform only served one section of the society, and it had been dominated by male individualized ownership. The owner of land, the male household head

had been given the opportunity to operate as an entrepreneur, with a free primary labourforce and the ultimate authority over disposal of land and its produce (Food and Agriculture Organization, 1985). Kinship arbitration in case of conflict and the scarcity of land in general are likely to limit women's access to land through outright disposal of such land by individual owners. This new dispensation that removes the very security the tenure programme was originally set to strengthen had created landlessness for members of the family whose interest were not registered.

Registration had indeed affected a hardening of men's land rights into absolute ownership, to the exclusion of women. On the other hand, women's lack of knowledge of the law prevented them from demanding their rights, particularly where cultural factors have reinforced male managerial and financial control over female property. It is, therefore, clear that private property in land has far-reaching consequences for women relationship to land.

Kanyinga(2000) argues that land reforms create the basis for inequalities in land ownership and therefore, socio-economic inequalities and undermine the structure of social security developed under the indigenous tenure system. The findings in this topic have demonstrated that, the women of Masinga have suffered marginalization in terms of ownership of land as it turned out majority of land is registered in the name of the head of household, who is usually the male. In instances where women claimed to own land, it was established that, they did so as custodians and that there was no deliberate attempt to register such land in their name.

5.4. Impact of Land Tenure Reform on Women and Food Security

This sub-section intended to explore the relationship between land tenure reforms, women and food security. In a gendered analysis framework, access to and control of resources is one of the principal factors determining the economic and social wellbeing of women. Calls for equality of ownership should focus on feasibilities of deriving benefits from ownership of the resources. Rhetorical calls for just granting titular ownership of resources boil to zero sum results (CODESRIA, 2005). This theory guided the researcher in analyzing how land tenure reforms initiated in Kenya up to 2013 have impacted on women as social category and how these have impacted on their traditional role as food producers.

The economies of most African countries largely depend on land-based activities, such as agriculture, mining and tourism. Agriculture has direct linkages to food security. The impact of land tenure on food security is complex (ECA, 2009). Women's role in achieving food security in Africa is highly significant. According to FAO (2009), women play a decisive role in household food security. Rural women carry out most homes food processing, which ensures a diverse diet. The organization further points that inequalities in control of livelihoods assets limits women's food production. Women make up a larger percentage population of the rural poor than men do. In Malawi, 52% of the population is women, 93% of whom are in rural areas. More than half of the population of Mozambique is made up of women (51.4%) and 80% of these live in rural areas. In Tanzania, 68% of the

population live in rural areas, with more than half of this population being women. In Kenya, 78% of the population are in rural areas and out of this population, women constitute 70%, and this population rely on agriculture (www.knbs.or.ke accessed on 16/8/2014). In Kenya, women are the major food producers and therefore relation to land utilization is of critical importance.

The position of women with regard to ownership of land is generally inferior to that of men and the position of female-headed households is generally inferior to that of male-headed households (Okali, 1983; Carney, 1988; Davison,1988 &Agarwal,1998;). Despite this fact, women are the guardians of food security. Not only are women usually responsible for food production, land under the control of women is more likely to be used for food production than land under men (Agarwal, 1994 & Smith, 1998).

An expanded notion of link between land tenure and food security must be considered in terms of the question: Who makes decision on use of land in Masinga division? An effective land system that provides ownership rights to land is necessary condition for achieving food security (USAID 2013a). Creating an environment conducive to agricultural growth and food security hinges upon prioritization of securing land rights for women (USAID 2013 b; FAO 2010).

Large population of Masinga women lacked adequate and secure access to land; global trends suggest that without adequate measures to respond to the growing concern for land, food insecurity is likely to become worse.

Strategies to increase security of tenure must recognize women's vital role in food production and address gender-based constraints and improve ownership of land (2012b).

Women are directly linked to food production. Women ownership and control of assets affect what households produce and how the proceeds from the farm are allocated within the family. Katz & Chamoro (2002), argue that increase of landholding by women lead to increase in household food production.

5.4.1 Beneficiaries from Land Output

In any debate about land tenure and livelihoods, gender requires special treatment. Typically, gender relations are governed by prevailing socio-political structures and religio-ideological value systems. In Kenya, the predominance of patriarchal system relegates women and children to minority positions. As a result, gender relations influence land ownership in the context of power relations, policy regimes and livelihood strategies (ECA, 2009).

According to Hay (1995), the traditional practices, especially the belief that land must be controlled by the men of local lineage group, continue to limit women farmers' ability to make efficient market-oriented choices in deciding what to plant or inputs to invest on. Women may enjoy a legal right to own land, but there are few women with sufficient income to be able to purchase land. Patriarchal relations still govern the economic behaviour of most rural households. Men control and manage most agricultural resources such as

land and crops. Men keep the proceeds of the most lucrative crops and off-farm activities under their control, but still expect that their wives' food crops will be enough to meet family daily consumption.

In Africa, studies indicate that women play a crucial role in many aspects of crop production. According to Joekes (1989), 87% of all female labourforce in low –income African countries were in agriculture. In Africa households, it is the women's duty to provide food. Food production is done by women alone, with the exception of male participation at the stage of clearing the land from bush. A World Bank report, indicates that the agricultural sector in Kenya is the mainstay of the economy, accounting for 24% of Gross Domestic Product, more than 50% of total export revenues, and 62% of overall employment. Women constitute more than 70% of all agricultural workers but frequently operate on unpaid family basis (World Bank, 2006). The table 5.3 shows the contribution of African women to family livelihoods.

Table 5.3: Contribution of African Women to Family Livelihoods.

Activity	Percent production.
General workforce	33%
Agricultural workers	70%
Labour to produce food for households and sale	60-80%
Processing of basic food stuffs	100%
Household water and fuel collection	90%
Food storage and transport from the farm	80%
Hoeing and weeding work	90%
Harvesting and marketing activities	60%

Source: FAO, (2002)

One of the most serious obstacles to increasing agricultural productivity and income of rural women is their insecurity of tenure (FAO,1996). Security of tenure is not limited to private ownership but can exist in a variety of forms, such as leases or use rights to land. If the tenure is secure, the holder can reasonably expect to use land to its best advantage in accordance with that right, reap a timely and fair return and be able to enforce the right against non-holders (Rukuni,1994;Moyo, 1995; Juma & Ojwang, 1996). For women who are responsible for 60-80% of the food production in developing countries, to use land more efficiently and thereby make greater contribution to food security, they need access to land, management control of land based resources, and the economic incentives that security of tenure provides (FAO, 2002).

Women play a pivotal role in both maintaining and strategically using land and natural resources. Besides being managers and providers of food in the family, they are also carriers of local knowledge, skills for survival and cultural memory. Agricultural development to which better productive land and resources are provided to women is the key to poverty reduction, but this is not the case as women in Kenya cannot effectively deal with this situation due to unfavourable land tenure reforms (Moyo, 1995).

Maxwell and Wielbe (1998) argue that there is a direct relationship between food security and secure land tenure. They argue that a reduction in, or outright loss of access to and control of land in an agrarian society leads directly to a reduction in income and access to food. According to them, increased security of tenure in productive resources enables more efficient and profitable agricultural production and hence greater access to food.

Tenure institutions directly affect food access at the household level in a primarily agrarian society by governing access to resources and indirectly affecting food security. Whether land is inherited, bought or allotted, it remains the most basic resource for food production. Despite this reality, an increasing number of women find themselves without sufficient land to feed their families. At this time when the total food production cannot adequately feed the growing population, there is urgent need to look into the future of those who produce food (Nzioki, 2003).

In Kenya, women are the main food producers, and therefore their relationship to land is a critical factor in their ability to produce food. It is critically important to analyze the impact of land tenure reform on food production.

The study sought to establish the rights of a woman using land. First, the capacity in which a person uses land is important as it influences the duration of land use and eligibility for credit. The respondents stated that women used land for food production in their capacity as wives. The study established that although women did own land legally, they were the ones who used it. Out of 115 respondents, 68% were found to cultivate and provide labour for both food and cash crops in the absence of their husbands.

On duration of land use, questions were asked on whether the land being used could be re-allocated for other use by actual owner of land-husband. Out of the 115 respondents, 32% had actually experienced their lands being re-allocated while 77.8% had not experienced such re-allocation. According to Pala (1978), during the traditional tenure system, once land was allocated to a wife, this remained so for life and could not be re-allocated. From the study results, there was an indication that land was being re-allocated. Reasons for re-allocation were given as, sale of land, for cash crop production, exchange as gifts to return favours received by owner of land and leasing for money. This re-allocation had a negative impact on food security because in the course of re-allocation, women lost land hitherto used for food cultivation.

The researcher then asked them: What lead to these allocations of their land by their husband? A considerable number of them told the researcher that, men were the legal owners of land and therefore, they had a right to dispose it off at their whim.

An oral respondent called Loko Nduva (O.I:26-06-2014), an elderly farmer in Kaluluini village, informed the researcher that she was so demoralized that she did not see the need to keep on farming when the future of her right to cultivate was uncertain. The researcher further asked her why she was demoralized and what she contemplated doing instead. She informed us that her husband had been re-allocating her land for other uses even when she had invested in the land in terms of terracing without compensating her for her work done on the farm. She informed us that she contemplates engaging in pottery since she was too old to get formal employment. When asked what she thought was the reason why the husband re-allocated her land without consulting her and she responded that, it was because the government gave him the right to land through registration and ignored her. These findings indicate that women's food production is directly affected by the amount of land they are allocated.

This study intends to determine the security of tenure for the land user. The data collected showed that although women are the ones who use the land in Masinga division through allocation, they had no similar rights to allocate land. Determining rights of allocation in this study was important as it influenced both the types of crops grown. If a woman had no rights to

allocate the land she farms, then her agricultural production was subordinated to those with such rights. It is indeed important to note here that gender relations attest not only to access to land, but also to the conditions under which women are able to use land. This relationship has a direct impact on agricultural production.

On security of tenure, the study intended to show whether the women had the power and authority to lease, mortgage, transfer or sell of land. The researcher established that in Masinga division, land administration is done within the principles of patriarchy, where the male had indefeasible control over productive resources including land. The findings implied that women did not have the right to effect transaction on land or challenge their husband on dealings on land. This had a negative impact on food security because, the women depended on the goodwill of their husband to give allocate to the land for agricultural production.

The argument for introducing individualized titles was that this would ensure rapid development as individuals could the raise loans for agricultural development against the security of tiles (Ingham, 1950 & Development Plan,1974-1978). However, the links between land tenure and institutional credit in Kenya proves that losing right to land goes a long way with losing access to loans women might have as the state owned Agricultural Finance Corporation and the Kenya's' major bank all require collateral in the form of land title for agricultural credit (Shipton, 1987). Since it is men who hold

titles, it is they who can get loans, although women can still use their husbands but again this requires the approval of the husband.

The common practice is that husbands use the newly acquired private land right to seek loans. This was explained by Hay (1995), who underscores the place of patriarchy in African societies where the males are considered to have exclusive rights in the allocation of productive resources in the society such as land. When they get loans, they need to develop the land more, usually by devoting more land to cash crops in order to earn enough to pay back the loan. In the process, women may lose part of the land they had for food crops without gaining access to money from cash crops.

On the other hand, when husbands, fathers and brothers mortgage their land for credit, then the rights of the related women who use the same land are at risk. Shipton (1987), observes that husbands use their private titles to seek loans which they will have full personal control. More vulnerable are those women whose husbands are able to mortgage their land for credit for these women may have little say in how the loan resources are used, and they may be quite powerless to stop expropriation. He asserts that any credit that depends on land mortgages is likely to remain firmly in the hands of men and that this land-secured credit in the hands of men will threaten the land rights of related women.

In the light of these considerations, it is clear that registered titles for purpose of securing credit have and will continue to exclude the bulk of women farmers. By losing rights to land, women have lost access to loans they might

have if they had land to offer as collateral for credit. This exclusion of women has a negative impact on food production. The lack of ownership of land denies them the ability to acquire credit to invest in food production which may lead to food insecurity.

Another justification of registration of titles was that it would lead to increased production by providing security of tenure. In turn, security of tenure leads to a farmers investment by using own capital (Republic of Kenya, 1965-1966). In the case of a woman who has no titled land of her own but depends on her husband's farm to grow food, lack of security denies her the freedom to make management decisions concerning the farm.

While insecurity of tenure is an objective fact, it also affects a woman's investment decision (Blaike & Bookfield, 1987). Since the owner of land, usually the husband, has the ultimate legal authority over land use, its use as a collateral for credit and disposal of produce and use of income, the practical effect of all this on the wife, is that she will not make long-term investment in the holding unless she is secure in her expectation of reaping the benefits of her investment. If we are to understand the seriousness of women's marginalization in terms of control to land, it is vital that we understand the domestic economy which relies so heavily on women's labour and their contribution to household sustenance.

Land tenure reform has not only affected women's cash income, but also increased women's labour burdens. This is particularly when they work on the plots controlled by their husbands, usually cash crops, at the expense of

their own food crops and other income-generating activities in Masinga. Okoth-Ogendo (1982) observes that land tenure system had not only split the family economy into subsistence and monetary sub-sector but also transformed the role of women in that economy. He further argues that women lost their control of the family economy, while at the same time continued to supply labour necessary for both sub-sectors. This led to increased burdens for women.

The introduction of cash crop farming has an impact on the traditional system of land controls and land use. The result of which, split the family economy into subsistence and monetary sub-sectors and completely transformed the role of women in the economy. This led to moving the economic status of women from one of relative sufficiency to one of relative dependency (Davison, 1987). While the women lost control of the family income, they are the ones providing the labour for the sustenance of that economy for both subsistence and commercial agriculture, thereby increasing economic burdens of women in rural area (Nzioki, 2003). The case was noted as women said that despite not controlling the land they used, they contributed the greater percentage of labour required both in their farms but also in their spouse parcels reserved for cash crop production. Table 5.4 shows that in all cases recorded, women were found to do more than half of food production work: land preparation (67%), planting (72%), weeding (80 %), harvesting (65%), transporting (53%), processing and handling of food for storage (63%).

To determine the nature and extent of the division of labour for both food and cash crops, the respondents were asked to indicate who performed specified tasks for both crops.

The analysis of their response was that the division of labour at the family level is not equal between the genders. Women are contributing much of labour required for food production with 94% weeding, 91% harvesting, and 96% in drying while the males contribute slightly below 20% in those categories. This implies that women play a crucial role in food productivity and hence food security is largely determined by them.

Table 5.4: Percentage distribution of husband and wife's labour activities on food Production

Activities	Wife	Husband
Hoeing	93	7
Ploughing	9	91
Weeding	94	6
Chasing birds	100	0
Harvesting	91	9
Transporting	88	12
Drying	98	2
Handling for storage	96	4
Building.	45	55

Source : Researcher's Data 2014

The percentage of labour activities between wife and husband shown in table 5.4 clarifies that woman as wives contribute over 80% of their labour to food production activities compared to their husbands except in ploughing and building of food stores.

The study probed further to establish the relationship between labour activities in the production of cash crops. The results indicated that women contribute a greater percentage of labour required for cash crop production. This in essence negatively impacts on food security. This is so because, women were spending a considerable part of their active labour in green grammes production at the expense of food crops and this in turn affects the amount of food they are able to produce. It further revealed that like food

production, women provide high labour in green grammes production. It is also important to mention that women's labour is occasionally subsidized by both permanent and casual labour when it comes to cash crop production. Therefore, most of the agricultural work is done by the women.

A similar study by Hay (1995), argues that, the production of export cash crops altered the sexual division of labour and significantly increased the total labour time of all members of the rural household, but the increased workload fell hardest on women. Men commonly withdrew from food production tasks when they began to produce export crops; women not only took up the slack in food production, but also helped with the colonially imposed export crops. These means that, the introduced land reform and subsequent commercialization of agriculture has led to increased burden on the part of the women.

Labour for both food and cash crops continue to be the responsibility of women. It should be noted that cash crops, in this case green grammes, plays an important role in the lives of the people of Masinga. Though the green grammes farms are owned and controlled by men, most of women's labour time is spent on their husbands' field. It was observed during the study that the value created by this labour is primarily directly appropriated and regulated by the husband for the majority of the women. Women had first to work in the green grammes, popularly known as *dengu* before they can proceed to their farms. This is a major stumbling block for the women's food productivity. This unequal gender division of labour tasks and male

dominance in resource control further jeopardizes the family food supply in Masinga division. Male dominance leads men to a relative sense of superiority that precludes them from participating in many agricultural tasks while benefiting from the sale of the green grammes.

It is important to note that gender and labour issues are central to explaining the impact of commercialization of household production and dynamics. Gender sensitive development programmes should equally address women and men's rights in production and allocation of resources. Since women provides the highest labour for both cash crop and food production, our next research was to find out whether women have direct benefits from their labour. Questions were asked on who makes decision on the use of food crops. The study showed that, women had ultimate power on food crops. In a focuss group discussion on the effect of this ultimate decision on their economy, it was revealed, this is a setback to women because, food produced is generally consumed by household members, being primarily produced for subsistence, the average income from sale of food crops was minimal (FGD, 17-6-2014).

It becomes important to examine who is paid for green grammes, and who takes decision on how the money from such is used. The result established that, the male/ husband is the one who received the pay for the green grammes and only a few husbands allowed women to sell and receive the pay of the same. This was so despite the fact that, women contributed the majority of labour required for green grammes production. This in return

meant that economically, women did not get value for their labour contribution in the cash crop growing.

Based on the revelation of the above information, the researcher's sought to find out if women of Masinga division had any say in the use of money received from sale of cash crop (green gramme). The response from the interview showed that men monopolised the decision of use of the proceeds from cash crops. This information is in agreement with the findings of Kimani (2008) who argues that women contribute over 70% of cash crop production labour yet they suffer discrimination in all matters relating to land ownership. A similar position was explained by International Land Coalition (ILC) that carried out a study and established that indeed women do not necessarily control what they labour to produce (ILC, 2011).

Conclusion

Women's right to land under the land tenure reform put them in a very precarious position. They contribute most labour activities on land that does not belong to them legally as this land, according to practice in Kenya, land is generally registered in the names of the household heads. The males have access to inherited land which is constantly fragmented for further inheritance, making the pieces too small for economic value. The women of Masinga have no allocation rights to land which in effect influences types of crops they produce. The situation is made worse by the fact that, the land allocated to women can be re-allocated for other uses such as sale without reference to them.

Given that they do not own the land they use, women have no rights to lease, mortgage, and transfer or sell the land. Despite the fact that women provide higher labour for both cash crops and food crops, the overall beneficiaries from the farm are the land owners, the men; because they can mortgage for credit, sale, exchange or lease. More importantly, they have direct decision on power and authority over the products of land.

It is probable to argue that the commercialization of agriculture has profound effect on production priorities of women in Masinga. More land is converted to cash crops production and scarcity has become a reality. Women's obligation to produce food for their families is at risk as Masinga women spend more time in the production of green grammes than food crops.

In this mode of production, women find themselves marginalized and their income from cash crop production subordinated to those of men. Cash earned from green grammes is controlled and distributed by men while food grown on marginal land remains the business of women. It is worth noting that women are no longer actors in a purely household economy because they must have cash to maintain their consumption level in the household. Nonetheless, they are unable to draw incomes from the food crops which directly fall under their control.

In addition, land tenure reform has biased all agricultural incentives such as credit and extension services in favour of men. The new land owner has the ultimate legal authority over land use, and its general utilization. The male head of household has been empowered through title deeds to operate as an

entrepreneur, with free labour force, mainly his wife and ultimate authority over disposal of proceeds from that land.

Individualization of tenure bestows privileges and duties of ownership upon one sex in society, the male, leaving the other sex, the female in a vulnerable legal position. Individualization of land which leads to concentration of landholding, results in factions in society, where rich farmers gained at the expense of poorer farmers, and where those with access to education and political power gain at the expense of those without land rights and where men gain at the expense of women (Shipton, 1987).

Unless these structural constraints in agrarian reforms are removed, it is difficult to envisage an equitable growth and improvement of agricultural food production (Nzioki, 2003). Such persistent subordinate position of women in society are negative towards goals of development which affects all members of society equally regardless of sex and creed.

Through snowballing the researcher identified women with issues on land and their relations in the transformation in customary land tenure systems that affect women's usufruct rights and the experiences of different categories of women. The case studies approach is able to convey the dynamism of women's land relations, the actual experience of individual women and the actual structures affecting women under land tenure reform (Nzioki, 2003). Special attention was given to landless and land owning women.

After critical analysis of these shared life experiences, the study reveals that women's access to land is often dependent upon their relationship to men and their marital status. The position of women in these life experiences as regards to land appeared totally dependent on the relationship with the spouse who owned the land. That is, women acquired land either as wives or by virtue of kin links with men, while on the other hand men are direct land owners.

The analysis further indicated that separated and divorced women returned to their natal home where they became dependent on their father's land. Lands allocated to daughters were never sufficient for their needs, and most of the time, they were forced to sell their labour on the farm. The cases further reflect that land which was historically and customary controlled by men through patrilineage inheritance system remained substantially in their control today. In practice, only men owned land or held land while women were not supposed to own land. Despite the initiation of new laws in the post-independent period that allow women to own land regardless of marital status, very few women in fact own land.

In the absence of personal rights to land, the divorced, separated and widowed women faced gross injustice. It was evident from the life experiences that more often, this category of women were forced out of their livelihoods by the male relatives and this forces them to devise their own means of feeding for their children.

Nearly all land in this study area, Masinga division, was registered in individual male elders' name, and when the elder died, little effort was made to legally transfer titles. Consequently, widows, their daughter's in-law and sons continued to cultivate the deceased man's land without transfer title. It is worth to point out that once the man died, the wife's access to land was threatened by her husbands' male relatives and sons with inheritance rights. In this study, it was found that widows were actually powerless in protecting their usufruct rights. Frequently, they found that the land they had access to while their husbands were still alive was suddenly taken from them when their husbands died.

The general conclusion from these life experiences indicate that land tenure reform not only confirmed the male dominance in matters of control and ownership of land and the appropriation of income from cash crops, but also contributed to the erosion of traditional protective measures for women's land use, and allowed men to sell land without consent of their wives or the elders as was the case in the traditional land tenure system.

CHAPTER SIX

6.0 CONCLUSIONS AND RECCOMEDATIONS

6.1 Conclusions

The findings of this study alone are not enough to draw a generalized conclusion on the issue regarding the relationship of the rural woman and ownership of land. However, the study draws out certain commonalities forming a framework from which general conclusions are arrived at regarding the impact of land tenure reform on women and their role in food production. The conclusions are related to the notion that the purpose of land tenure reform is to conform to modern law ownership of individuals and the modernization of agriculture. These being the objectives of land tenure reform, we raise the issue on how women have benefited relative to men from the land tenure reform.

It is concludes that structural changes brought about by land tenure reform under colonialism and post-colonial phases have eroded the traditional laws that guaranteed women's rights to land. Adjudication and registration of land titles have been conducted on the basis that power of control is equivalent to ownership as understood in Western laws, which has led to transfer of land almost exclusively to male individuals. It is important to point out that despite new tenure laws that allow women regardless of marital status to own land, very few women were found to own land. Nearly, all land was registered in the name of individual male names. This leaves women and their concerns on land compromised.

The rights given to the individual title owner has several benefits accrued from possession of the title: the ability to mortgage, lease, sell or dispose at will. How much land and quality allocated to women depend on their husbands will and whim. This means that women's agricultural priorities are subordinated to those with land ownership rights, who alone have the right to allocate depending on what they want to use the land for. With the emergence of men's privatization rights to land, trends show men's increasing allocation of land to cash crops and this greatly impacts women's ability to produce food.

A large population of women are left in the rural area and they continue to manage land that belongs to their husbands, yet they cannot raise credit to improve the land. Losing rights to land for women goes a long with losing access to loans as they require collateral in the form of title deed to acquire credit. It is men who hold titles, and it follows that it is men who can get loans. This means that any future credit that depends on land mortgages is likely to remain firmly in the hands of men. Any secured credit in the hands of men will threaten the land rights of related women.

As result of land registration, the individuals who had acquired land title in Masinga Division were already selling land, which was once a family land. As there was ready cash for purchase of land, there was a trend that poor people were already raising money simply for subsistence. The people most threatened were women and children with little or no off farm income, who depend on their land for livelihood.

The justification of registration of land title was to lead to increased production by security of tenure. The woman farmer had no titled land of her own and depends on her husband's farm for her food farming. Lack of security denied her the freedom to make management decisions concerning the farm. This sense of insecurity of tenure affects women's investment decision because, the owner of the land has the ultimate legal authority over land use, utilization as collateral for credit and disposal of produce and income. The practical effect of all this on women is that they cannot make long term investment in the holding unless they are secure in their expectation of reaping the benefits of their investment.

Commercialization of agriculture brought about by land tenure reform led to women's loss of control of the family economy, while at the same time they continue to supply labour necessary for both food and cash crops, thereby increasing their work burdens. Men continue to earn and control money from cash crops while the responsibility of feeding the family still rested primarily with women. The income maximization position granted by land title deeds and cash crop production resulted in improving cash crop fields for men. From the women's perspective, this was not only discriminatory in essence but exploitative as well.

This study took a stand point that the objectives of study should apply to men as well as women and that the gains as viewed were intended for women as well as men. However, after going through this study, it emerged those women did not benefit from the objectives of land tenure reform because they

did not acquire the same rights which would enable them acquire equal status to land as men. Land tenure conveyed the implicit assumption that the household was primary unit of production, forgetting that there was always a sexual division of labour, sexual division of management of certain crops, plots as well as the rights of appropriation over produce. Gender relations not only affects women's access to land, but also the conditions under which women are able to use land.

Gender and tenure in African customary law will continue to engage policy and law makers for a long time. The predominance of patriarchy in law and practice ensures that the land has its owners and these are not women. For law and policy to influence gender relations, there is need to engage custom. Such engagement should aim at deconstructing, re-constructing and reconceptualising customary law notions around the issues of access, control and ownership with a view to intervening at points that make most difference for women. It is important to rethink the popularly held view that all customary law is retrogressive and capture positive 'living; customary law aspects.

6.2 Recommendations

Women's access to, use of and control of land and other productive resources are essential to ensuring the right to equality and to an adequate standard of living. These resources help to ensure that women are able to provide for their day to day needs and those of their family. Women access to land is

integrally linked to discussions around global food security as well as sustainable economic development.

In Kenya in general and Masinga division in particular, gender inequality when it comes to land is intimately related to women's poverty and exclusion. Barriers which prevent women's ownership of land include inadequate legal standards and/ or ineffective implementation at national and local levels as well as discriminatory cultural attitudes and practices at the institutional level. It is therefore critically important to act upon women's right regarding land not only for advancement towards the liberation of women but in order to generate benefits that accrue to these changes. The following recommendations for action are directed for action at different levels.

6.2.1 The Government

The government should strengthen the application of human rights, gender, and social justice and other good governance values and principles both in the formation and implementation of legal, policy and administration of land. In addition, it should abolish the concept of head of 'household' in legal designations and entitlements where its application would result in de facto discrimination against women, including the provisions or allocation of land in favour of male household head.

The government should prioritize investment in women to ensure that they enjoy equal and secure rights to land like their fellow men. The state should fulfil obligations to respect, protect and adopt measures towards the full

realization of human rights related to ownership of land and other productive resources. The state should ensure equal access to land for both men and women as per the Universal Declaration of Human Rights (UDHR), the International Convention on Civil and Political Rights (ICCPR), which guarantees equality between women and men as well as Convention on the Elimination of All forms of Discrimination Against women which calls on the state to end discrimination against women in laws, policies and practices.

The government should provide adequate human and financial resources to enable the National Land Commission achieve its objective of ensuring equity in issues related to land. This resource will be used in devolving the national land commission through establishment an effective County Land Management Boards at the county and sub-county levels.

The state should consider passing a legislation that makes it mandatory for married couple to register their land jointly upon marriage. The title deed which is legal proof of ownership should bear the names and identification number of the couples. This will go along in safeguarding women's right to land and protect them from unscrupulous husbands who may try to use unorthodox means to secure approval of transfer from the District Lands Board without the consent and knowledge of the wife.

The government should ensure that legislation that gives women reserve powers (that no lease or sale of land is legally valid without wives signature, and the other in the event of divorce or widowhood, the wife retains lifelong

usufruct right), is fully implemented by insulating women from patriarchal autonomy as regards to issues of land.

The government should invest in civic education geared towards educating the women on their rights in regard to land ownership. Through the office of the Director of Public prosecutions, the government should fast track cases in court that touches on succession and women's right to own land in their legal right.

Ensure that legal experts such as judges, prosecutors and lawyers receive regular training on women's equal rights to land. Recognize that women have independent right to acquire, administer, control, use and transfer property irrespective of the marital status.

6.2.2 The Women

Since there is a constitution that recognizes the rights of women to own land, women must remain vigilant to ensure that laws related to land being implemented reinforces the spirit of the new constitution of Kenya.

Women should not simply accept the status quos. They should show a deliberate effort to fight for their constitutional right as envisaged in the Bill of rights and the new constitution that guarantee them the right to own land.

At the village level, women should organize their agricultural cooperatives to acquire capital to buy land and register it in their own name not that of the husband.

At the house level, women should use their social capital to ensure that their daughters inherit land regardless of their marital status and where possible facilitate for the land to be transferred and register with the registrar of land in the name of daughter.

6.2.3 The National Land Commission

The National Land Commission should appoint a gender sensitive committee composed of equal numbers of women and men whose task will be to specifically deal with issues on women's land ownership disputes.

Additionally it needs to support women in challenging discriminatory aspects of religious and customary law which limit women's access to land. Furthermore, the commission needs to engage communities in discussions about gender-sensitive interpretation of religious and customary. In addition, the commission should ensure that all justice mechanisms, including religious and customary mechanisms protect and fulfil women's right to land and that relevant authorities are held accountable when they fail to do so. This will promote equality in land ownership between men and women.

Ensure that titling and registration programmes are accompanied by effective awareness-raising initiatives aimed at educating women and men about

women's right of ownership of land. In addition, ensure that women benefit from targeted and accessible legal literacy campaigns and programmes in their language to help them understand their right of ownership.

REFERENCES

PRIMARY SOURCES

ARCHIVAL SOURCES

KNA/DC/MKS/22/1. *Native Reserve.*

KNA/DC/MKS/24/1. *Machakos Commonage.*

KNA/DC/MKS/22/1. *Native Land Tenure.*

KNA/DC/MKS/3/97. *Local Lands Boards.*

KNA/DC/MKS/3/94. *Alienated Crownland 1937-1947.*

KNA/DC/MKS/3/106. *Native Land Tenure And Consolidation Title.*

KNA/DC/MKS/3/146. *Land Administration-Recentralization,1957-1970.*

KNA/DC/MKS/3/92. *Demarcated Boundaries In Registered Areas 1957-1970.*

KNA/DC/KBU1/11. *Ukamba Province:Annual Reports,1917-1918.*

KNA/DC/MKS/8/2. *Reconditioning: Some Problems Of The Machakos Reserve (1946), by G.S. Cowley*

KNA/DC/MKS. *Land Register Documents August 1932-January 1959.*

KNA/DC/3/96. *Crown Land Unlawful Occupation June 1939-October 1959.*

KNA/DC/MKS/10/1/2. *Ukamba Province Land File.*

KNA/DC/MKS/10A/1/4. *Ukamba Province: Land Land File For 1906.*

KNA,PC RVP 6A/25/3. *Squatters 1931-1938*

KNA/DC/MKS/10/1/2. *Ukamba Province Land File*

KNA/LND 32/1/1226. *Land Tenure Conference, Arusha, 1956.*

KNA/LND/1/IV/1226. *Land Tenure Conference, 1956.*

KNA/C.O 533/58. *Memo by Holis, January 1909.*

KNA 34/1901. *PC Rift Valley Province to Colonial Secretary.*

Swynnerton, R (1954) *A Plan to Intensify the Development of African Agriculture in Kenya*. Nairobi: Government Printer.

Republic of Kenya (1974) *Development Plan 1974-1978*. Nairobi: Government printer

Republic of Kenya(1984) *Development Plan 1984-1989*. Nairobi: Government printer.

Republic of Kenya(1984) *Machakos District Development Plan 1984-1988*. Nairobi: Government printer.

Republic of Kenya (2004) *Report of the Commission of Inquiry into the Illegal/Irregular Allocation of Public Land*. Nairobi: Government Printer.

Republic of Kenya (2009). *National Land Policy*. Nairobi: Government printer.

Republic of Kenya (2010). *The Constitution of Kenya*. Nairobi: Government printer.

Republic of Kenya (2012). *The Land Act No 6 of 2012*. Nairobi: Government printer.

Republic of Kenya (2012). *Land Registration Act, Act no 3 of 2012*. Nairobi: Government printer.

SECONDARY SOURCES

ARTICLES IN JOURNALS AND BOOKS

Agarwal, B.(1994). ''*Gender and Command over Property: A critical map in Economic Analysis and Policy in South Asia*.'' World Development.

Agarwall, B. (2003). ''*Gender and Land Right Revisited. Exploring new Prospects via the State, Family and Market*'' . Journal of Agrarian change, Vol. 3. January 2003.

Agbosu, L et. all, (2007). ''*Customary and Statutory Land Tenure Policy in Ghana*'' . ISSER Technical Publications , No. 7.

- Allot. A.N.(1961).''Towards a Definition of Absolute Ownership'' Journal of African law.Vol.5.
- Artkins, H.(1988). '*Land reform: A failure of Neoclassical theorization*'.
World Development,vol.16.
- Balibar, E.(2002) .''*Possessive Individualism Reversed from Locke to Derrida Constellations*''.
- Bentsi-Enchel.K.(1965). 'Do African Systems of Land Tenure Require a Special Terminology?''Journal of African Law Vol.9.
- Berry.S. (1989) *No Condition is Permanent:The Social Dynamics of Agrarian Change in Sub-Saharan Africa.*University of Wisconsin.
- Bohannan, P.(1983).'*Land*', '*Tenure*' and *Land Tenure*'' in Okoth-Ogendo(ed)*Teaching Manual on Law Property Land*(students Edition).
- Chu, E.[2002] '*Gender and Land grabbing in Sub-Saharan Africa: Women's Land Rights and Customary* Davison, J.(1987)*Who Owns What? Land Registration and Tensions in Gender Relations And Production in Kenya.* In Davison, J(eds) *Agriculture Women And Land: The African Experience.*
- CASLE(2007). *CASLE Newsletter* (no.3),September
- FIDA (2009). *Women's Land and Property Rights in Kenya-Moving Forward into a New Era of Equality: Human Rights Report.*
- Hellum, A (1998). "*Women's Human Rights and African Customary Laws: Between Universalism and Relativism-Individualism and Communitarism.* The European Journal of Development Research.
- Kabira, W.M and Masinjila, M (1997). *Towards Gender Responsive Politics.* The Friedrich Ebert Foundation. Nairobi.
- Kabira, W.M and Muthoni, W (1994). *The Road to Empowerment. African Women's Development Communication Network,* Nairobi.
- Kanyinga, K. (1998). '*Struggles of Access to Land. The Squatter Question in*

Coastal Kenya’. Danish Institute For International Studies.

Kanyinga, K. (2000). ‘*Re- Distribution from above. The Politics of Land Rights and Squatting in Coastal Kenya*’. Nordic Africa Institute Programme; Research Paper NO. 115.

Kerekess and Williamson (2010) “*A Woman’s Field is Made at Night: Gendered Land Rights And Norms in Burkina Faso*”. Feminist economics Vol.5.

Kimani, M. (2008). *Women Struggle to Secure Land. Hard Fight for Access and Decision Making Power.* Africa Review Journal.

KHRC (2000). ‘*Women and Land Rights in Kenya*’.

Kossok, M.(1973) ‘*Common Aspects and Distinctive Features in Colonial Latin America*” Science And Society Vol.Xxxxvi.No.1 Spring.

Mackezie,F.(1993).*A piece of Land never Shrinks: Reconceptualizing Land Tenure in a Small Holding District*, in Baset, T(ed),*Land in Africa Agrarian Systems*, Madison, University of Wisconsin Press.

Mucai-Katambo, Vicky et. all (1995). ‘*Law and the Status of Women in Kenya*’ in Kabebere-Macharia, Janet(Ed).*Women, Laws, Custom and Practises in East Africa: Laying The Foundation.* Nairobi: Women and Law In East Africa.

Migot-Adhola, S.(1994). “*Land, Security of Tenure and Productivity in Ghana*” in Bruce ,J; and Migolla-Adhola, S.E(eds) *searching for Land Tenure Security in Africa.* Dubuque: Kendall publishing company.

Nyamu, C. (1999). “*Achieving Equality in Plural Legal Context: Gender and Women’s Access to Control of Land in Kenya 1998-1999*”.Third World Legal Studies.

Nzioki, E.(2003).”*Why Women’s Right To Land*” *Ad Hoc Expert meeting on Land Tenure System And Sustainable Development.* Zambia, Lusaka.

- Nzomo, M. (2003). “*Gender Issues in the Draft Bill of the Constitution of Kenya: An Analysis Contribution For The CKRC*”. Working Paper 2003-1. IELRC.
- Okoth-Ogendo (1975). “*The changing systems of land tenure and the rights of women*” in Pala, Awori, T, Krystal, A(ed).*The participation of women in Kenya society*.
- Okoth-Ogendo(1976), “*African Land Tenure Reform*” in Hayer, J; Maitha J.K; Senga(ed)*Agricultural Development in Kenya. An Economic Assessment*. Nairobi University press.
- Okoth-Ogendo (1982).”*The Perils of Land Tenure Reform: the Case of Kenya*” in Arntzen, L; Ngoongoo L, Turner, S(ed). *Land policy and Agriculture in Eastern and Southern Africa*.
- Okoth-Ogendo (1979). ” *Land Tenure and its Implications for the Development of Kenya’s semi-arid areas*”. A paper for the workshop on development of Kenya’s semi-arid areas, IDS, University of Nairobi.
- Pala, A .(1983). ‘ *Women’s Access to Land and their Role in Agriculture and Decision Making on Farm: Experience of Jaluo of Kenya*’. Journal of East African research development.
- Simpson, S.R (1961). ‘ *Towards a Definition of Absolute Ownership*’. A commentary in journal of African law. Vol .5.
- UNDP (2005). *Land Rights for African Development: From Knowledge to Action*” Workshop on International Land Coalition.
- Wangari, W. (1998) “*Land Registration and its Impacts on Small Scale Farming in Kenya.the case of Mbeere in Embu District*”.IDS,University of Nairobi,working paper no 464.

BOOKS

- Abdulai, R.(2010).*Traditional landholding institutions in sub-saharan Africa case study of Ghana*. Saarbruke: Landet Academic publishers.
- Artkins, H.(1988).*Land Reform: A Failure of Neoclassical Theorization*. World Development,vol.16
- Arndt, H.[1989].*Economic Development. The History of Idea*. Chicago: The University of Chicago Press.
- Balibar, E[2002] .''*Possessive Individualism Reversed from Locke to Derrida constellations*''.
- Boserup ,E.[1970]. *Women's Role in Economic Development*. New York: St. Martin's Press.
- Brett, E.A (1973). *Colonialism and Underdevelopment in East Africa*. Nairobi: Heinmann.
- Christopher,L (1984). *Land and Class in Kenya*. Toronto: University of Toronto press.
- Cohen, R (1974). *Labour and Politics in Nigeria*. Ibadan: Heinemann.
- CODESRIA (2005). *Gender, Economies And Entitlements In Africa*. Dakar: Unisa Press.
- Daley, E. et al (2013). *Women's Land Rights And Gender Justice In Land Governance: Pillars In Promotion And Protection Of Women's Human Rights In Rural Areas*. Nairobi: ILC.
- De soto, H[2000].*The Mystery of Capital: Why Capitalism Triumphs in the West and Fails Everywhere Else*. London: Bentam press.
- Hay,M. (1995). *African Women South of The Sahara*. New York: Longman.
- Hobley, C.W (1971). *Akamba and other East African Tribes*. London: Frank Cass And Company Limited.
- Howard, R. (1978). *Colonialism and Underdevelopment in Ghana*. London: Croom Helm.
- Hunt, D.(1984). *The Impending Crises in Kenya: The case of Land Reforms*.

Vermont: Gower Publishing Company.

- Food And Agricultural Organisation[2002].*Land Tenure and Rural Development*. Rome: FAO Land Tenure Studies.
- Kanogo, T. (1987).*Squatters and the Roots of Mau Mau 1905-1963*.Nairobi:Heinmann.
- Kasanga, K and Kotey, N.A (2001). *Land Management in Ghana: Building on Tradition and Modernity*. London: International Institute for Environment and Development.
- Kilma, G.J.(1970) *The Barabaig: East African Cattle Herders*. New York: Holt, Rinehard and Wiston.
- Lindblom, G (1935). *Kamba Folklore*. Upsalla: Upsalla University.
- Lindblom, G. (1969). *The Akamba in British East Africa*. New York :Negro University Press.
- Low, D.A. (1965) . “*British East Africa: The Establishment of British Rule 1895-1912;*” in Harlow,V.,E.M Chilver, and Smith (eds). *History of East Africa*. London:Oxford University Press.
- Maria,F (1992). *The Economics of Women, Men and Work*. Upper saddle.
- Mbiti,J.S (1966) *African Religions and Philosophy*.London: Heinemann.
- Medley J (1992). *Food for All: The Need for New Agriculture*. London, Zed books.
- Mkangi, G .C (1993). *The Social Cost Of Small Families And Land Tenure Reform*. Oxford: Peramon Press.
- Mona, D. (2012). *The Land Laws of Kenya*. Nairobi: Anjarwala and Khana.
- Muthiani, J (1973). *Akamba From Within: Egalitarianism in Social Relations*. New York: Exposition Press.
- Mupwaya, A.B.(1953) *Land Tenure in Buganda: Present Day Tendencies*. Kampala: Eagle press.

- Mwangi, G (1981). *Land and Nationalism: The Impact of Land Expropriation and Land Grievances upon The Rise and Development of Nationalist Movement in Kenya, 1885-1939*. Washington , DC: University Press Of America.
- Nancy, J and Edna, G (1976). *Women in Africa: Studies in Social and Economic Change*. Stanford: Stanford University press.
- Ndeti, K. (1972). *Elements of Akamba life*. Nairobi: East African Publishing House.
- Obbo, C.(1980). *African Women: Their Struggle for Economic Independence*. London: Zedd Books
- Ochieng', R (1977). *The Second Word: More Essays on Kenyan History*. Nairobi: E.A.E.P.
- Ogot,B.A (1976). *Kenya Before 1900*. Nairobi: E.A.P.
- Ogot,B. A (1975). *History and Social Change in East Africa*. Nairobi: East African Literature Bureau.
- Okoth-Ogendo H.W.O (1991). *Tenants of the Crown, Evolution of Agrarian Law and Institutions in Kenya*, Nairobi: African Centre For Technology Studies.
- Palmer I.[1985]. *Women's Roles and Gender Differences in Development: The Impact of Agrarian Reform on Women*. U.S.A: Kumerian press.
- Penwill, D.J.(1951). *Kamba Customary Law*. London: Macmillan and Company Ltd.
- Sorrenson, M (1968) *Origins of European Settlement in Kenya*. Nairobi: Oxford University Press.
- Swynnerton, J.M (1954). *A Plan to Intensify the Development of Africa Agriculture in Kenya, Colony and Protectorate*. Nairobi: Government printer.
- Tignor, L (1976). *The Colonial Transformation of Kenya: The Kamba;*

Kikuyu and Maasai From 1900 To 1939. New Jersey: Princeton University Press.

Velma, R.(2001). *Gender, Land and Livelihoods in East Africa: Through Farmers Eyes*. Ottawa: IDRC.

Wangari, W.(1998). *Land Registration and its impact on small scale farming in Kenya. The case of Mbeere in Embu District*”. IDS, University of Nairobi, working paper no 464.

Wanyeki, L.(2003). *Women and Land in Africa. Culture, Religion and Realizing Women's Land Rights*. New York: Zed Books Limited.

W'EDAD, Z (1988). *In Search of Shadows: Conversation with Egyptian Women*. London: Zed Books.

World Bank(2006). *Gender and Economic Growth in Kenya: Unleashing the Power of Women*. U.S.A: Washington Dc.

Yngstrom, I. [2002]. *Women, Wives and Land Rights in Africa: Situating Gender Beyond the Household in the Debate over Land Policy and Changing Tenure Systems*. Oxford Development Studies.

Zwanenberg, R.M.A (1975). *An Economic History of Kenya and Uganda 1800-1970*. London: Macmillan publishers.

Theses and Dissertations.

Aseka,E.(1989) Political Economy of Buluyia 1900-1964.Ph.D Thesis, Kenyatta University.

Ayot, T (1990). *The Position of Women in the Luo Societies: A Case Study of Kok'Onyango A.D 1750-1920* Ph. D Thesis, Kenyatta University.

Esese,P.L(1992). *Agriculture and Socio-Economic Change Among the Wanga of Mumias Division, 1860-1945*. M.A Thesis, Kenyatta University

Gutto, Y. S.(1987). *Legal Constraints on Female Participation in the Economy*. M.A Dissertation, University of Nairobi.

- Katola, M. (1987). *The Akamba Concept of Taboo with Particular Reference to Machakos District*. M.A Thesis, Kenyatta University.
- Matheka,R. (1992). *The Political Economy of Famine: Ecology and History in Machakos District During the Colonial Era*. M.A Thesis, Kenyatta University.
- Musalia, M. (2010) *Gender Relations and Food Production: A case of Kiambu District 1920-1985*. Ph. D Thesis Kenyatta University.
- Musau, J. (1992). *The Religious Significance of Kilumi Rituals, Songs and Dances among the Akamba of Kitui District..* M. A Thesis, Kenyatta University.
- Mwangi, N. (2009) *An Analysis of the Socio-Economic Impact of Land Reforms in Kenya: The Case Of Kiambu District, 1946-1978*. M.A Thesis.
- Mwangi,S (2004). *Engendering Political Space: Women's Political Participation in Kangema, Muranga 1963-2002*. M.A Thesis, Kenyatta University.
- Munro, J.F(1968). *The Machakos Akamba Under British Rule, 1889-1939: A Study of Colonial Impact*.Ph.D Thesis, University of Wisconsin.
- Ndege, P.O.(1987). *Economic Change in Kasipul Kapondo,1800-1962'* M.A Thesis,University of Nairobi.
- Subbo, W.K (1987), *Changes in Land Tenure System and their Impact on Socio-Economic Status of Women: A Case of Nyaribari, Masaba Sub-Location, Irianyi Division*. B.A Dissertation, Nairobi: University of Nairobi.
- Jalang'o-Ndeda (1991). *The Impact of Male Labour Migration on Rural Women: A Case of Siaya District, C. 1894-1963*. Phd Thesis, Kenyatta University.
- Wolf, D. (1970). *Economic Aspects of British Colonialism in Kenya, 1895-1930*. Ph.D Thesis, Yale University.

INTERNET SOURCES

Odey, M. Improving Access to Land And Strengthening Women's Land Rights in Africa, [http://www.conftool.com/lands and property2013/.../odey-659paper.pdf](http://www.conftool.com/lands_and_property2013/.../odey-659paper.pdf)> accessed on 30-11-2014.

Perpetua, W.K. Women's Ownership Rights In Kenya, <http://scholar.valpo.edu/twls/vol10/iss/>>accessed on 26-10-2014

A1:RESEARCH AUTHORIZATION

Approved
 18/9/14

**NATIONAL COMMISSION FOR SCIENCE,
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Ref: No.

Date:

9th September, 2014

NACOSTI/P/14/4015/3216

Vengi Ambrose Kimanathi
 Kenyatta University
 P.O. Box 43844-00100
NAIROBI.

RE: RESEARCH AUTHORIZATION

Following your application for authority to carry out research on "*Land tenure system and its impact on ownership of land in Masinga Division 1963-2010,*" I am pleased to inform you that you have been authorized to undertake research in **Machakos County** for a period ending **22nd August, 2016.**

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

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

Said Hussein
SAID HUSSEIN
FOR: SECRETARY/CEO

Copy to:

The County Commissioner
 The County Director of Education
 Machakos County.

A2: RESEARCH AUTHORIZATION

MINISTRY OF EDUCATION, SCIENCE & TECHNOLOGY
STATE DEPARTMENT OF EDUCATION

Telegrams: "SCHOOLING" Machakos
Telephone: Machakos (
Fax: Machakos
Email -cdemachakos@yahoo.com
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OFFICE OF THE
COUNTY DIRECTOR OF
EDUCATION
P.O. BOX 2666-90100,
MACHAKOS

MKS/ED/CD/U/1/VOL.1/54

18/11/2014

Vengi Ambrose Kimanathi
Kenyatta University
P.O Box 43844-00100
NAIROBI

RE: RESEACRH AUTHORISATION

In reference to a letter **NACOSTI/P/14/4015/3216** dated **9TH September, 2014** from the National Commission for Science, Technology and Innovation regarding the above subject, You are hereby authorized to carry out research on, "**Land tenure system and its impact on ownership of land in Masinga Division 1963 - 2010**" within Machakos County for a period ending **22nd August, 2016.**

A handwritten signature in black ink, appearing to read 'Chacha C. Mwita', written over several horizontal lines.

Chacha C. Mwita
County Director of Education

A 3: RESEARCH INSTRUMENTS
QUESTIONNAIRE GUIDE

BIODATA.

Age.....

Gender.....

Level of
education.....occupation.....

Sub-location.....

1. During the pre-colonial period did women own land in this community? [yes], [no].

If Yes, did she have total control for access and use of the land?.....

If No, why.....

2. How is women access and control of land guaranteed?.....

3. During the pre-colonial period, who made ultimate decision on how land was to be used?

[a] The clan [b]. The household head [c] husband (d) wife (e) Both husband and wife.

4. Do you own land? [Yes], [no].

If yes, how did you acquire it?

[a]. Bought [b]. gift [c] inherited [d] late husband's land.

5. Did colonialism have any impact on women ownership of land in this society?..... explain how and why.....

6 .Do you have the land registered in your name [Yes],[No].....explain your answer

7. Do you have a title deed? [Yes], [No].

Why.....

8. If you had money, would you buy land and register in your name.....

Explain your answer.....

9. What factors hinder women from acquiring

10. According to you, who is the legitimate owner of land?.....

Give reason for your answer

12. Who is entitled to inherit family land?

[a] Sons [b].daughters [c]. Both.

Explain your answer

14. Do women have the power and authority to transfer or sell land?

[Yes], [No]

Explain your answer

15. Who carries out the following labor activities on food production?

- | | |
|-------------------|--------------------|
| [i].Hoeing. | [Males], [Females] |
| [ii].Ploughing. | [Males], [females] |
| [iii].Planting. | [Males],[Females] |
| [iv].Weeding | [Male], [Female] |
| [v].Chasing birds | [Males],[Females] |

[vi].Harvesting [Males],[Females]

[vii].Transporting the produce from the farm [Males],[females]

[ix].Handling for storage. [Males],[Females]

16. Who gets pay for cash crops? (A) Wife (B) Husband (c) Both.

17. Who makes decision on use of money from cash crops?(A)husband }
(B) wife (c)Both

Interview schedule.

Name.....[optional].Age.....

Level of education.....income

Marital status.....Number of
children.....

Occupation.....

Land History.

Did you own land before?

Who gave you the land?

What happened to the land?

Do you have access to the land now?

How do you feel about landlessness?

A4: INTERVIEW SCHEDULE FOR CHIEFS/ASSISTANT CHIEFS.

1. For how long have you served as a government official in the location?
2. Which crimes are prevalent in the area?
3. What mechanism do you use to deal with these crimes?
4. Is the land in your location surveyed ?
5. when land consolidation and registration begin in this location/sub-location?
6. How is land owned in this location?
7. Are there land related cases brought to your office as the chief/assistant chief for arbitration?
8. How was the land owned/controlled in this community during the pre-colonial period?
9. What was the place of women in regard to land ownership in the pre-colonial period?
- 10(i). How did the onset of colonialism impact on women ownership of land in Masinga division?
- (ii) In your own opinion did colonialism hinder or enhance women's rights to land?

11. Do you think the subsequent independent government in Kenya have addressed issues related to land ownership by women?

12. How did policies passed during the Kenyatta regime impact on women?

13. How did the policies passed during Moi regime affect women on land ownership?

14. Did the passage of new constitution during the Kibaki regime enhance women acquisition of land?

15. Do you find the New constitution in tandem with cultural practices as relates to land ownership among the Akamba of Masinga?

16. When dealing with land ownership disputes between a husband and wife, what informs your decision? (a) the constitution (b) the cultural practice of the community (c) both..... Explain your answer.....

17. What would you suggest to be done to strengthen and empower women to enable them own land in Masinga?.....

..

A5. FOCUS GROUP DISCUSSION GUIDE.

1. Where did the Akamba people migrate from?
2. How were the Akamba governed during the Pre-colonial period?
3. What was the economic activity by the Akamba during the pre-colonial period?
4. How was land administered during the pre-colonial period?
5. In your own assessment, did women have security of tenure then?
6. When was the colonial impact first felt in Masinga Division?
7. How did the coming of British affect the administration of land among the Akamba of Masinga?
8. How did the colonial land policies impact on women's right to land?
9. When did Kenya become independent?.....who was the president?
10. During Kenyatta regime, how was the question of land handled in Masinga division?
11. Did women participate in the Adjudication process?
12. In your opinion, to what extent did Kenyatta regime enhance women's right to land?
13. What steps did Moi take to secure women's right to land?
14. In your own assessment, to what extent did Kibaki enhance women's right to land?

A6: LIST OF RESPONDENTS

Name		Age	Location	Date Interviewed
Ann	Muthio	70	Mainga	16-06-2014
Beatrice	Katola	57	Kivaa	18-07-2014
Betty	Mutiso	76	Kang'onde	15-06-2014
Caroline	Mawia	57	Kang'onde	15-06-2014
Elizabeth	Charles	65	Kango'nde	15-06-2014
Elizabeth	Muinde	71	Kivaa	7-07-2014
Esther	Mueke	68	Ikaatini	9-06-2014
Eunice	Muthei	71	Masinga	9-06-2014
Jane	Kavuli	56	Masinga	10-06-2014
Jane	Mbithi	75	Kivaa	25-07-2014
Joyce	Kasyoki	68	Ekalakala	21-07-2014
Kalekye	Muya	59	Kivaa	18-07-2014
Kalekye	Ndegwa	71	Masinga	9-06-2014
Kalonde	Mbithuka	64	Kangonde	13-07-2014
Kaluki	Kioko	57	Masinga	10-06-2014
Kaluki	Kivuve	75	Kithyoko	13-06-2014
Kamene	Muema	64	Kivaa	6-06-2014
Kamene	Kitetu	61	Masinga	8-06-2-014
Kamene	Muli	62	Ekalakala	14-07-2014
Kamene	Mutua	61	Masinga	15-06-2014
Kanini	Ndunda	59	Kivaa	12-07-2014

Name	Age	Location	Date interviewed
Kanyiva Muteti	73	Kangonde	11-07-2014
Katee Musila	68	Kivaa	9-07-2014
Katheo Mutie	70	Ikaatini	18-06-2014
Katheo Ndunda	57	Masinga	19-06-2014
Katile Muli	56	Kithyoko	10-06-2014
Kaveke Musila	68	Kangonde	24-07-2014
Kavesa Muasya	61	Kangonde	9-07-2014
Kioko Rebecca	59	Masinga	28-08-2014
Kioko Stella	60	Ekalakala	26-07-2014
Kiviu Nundu	58	Kivaa	3-08-2014
Loko Nduva	85	Kangonde	3-08-2014
Maria Kimatu	70	Kivaa	24-06-2014
Mary David	61	Kivaa	8-07-2014
Mary Mutinda	59	Ikaatini	1-07-2014
Mary Nthoki	62	Ikaatini	23-07-2014
Mary Wambua	60	Masinga	19-07-2014
Mbaluka Monyi	56	Kivaa	02-06-2014
Mbatha Mbenge	66	Kangonde	24-06-2014
Mbeneka Mutua	64	Masinga	07-07-2014
Mbinya Kimatu	72	Kithyoko	05-06-2014
Mbinya Kioko	63	Kithyoko	10-07-2014
Mbinya Mutiso	58	Ikaatini	30-07-2014
Mbithe Kyalo	75	Kivaa	16-06-2014

Name.	Age.	Location.	Date interviewed
Milcah Muli	62	Ekalakala	20-07-2014
Miriam Mbatha	69	Masinga	25-06-2014
Monicah Masai	66	Kangonde	28-07-2014
Mueni Matheka	59	Ikaatini	14-06-2014
Muithya Mary	81	Kithyoko	21-07-2014
Muli Wayua	67	Masinga	12-06-2014
Mulungye Muoki	58	Kangonde	19-07-2014
Mumbua Mutile	67	Kivaa	26-07-2014
Munee Mbithe	60	Masinga	27-06-2014
Munyasya Peter	76	Masinga	9-06-2014
Muoka Mbithe	70	Kangonde	10-07-2014
Mutanu Mutwwii	56	Ekalakala	17-06-2014
Mutheu Mutunga	73	Masinga	08-07-2014
Muthina Muli	68	Kivaa	05-06-2014
Muthina Muthama	59	Kangonde	04-07-2014
Muthini Kyalo	64	Kangonde	02-06-2014
Muthio Kivuva	68	Kivaa	24-07-2014
Muthio Ann	74	Masinga	26-06-2014
Muthue Kyalo.	56	Ekalakala	01-07-2014
Mutile Kyalo	69	Kivaa	19-06-2014
Mutile Mutua	65	Kivaa	17-06-2014
Mutile Muusi	64	Kangonde	15-07-2014
Mutinda Kitonyi	57	Masinga	18-06-2014

Name.	Age.	Location.	Date of interview
Mutio Mutua	56	Kangonde	30-07-2014
Mutuli Mbwika	69	Masinga	05-07-2014
Muuo Mary	73	Kivaa	15-07-2014
Mwelu Mbiu	58	Kivaa	16-06-2014
Mwende Kioko	77	Masinga	03-07-2014
Mwikali Muya	62	Ekalakala	09-06-2014
Mwikali Waa	59	Kivaa	11-07-2014
Ndave Muli	58	Kangonde	17-06-2014
Ndila Muthio	62	Masinga	04-06-2014
Ndinda Mutie	71	Kivaa	05-07-2014
Ndinda Muthoka	65	Masinga	08-07-2014
Nduku Mumo	59	Ikaatini	10-06-2014
Nduku Muasya	67	Ikaatini	06-06-2014
Nduku Mutinda	57	Ekalakala	08-07-2014
Nduku Mutua	60	Kivaa	13-07-2014
Nduku Kisovi	73	Kangonde	19-06-2014
Ndunge Mwanzia	67	Masinga	17-07-2014
Ndunge Ngala	68	Masinga	20-06-2014
Ndungwa Kimeu	60	Kivaa	23-06-2014
Ngina Mutinda	82	Ekalakala	12-06-2014
Ngina Charles	75	Ikaatini	29-07-2014
Ngulu Nguku	64	Kivaa	30-06-2014
Nthambi Mwilu	66	Masinga	15-07-2014

Name.	Age.	Location.	Date of interview
Nthenya Matata	63	Kivaa	14-07-2014
Nthuna Kioko	72	Kangonde	17-06-2014
Nzila John	58	Masinga	08-06-2014
Nzilani Mutua	61	Kithyoko	09-07-2014
Nzisa Mutiso	69	Kithyoko	10-06-2014
Nzisa Nthuli	59	Masinga	10-06-2014
Nzivilu Nthenge	58	Kivaa	22-07-2014
Sabina Kioko	63	Ikaatini	10-06-2014
Sebastian Mang'ee	58	Kangonde	15-06-2014
Susan Kimeu	60	Ikaatini	06-07-2014
Syombua Mwanzia	56	Kangonde	22-06-2014
Syombua Syau	59	Kangonde	27-06-2014
Uvyu Rose	57	Masinga	03-07-2014
Wayua Nzivo	64	Ikaatini	16-07-2014
Wayua Muoka	58	Kangonde	07-06-2014
Wayua Muthama	70	Masinga.	26-06-2014

A7:GLOSSARY OF KAMBA TERMINOLOGIES.

Atumia ma Ithembo- An age grade among the Kamba comprising of
Elders of the shrine.

Atui- Neighbours.

Atumia ma Kivalo- Territorial elders.

Aimu - A Kamba term loosely translated to mean ancestral spirit.

Kamolo- An improvised digging stick used by traditional Kamba during
Planting.

Kisesi – Uncultivated piece of land used for grazing.

King'ole- A form of punishment by lynching among the Akamba.

Kuia Nyuni- Frightening away birds.

Kyengo- Cattle posts away from home.

Liu wa ngai sya musyi- Libation.

Mbaa- Lineage/ kinship.

Mbui ya Mathanzu- A goat of appreciation.

Mbui ya Ikonge- A goat slaughtered during during boundary marking
Ceremony.

Mutumia- Elder.

Mulungu- God

Muunda- cultivated piece of land.

Musyi- Home/ family.

Mundu Mue- Medicineman.

Mundu wa Musyi-A relative.

Munyanyae- Friend.

Mutau- Shallow ditches used for irrigation.

Ng'onde- A traditional way of purification for people who committed
Religious sacrilege.

Ndundu- Traditional oath among the Akamba.

Ngasia- Brideprice.

Nzyima- Hunting party.

Nzama- Council of elders.

Ng'undu- Ancestral piece of land.

Syanda- continuous ridges.

Ithembo- Kamba traditional place of worship(shrine).

Ituni- Kamba term that loosely refers to the sky or heaven.

Utui- Territorial unit.

Weu- Uncultivated commonage land.