

**CHANGING PATTERNS IN MARRIAGE AMONG THE ISUKHA PEOPLE
OF KAKAMEGA COUNTY, KENYA, 1894-2010**

BY

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DOCTOR OF PHILOSOPHY IN HISTORY**

MOI UNIVERSITY

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DEDICATION

To my parents Levi Mugalavai Musalia and Anne Koster Mugalavai for their love and encouragement and in memory of my late grandfather Hezron Musalia Ogalo.

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ABSTRACT

This study examines the impact of colonial and post-colonial social and economic changes on Isukha traditional marriage institution 1894-2010. The study maintained that the colonial and post-colonial policies restructured the traditional Isukha marriage institution from courtship, bride wealth, marriage ceremony, widow guardianship to polygamy. The objectives that guided this research included the evaluation of significance of marriage among the Isukha during the pre-colonial period; examination of the establishment of colonial and missionaries' activities in Isukha; exploration on Isukha marital structural responses to colonial policies and missionary activities; assessing changes in marital relations of the Isukha community in 1963 to 1990; and post-colonial period on labour, property and marital relationship among the Isukha to 2010. The historical research design was used in this research in order to link phases of the area of the study. The study was informed by the theories of articulation of modes of production and agency. Data collection was done through primary and secondary sources by use of vast archival materials and the oral interviews that revealed the state of Isukha perception of marriage institution. Purposive sampling and snowballing techniques were used to select a sample of 60 participants well versed with Isukha marriage from the target population. The research instrument that were employed to collect oral data included unstructured interview schedule, and Focus Group Discussions. Data was analysed using qualitative method. It was compiled into themes and reported in descriptive texts and direct quotations. The study established that the traditional marital institution was the foundation of Isukha society because marriage ceremony fostered cohesion and socialization among community members. It equally observed that, the establishment of the church through missionaries' activities who acted as fore runners of colonialism impacted on traditional Isukha marriage institution. The study also established that the period 1945-1963 marked a transition in the Isukha marriage institution courtesy of rural-urban migration of the persons under study. Furthermore, the study also found out that while the missionaries and the colonial state with considerable difficulty articulated foreign marital practices, the Isukha responded as receptive agents ready to accommodate, absorb and assimilate new practices into their traditional marriage institution. The Isukha therefore, retained what they deemed beneficial to their marital institution and restructured their traditional institution of marriage with the new and progressive ideas from the missionaries, the colonial state and globalization with what they considered beneficial to the marriage institution. With this nature of the Isukha, their marital institution and property structurally evolved during the period of this study. The research findings established harmonization of the missionary and colonial progressive marital values into the traditional Isukha marital system. The study recommends the need to incorporate some traditional practices such as bridewealth payment, parent's involvement in family life education and communal interest in the choice of a partner which are harmless and the registration of all marital unions in order to protect the matrimonial rights of the parties.

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GLOSSARY

<i>Abakwe</i>	Delegation
<i>Abeya</i>	Bridemaids
<i>Amalwa</i>	Local beer
<i>Askari</i>	Police
<i>Avakomi</i>	Mature women
<i>Ayahs</i>	Domestic servants
<i>Bukhwi</i>	Bridewealth
<i>Bulee</i>	Sorghum
<i>Bwana</i>	Husband
<i>Bwikho</i>	Clan relationship
<i>Endeve</i>	Sitting Stool
<i>Enzu</i>	Living-hut
<i>Imboko /Mkumbeti</i>	Hoe tool
<i>Isimba</i>	Traditional hut for unmarried men
<i>Khubaira</i>	Elopment
<i>Kuhila</i>	To marry
<i>Kipande</i>	Pass system (identity card)
<i>Likhula</i>	People of the same age-group
<i>Litala</i>	Clan
<i>Mahari</i>	Bridewealth
<i>Marika</i>	Funeral

<i>Masaaba</i>	Mount Elgon
<i>Mukara</i>	A lazy person
<i>Mukari/mkoko</i>	A woman who is married (wife)
<i>Mukhana</i>	A girl who is not married
<i>Muloji</i>	Wichcraft/wizard
<i>Musaza</i>	A man who has married (Husband)
<i>Mushiere</i>	Respectable old woman
<i>Musumba</i>	Unmarried man
<i>Omwami/ Liguru</i>	Clan head/leader
<i>Omwana</i>	A Child
<i>Senje</i>	Paternal aunty
<i>Shamba</i>	Land
<i>Shikapu</i>	Basket
<i>Shirebwa</i>	Bride
<i>Shiselelo</i>	Wedding
<i>Shitwati</i>	A girl who got pregnant out of wedlock
<i>Uhuru</i>	Independence

OPERATIONAL DEFINITION OF TERMS

- Changing** Refers to the many ways in which societies change their pattern of culture. Particular emphasis is given to the evolution of Isukha marriage and practices.
- Family (African)** Is the basic social group in a society comprising children, parents, grandparents, uncles, aunts, brothers and sisters living together as a unit.
- Marriage (African)** Is a bond between two adult individuals of the opposite sex who make a commitment to remain in a union as husband and wife/wives and is publicly sanctioned and supported by their communities with the primary purpose of raising a family.
- Modernity** Is associated with the sweeping changes that took place in the society and particularly between the late 1950s and beginning of Second World War.
- Patterns** Refers to the types/forms of marriages. The Isukha practice two major types of marriages polygyny and monogamous.
- Polygamy** It includes both polyandry and polygyny as types of marriages practiced in different communities as legal and socially acceptable to them. However among the Isukha they practiced polygyny, a marriage of one husband with more than one wife at a time.
- Traditional** It does not point to the primitive or to the past but to that which is truly African, that in which is true African's was found.

ABBREVIATIONS AND ACRONYMS

ADC	African District Councils
AIDS	Acquired Immune Deficiency Syndrome
CMS	Church Missionary Society
DC	District commissioners
EAWL	East African Women's League
FAM	American Friends African Mission
FGDs	Focus Group Discussions
GEA Co.	Germany East Africa Company
HIV	Human Immunodeficiency Virus
IBEA Co.	Imperial British East African Company
KAR	Kings African Rifles
KNA	Kenya National Archives
LNCs	Local Native Council
MHM	Mill Hill Mission
MPs	Members of Parliament
MYW	<i>Maendeleo ya Wanawake</i> -(Women's Development)
PC	Provincial Commissioner
WWI	First World War I
WWII	Second World War
UN	United Nation

CHAPTER ONE

BACKGROUND TO THE STUDY

1.1 Introduction

This study examined the significance and the changes that have occurred in the Isukha marriage between 1894 and 2010. Marriage provides a significant form of social support that enable people to take part in wider patterns of social life. What has been said about African traditional culture can be said about concepts and customs of marriage in Africa. This is because marriage provided the foundation for African society. On a more basic level, only marriage gave men and women the chances to achieve any status in society, even simply to be considered an adult.¹ Marriage manifested the unity of African culture in its various occasions for celebration, congratulations and festivity. The link of marriage and the extended family, or the community at large was evidently shown in the way marriage was celebrated and prepared. The extended family were ever concerned about the marriage of their sons and daughters because it was from such marriages that children to continue family and community life were born.² It is within this context that this study set out to examine Isukha marriage as a unique cultural institution.

African traditional practices were challenged by colonial social and economic policies and practices transforming pre-capitalist systems. These policies also created a migrant labour force by involving men through taxation, labour conscription and forced cultivation. Thus, there is abundant evidence to support the fact that colonialism actually brought new conditions to which the Isukha traditional marriage and family had to adjust itself. In the wake of this transformation, social relations of

¹ B. L. Shadle, *“Girl Cases” Marriage and Colonialism in Gusiiland, Kenya 1890-1970* (Heinemann: Portsmouth, 2006), 7.

² K. A. Phiri, *African Traditional Marriage: A Christian Theological*. (Nairobi: Paulines Publications Africa, 2011), 24.

all kinds that had their roots in the process of production were profoundly disturbed. In the same literature there is the recognition that the spread of Christianity was an integral part of the extension of European influence in Africa, although missionaries were often at odds with colonial government over the treatment of the “natives”. In going about their activities, the missionaries introduced Christian marriage practices, impacting on the whole system of traditional marriage systems.³As a result, Christianity was bound to conflict with and undermine norms, beliefs, practices, taboos and values associated with Isukha marriage and kinship traditions. It did not honour the participation of parents or relatives in the process of marriage in the co-operative payment of bridewealth. This is because Christianity was introduced with individualistic tendencies of the western culture and did not strive to advocate for Christian marriage within the Isukha traditional framework. As such, Christianity throughout its history in Isukhaland acted as an agent of change to the core beliefs, values and marriage practices of the Isukha. It succeeded in changing some aspects of the Isukha marriage beliefs and practices. However, there is evidence to show that certain elements have resisted change. This dissertation, therefore, sets out to examine and assess the nature and extent of the change. It seeks to determine how far Christianity succeeded in changing the traditional marriage arrangement, courtship, ceremonies, rituals, bridewealth payment, polygyny and leviratic marriage. It establishes also the aspects that have resisted change and which continued to exist.

The foundations on which the post-independence systems were built continue to plague independent Kenya, including Isukha marriage disputes. Like the colonial executive, however, Kenya’s parliament refused to challenge certain aspects of

³ S.O. Okuro, *The impact of colonial socio-economic policies and practices of female-headed households in Kenya: The case of Kombewa Division, Kisumu District 1894-1963*. (M.A Thesis Kenyatta university, 2002), 97. Quoted in Strobel 1984, 5

“traditional” marriage and did not write into law all the 1968 Commission’s recommendations. There were several changes or threats at the economic, social, cultural and political level that impacted on African marriage and continued to pose challenges and opportunities or new opening in the post-independent Africa in the late 1970s and early 1980s. It will suffice for purposes of this study to mention a few. The study recognized globalization as a major change that has both positive and negative impact on bridewealth, preparation for marriage, ritual related to marriage, the purpose of marriage, marital unions and the termination of the marriage covenant.⁴ Phiri stated that; “As Africa is being rapidly influenced by other world cultures, the concept of marriage, the mode of celebrating it, and the manner in which the same is lived are also greatly affected.”⁵ Shorter calls this process “acculturation”.⁶ The process of ‘acculturation’ acknowledges that cultures are not static since they develop and change through the mutual influence among cultures. At the same time, acculturation has posed challenges of interaction with other cultures through different media. For instance, print and electronic media which disseminate foreign values that requires integration into the traditional African systems.⁷ Due to bad governance mechanisms for integrating foreign values into existing traditional African systems have not been effectively set up in order to improve quality of life in Africa. It has led to the rising change in courtship patterns that emphasize individual choice, where the individual has more say in mate selection. The prevailing education system, the urban social set up and employment have given rise to new ways of setting up marriages,

⁴ J.M. Bahemuka, “Social Changes and Women’s Attitudes towards marriage in East Africa”. *The will to Arise: Women, Tradition and the Church in Africa*. M.A. Oduyoye and M.R.A. Kanyoro (eds), (New York: Orbis, 1992), 121-124.

⁵ K.A. Phiris. *African Traditional Marriage: A Christian Theological Appraisal*. (Nairobi: Paulines Publications Africa, 2011), 13.

⁶ A. Shorter. *African Culture: An Overview-Socio-cultural Anthropology*. (Nairobi: Paulines Publications, 1987), 15.

⁷ D.O.Okiya, *The Centrality of marriage in African Religio-culture with reference to the Maasai of Kajiado County, Kenya* (Ph.D Thesis Kenyatta University, 2016), 16. Retrieved from www.ir-library.ku.ac.ke/pdf Assessed on 18-10-2016

where young African couples tend to have fewer children than their parents as knowledge and use of contraceptives has expanded.⁸

The changing role of women in society in both colonial and postcolonial is another major factor that has influenced African traditional marriage both negatively and positively. It has contributed to divorce and single parenthood that have both been common not only in many Kenya societies in the post independent, but all over the world. It has put a new spin on almost every contemporary aspect of marriage and of non-marriage, even if some of our contemporary features superficially resemble something in the past.⁹ Women gained more decisional latitude on what kind of family they would like to set up. This has given rise to an increasing number of women deciding to stay single.¹⁰ By receiving a formal complete education, women not only had more opportunity to develop a career of their own, but they become empowered to discuss family planning and contraception with their partners. Rising change in courtship patterns that emphasize individual choice and employment have given rise to new ways of setting up marriages.

Agitation for same-sex marriage, separation, divorce, single parenthood, rape and prostitution have become a feature in debates in African countries.¹¹ Due to these continuing pressures, more and more people in the contemporary setting do not involve their families in the selection of marriage partners. They skip some of the

⁸Ibid, 17.

⁹ S. Coontz, *The World Historical Transformation of Marriage* from <https://source.wustle.edu> accessed on 20/10/2016, pg 1

¹⁰L. Sarat, *Maasai Girl in the Modern World: How Educational Opportunities for the Maasai Women of Kenya Will Lead to Environmental Sustainability*. (Emma-Jean Weinstein – HS 103-04 Honors Writing Symposium April 28, 2011) 4. Retrieved from <http://nchchonors.org/wp-content/uploads/2012/04/Weinstein-Emma-Jean-Emerson-College-Paper.pdf> accessed on 04-02-2017.

¹¹C. A. Suda *Formal monogamous and informal polygamy in patriarchal African family traditions in Transition*. Inaugural lecture 4th October 2007 from [https://vpn.uonbi.ac.ke/proxy/http/erepository.uonbi.ac.ke/bistream/handle/11295/795/suda2pdf?\(2007\)](https://vpn.uonbi.ac.ke/proxy/http/erepository.uonbi.ac.ke/bistream/handle/11295/795/suda2pdf?(2007)) accessed on 25/10/2014, pg 24

elaborate pre-nuptial rituals and practices which were intended to stabilize marriages in traditional African societies. Kyalo¹² argues that challenges facing African marriage can be resolved. He states that “though marriage suffers handicaps, in the society, there exists within African traditional marriage, system resources available, which if discerned and learned properly, can help checkmate or even stalemate some of the ills it suffers today.”¹³In order to research on these broad problems, the study focused on Isukha, an area where such a study has not been undertaken at all. The impact of colonial labour and taxation policies, missionaries’ activities and post-colonial policies related to property rights between husband and wife is therefore the main theme of this study.

1.2 Study Area

The Isukha people are part of the patrilineal Luyia community who live within Kakamega County in Kenya (See Map 3). During the greater part of the colonial period until 1956, what was known as Western province constituted one district known as North Kavirondo and after 1949 as North Nyanza. Its headquarters was at Kakamega.¹⁴ As of 2013 with the coming into effect of the constitution of Kenya 2010, the former western province with its administrative headquarters in Kakamega town was split into four counties namely; Kakamega County; Vihiga County; Bungoma County and Busia County. Thus the study area assumed its present name

¹² P. Kyalo. “A Reflection on the African Traditional Values of marriage and sexuality” *In International Journal of Academic Research in Progressive Education and Development*. Vol. 1, No. 2. 2012, 18. Retrieved from www.hrmar.com

¹³ Ibid.

¹⁴ N.E. Makana, *Changing Pattern of Indigenous Economic systems: Agrarian change and Rural transformation in Bungoma District 193-01960* (Ph. D. Dissertation, West Virginia University, 2006), 27. Retrieved from <http://wvusscholar.wvu.edu:888pdf>. Accessed February 2013

after 2013.¹⁵ Map 2 marks out Kakamega County with the highlighted line showing Shinyalu sub-county as the study area.

Administratively, Isukha is located in Shinyalu Sub-county that has six wards namely; Isukha North, Isukha South, Isukha East, Isukha West, Isukha Central and Murhanda.¹⁶ To the east the Isukha border the Nandi; to the north they occupy Kakamega town which they share with the Batsotso and Kabras. To the west they neighbour the Idakho and the Batsotso and to the south they are separated from their closely related Idakho by river Yala.¹⁷ (See Map 1) According to the 2009 census results the approximate population of the Isukha was 159,475.¹⁸

Generally, rainfall varies from 1500mm per annum in the northern parts of Shinyalu sub-county to 2100mm per annum in the southern parts. Like most other regions of Western Kenya, Shinyalu sub-county experiences two rainy seasons. The long rains starts in March and end in June with peak in May. The short rains commence in July and end in September and peaks in August. The drier months are December, January and February. The sub-county has a mean temperature of 22.5 *degree C* with high temperatures all the year round with low temperatures recorded at night while high temperatures are recorded during the day.¹⁹ Agriculture is the main economic activity among the Isukha with 80% of the population involved in agriculture based activities of both subsistence farming and cash cropping of tea and sugarcane by small scale

¹⁵Republic of Kenya, *Kakamega East District Development Plan 2008-2012*. (Nairobi: Government Printer, 2009), 3.

¹⁶Ibid, 3.

¹⁷ Ibid,

¹⁸Republic of Kenya, *The County Government of Kakamega: The first county Integrated Development Plan 2013-2017* (Retrieved from <https://kakamega.go.ke/pdf> Nov 27, 2015), 20. Accessed 17-12-2016.

¹⁹Republic of Kenya, *Kakamega East District Development Plan 2008-2012*. (Nairobi: Government Printer, 2009), 7.

farmers.²⁰ The cash crops provide much needed income to this cash-starved farming community. At the same time, most of the adults engage in wage labour and disparate off-farming activities as a means of supplementing the proceeds from cash crop sales. Maize, beans, sweet potatoes, finger millet, cassava, fruits and vegetables are mainly grown as food crops. On the other hand, livestock rearing such as cattle, sheep, goats and donkeys are kept by a few individuals and their products are put to a variety of use. Most roads are weather roads. They are therefore in poor condition because of heavy rainfall, poor maintenance and inadequate funding.²¹

Isukhu and Yala are the two major rivers in the region. It was along these rivers that gold was discovered in the 1930s.²² Wildlife and forestry sub-sectors are intertwined. With Kakamega forest as the main tourist destination in the area, covering an area of 188.7km² thus, providing natural habitat for different wildlife species including primates, birds, snakes and butterflies.²³ The main forest products from the forest include firewood and charcoal as fuel, medicinal plants, honey for commercial and domestic consumption, and timber for construction of houses. The growth of herbal products business has also created demand for the forest medicinal plants. In addition, the forest is also used as sites for research and development by a number of institutions such as Masinde Muliro University of Science and Technology.²⁴ Isukha are famous in western Kenya for their *isukuti* dance and *bullfighting*. This is exhibited especially during initiation, funerals, weddings and ceremonies. Other tourism activities in the area include cock fighting, the dog market and the crying stone, which

²⁰ Ibid.,

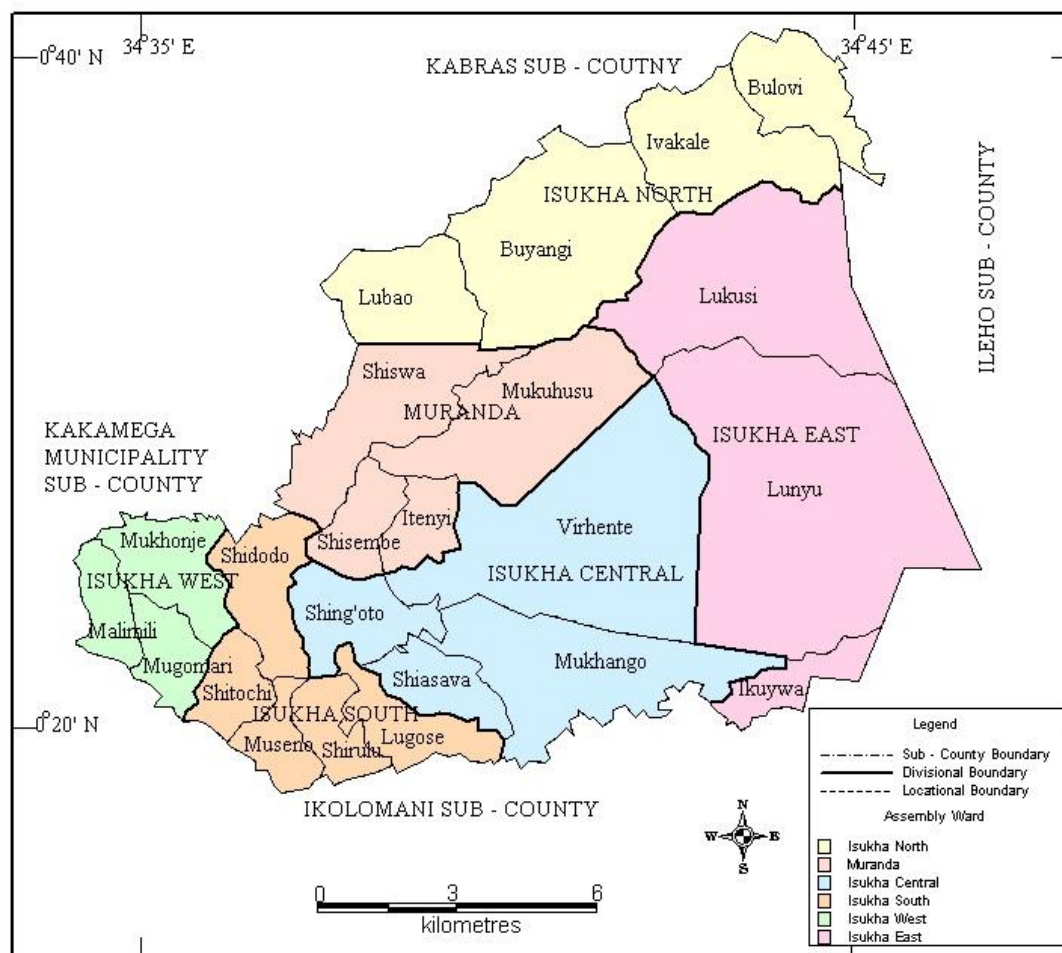
²¹ Ibid,

²² K. Muchango, *Impact of economic activities of the ecology of the Isukha and Idakho areas of Western Kenya C.1850-1945* (M.A. Thesis, Kenyatta University, 1998), 6

²³ Republic of Kenya, *Kakamega East District Development Plan 2008-2012*. (Nairobi: Government Printer, 2009), 11.

²⁴ Republic of Kenya, *The County Government of Kakamega: The first county Integrated Development Plan 2013-2017* (Retrieved from <https://kakamega.go.ke/pdf> Nov 27, 2015), 40. Accessed 17-12-2016.

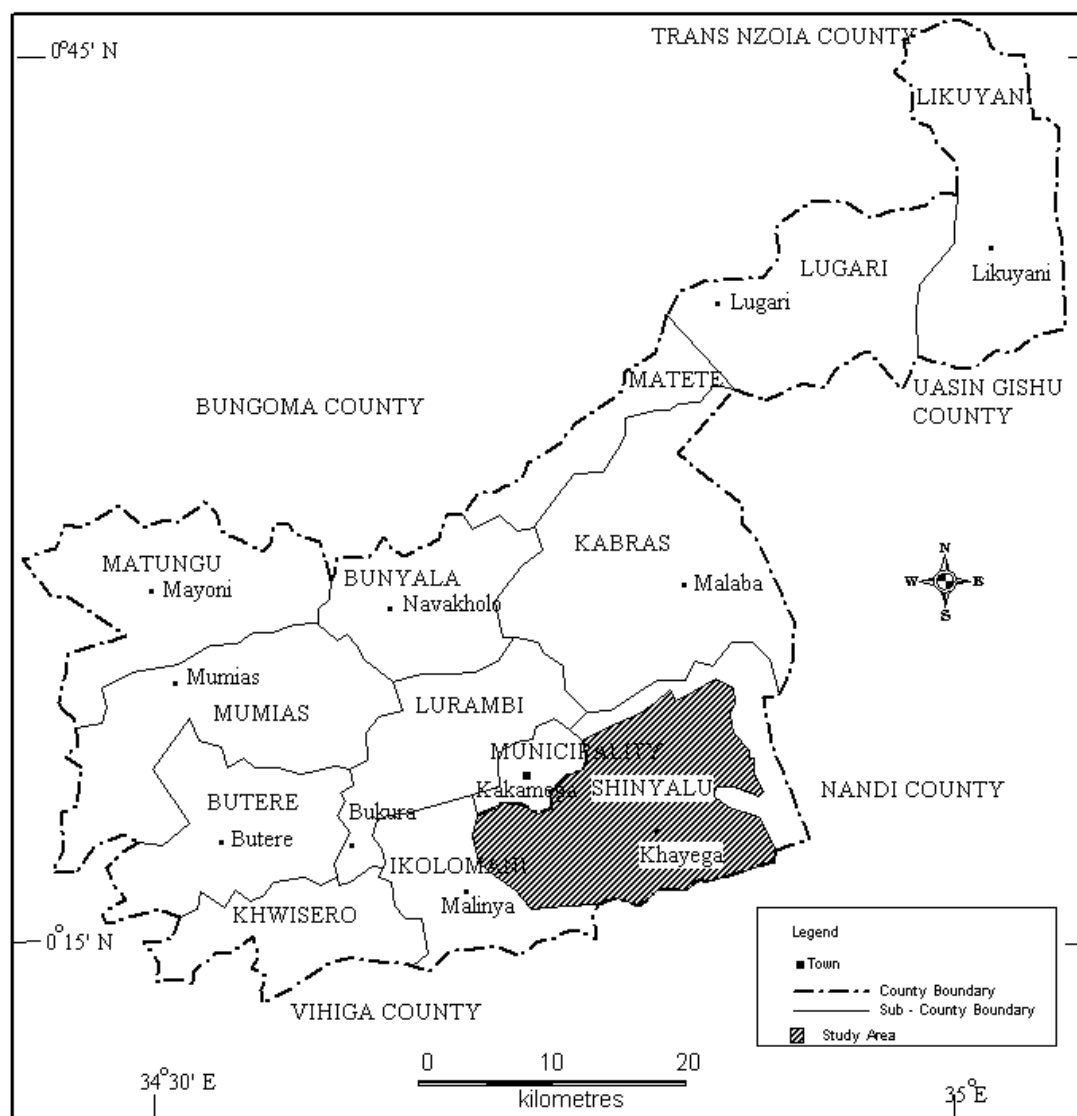
is a special stone among the Isukha, which they believe helps them fight wars and protect them from their enemies and against evil. ²⁵



Map 1: A Map of Shinyalu Sub – County as the Study Area with six Assembly Wards

Source: GIS Geography Department Moi University

²⁵Ibid,.



Map 2: A Map of Kakamega County showing Shinyalu Sub-County as the Study Area

Source: GIS Geography Department Moi University



Map 3: A Map of Kenya showing the location of Shinyalu Sub- County as the Study area

Source; GIS Geography Department Moi University

1.3 Statement of the Problem

Colonial and Post-colonial policies have acted as agent of change to the core beliefs, values and marriage practices of the Isukha community of Kenya. However, there is evidence to show that certain elements have resisted change. This dissertation, therefore, examined the nature and extent of the change. It sought to determine how Isukha traditional marriage system succumbed to “modernity” or if the marital system re-structured itself in the phase of “modernity” to re-emerge with alternative “stronger” marital structures, within the study period.

1.4 Purpose of the Study

The aim of the study was to establish the impact of colonial and post-colonial policies and practices on Isukha marriage within the study period.

1.5 Objectives of the Study

The study was guided by the following objectives:

- i) To evaluate the nature and significance of marriage in Isukha society during the pre-colonial period.
- ii) To examine the establishment of colonial and missionaries’ activities on Isukha marriage during the colonial period.
- iii) To explore how Isukha marital structure responded to the colonial policies.
- iv) To assess the changes in marital relations of the Isukha in the period 1963 to 1990.
- v) To examine the effects of economic development in post-colonial period on labour, property and marital relationship among the Isukha to 2010.

1.6 Research Questions

The following questions were formulated to guide the study:

- i) What was the significance of marriage in Isukha society during the pre-colonial period?
- ii) To what extent did colonial policies and practices impact on the marital relations of production among the Isukha during this periods?
- iii) How and with what results did Isukha marriage impact colonial and post-colonial policies?
- iv) How did the post-colonial government impact on marital laws and ownership of property to 2010?
- v) How did economic development in post-colonial Kenya impact on Isukha marriage to 2010.

1.7 Research Premises and Assumption

The study proceeded from the following assumptions:

- i) That marriage among the Isukha fostered communal solidarity as an approach to social life.
- ii) The advent of the colonialism transformed the pre-colonial family structures and marital relations among the Isukha and thus made the institution susceptible to the colonial policies and practices.
- iii) In some cases Isukha marriage survived the colonial onslaught either in its pristine or modified forms prior to the introduction of Christianity and western education.

- iv) Isukha males together with the post-colonial government created crisis in marriage through laws related to marriage, personal and property rights between husband and wife that restricted women, of new situation.
- v) Economic developments and globalization accelerated transformation in Isukha marriage.

1.8 Review of Related Literature

The dearth of historical literature on marital relations during the colonial and post-colonial period makes the review in such an area almost very difficult. This represents a gap that this study intends to fill. This study is concerned with the process of changing marital relations among the Isukha. The literature reviewed below has been arranged in the order of pre-colonial, colonial and post-colonial period as per the study's objectives. The sub-sections of this literature reviewed studies conducted in other countries in Africa, Kenya and Western Kenya that have dealt with gender relations, family and marriage which informed the study.

African Marriage and Families in the Pre-colonial Period

Marriage historically conferred a legitimate status on an offspring. It entitled an individual to the various privileges set down by the traditions of a particular community, which included the right of privileges accruing to the family lineage. In most African societies, marriage established the permissible social relations allowed to *bona fide* members, including the acceptable selection of future spouses. Mbiti's explanation of the nature of marriage stated that; "Marriage was a major transforming ceremony in African culture. It was viewed as a community activity that involved all members, those who were currently physically living in the community, the ancestors

and those yet to be born.”²⁶ A variety of communities found in Africa, with diverse cultural orientations, practiced marriage as a significant rite of passage. Individuals who got involved in marriage become “socially adult.”²⁷ Marriage thus, marked a significant transition from, “one social category to another, because for at least one of the spouses, it involved a change of family, clan, village, or ethnic group. Sometimes the newly married couples even established residence in a new house.”²⁸ It was within marriage that individual legally exercised their procreative rights.²⁹

Oduyoye from a feminist view point stated that:

In marriage, the woman is an indispensable part of the institution. The transitional rite that establishes and solidifies relationships that enables her to function as a channel by which the ancestors can return to the community.³⁰

She further argues that within a matrilineal set up, the birth of female children took priority over the births of males. This was because “without them no blood could be transmitted and no ancestors could return to life, dooming the clan to perdition.”³¹ This echoes the notion of life everlasting through naming or nominal reincarnation. Here, through naming, an individual lives on in the one named after him or her.

According to Magesa the fundamental of marriage was emphasized by the fact that the “entire process of initiation was directed towards marriage and procreation.”³² Through initiation, a person was recognized as an adult and a mature member of the

²⁶J. S.Mbiti, *African Religions and Philosophy* (Nairobi: East African Educational Publisher, 1969), 133

²⁷M.A. Oduyoye, “Social Changes and women’s attitudes towards marriage in East Africa” in *The will to Arise: Women Tradition and the Church in Africa* M.A. Oduyoye and M.R.A. Kanyoro (eds), (New York: Orbis, 1992), 13.

²⁸M.A.Oduyoye and A. Van Gennep *Cultural Universals and Particulars: An African Perspective* (Bloomington: Indiana University Press, 1960), 116.

²⁹L. Magesa, *African Religion; The Moral Traditions of Abundant Life*. (Nairobi: Paulines Publication, 1997), 15.

³⁰M.A. Oduyoye, *Daughters of Anowa: African Women and Patriarchy* (New York: Orbis 1995), 132.

³¹L. Magesa, *African Religion; The Moral Traditions of Abundant Life* (Nairobi: Paulines Publication, 1997), 110.

³²Ibid.,

community to enter marriage. After the ritual of initiation, one was ready to accept responsibilities for immediate and extended family. Gennep stated that: “maturity followed this stage (initiation) and it was most clearly expressed in the founding of a family. Marriage constituted the most important of the transitions from one social category to another.”³³ This underlines the idea that marriage was a community activity and involved both a confirmation of maturity and widening of mature relationships. Such mature relationships developed among the in-laws were relationships that came to their high point in procreation. Each marriage was expected to produce children.³⁴ This explains why marriage involved other processes that occurred after the actual day of the wedding, for example the bearing and rearing of children. Kabaji³⁵ on the other hand conducted a research among the Maragoli and emphasized that marriage conveyed status. He described how a bachelor was seen as an incomplete man. A similar thought, although milder, was also directed towards childless couples. An unmarried woman, who remained in her village of birth, although rare, was a target of hostility even from her own brothers. She was an eyesore to her family. Such a woman had no role or status in the society and was denied access to certain occasions. Marriage and birth of children among Maragoli were thus occasions for celebration, congratulations and festivity. The above four studies help to show why marriage was an important institution on various communities, hence they are helpful as background information to the present study.

³³A. Van Gennep. *Cultural Universals and Particulars: An African Perspective* (Bloomington: Indiana University Press, 1960), 116.

³⁴A. Doumbia and N. Doumbia, *The way of the elders: West African Spirituality and Tradition* (Minnesota: Llewellyn Publications, 2004): 139-140 and A. P. Khofi, *African Traditional marriage: A Christian Theological* (Nairobi: Paulines Publications Africa, 2011), 24-29.

³⁵E. S. Kabaji. *The construction of gender through the narrative process of the African folktale: A Case study of the Maragoli folktale* (Doctor of Literature and Philosophy: University of South Africa, 2005).

Women obliged to marriage, whether polygamous or monogamous provided they had access to land. Among pre-colonial patrilineages, women obtained rights only through either fathers or husbands.³⁶ More significantly, marriage was a means of establishing, household and thereby giving its sons and in some cases daughters' access to land.³⁷ Decision 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.³⁸ This literature is vital to the present study in developing a historical account of how land tenure system introduced by colonialist impacted on Isukha ownership of land at the family level over time and how they responded to these changes.

Tanui's explanation on landownership among the Nandi during the pre-colonial noted that "marriage marked the point in which a man and woman could own a cultivated field."³⁹ For polygamous men, cultivated land was distributed according to the number of wives. It was therefore, safe to say that each married woman had her own farm which she cultivated. The size of the farm depended on the ability of the person to mobilize labour. She further asserted that "an individual was free to choose the amount of land to cultivate. An elderly man could also own his small farm near the homestead in which he planted tobacco."⁴⁰ Land once cleared for cultivation,

³⁶P.B.O.Ndege, From Accumulation of women and children to 'Land grabbing': Agrarian Kleptocracy and the land question in Kenya (Inaugural Lecture: Moi University press, 2012), 10. Retrieved from www.ir.mu.ac.ke/pdf . Accessed 25/11/2016

³⁷P.Shipton, Lineage and Locality as Antithetical Principles in East African Systems of Land Tenure", *Ethnology*, Vol. 23, No. 3.1986, 117—132.

³⁸D.A.V.Kimanthi, The Akamba land tenure system and its impacts on women' land ownership in Masinga division, 1895-2010. (M.A Thesis, Kenyatta University 2016), 18.Retrieved from www.ir-library.ku.ac.ke/pdf.Assessed 4-01-2017.

³⁹P. Tanui, A gender analysis of the influence of colonial policies on access to land and agricultural technology among the Nandi in Kenya, 1895-1954. In *International Journal of Humanities and Social Science* Vol.5, No.9; September 2015, 219-220. Retrieved from www.ijhssnet.com Accessed 10-12-2016.

⁴⁰Ibid

belonged to the person using it. In case of death, the land would be inherited by the sons of the woman who cultivated it and their wives. The author further argues that the development of a fully conscious idea that land “belonged” to men, did not develop in the pre-colonial Nandi. Since cultivated land was ideologically associated with women’s activities.”⁴¹ Covering the same theme on land, Mokebo⁴² discussion on marriage albeit in a different geographical context emphasized how marriage secured a woman access to land among the Gusii during the pre-colonial. If a woman got married outside the clan upon her husband’s demise she then forfeited her land rights. A married woman automatically remained the primary trustee to her son’s inheritance upon her husband’s death.⁴³ Moreover, married women among the Gusii who were unable to bear children on their part easily manipulated their marital status to be “women husbands.” These women were allowed to “marry” other women to bear them children.⁴⁴ Tanui and Mokebo have attempted to show how marriage secured both women and men access to economic resources in terms of land. From their discussion, land has emerged as a major theme in marriage. Land was the most important form that men and women depended on for their survival in terms of food production, shelter and security. Hence, absolute title to land was vested in traditional authorities and was never vested in individual.

Among most communities in Kenya in pre-colonial times, marriage was a communal collectivist agenda. Extended family remained the basic unit for the arrangement of marriage by elders in each concerned family unit. Although a male had a say in who eventually became his bride, the broader considerations were tilted towards

⁴¹ Ibid.,

⁴² Z. J.Mokebo, *Women Political Participation: A Case of Bomachoge Constituency in Kenya, 1963-2013*. (M.A Thesis, Kenyatta University 2015)Retrieved from www.ir-library.ku.ac.kepdf. Assessed on 4-01-2017.

⁴³ Ibid, 41.

⁴⁴ Ibid.,

conforming to certain preexisting parameters. Kenyatta⁴⁵ writing on the Agikuyu, explained how the paternal uncles had a strong say in whoever the man chose as bride. He further argues that some clans were completely ‘no go zones’ and certain clans could not inter-marry. These restrictions tended to produce a certain kind of despondence and most males would just let the clan make that hard decision.⁴⁶ However, all this was discontinued after the modernization and Christianization of the Gikuyu people. And with it, ideals like autonomy, self-actualisation and economic empowerment severed the strong hold the clan had on people.⁴⁷ The current study has used the above findings to establish if there were any similarities or divergences between Gikuyu and Isukha.

Bulow expresses Kenyatta’s idea from the viewpoint of participation and role of women to choose a marriage partner among the Kipsigis.⁴⁸ Bulow noted that young women could not choose freely, but neither could young men. It was the prerogative of the elders to arrange marriages and, that mothers had very great influence on the match-making. However, it was not in all situations that young people accepted their parents’ choice of partner. This argument is better elaborated by Bulow when he quoted Orchardson story about a young girl in Kipsigis who managed, with the support of her “godmother”, to carry out a marriage ceremony with her lover as groom without her father’s knowledge. Once the marriage ceremony had been performed, the marriage was legal according to customary law. As a rule the groom would then, supervised by the elder men’s council, pay a ceremonial fine to the

⁴⁵ J.Kenyatta, *Facing Mount Kenya*. (Nairobi: Kenway Publication, 1965).

⁴⁶ P. N. Wachege, *Third Millennium African Single Mothers & Widows* (Nairobi: Abe Books, 2003), 71-124.

⁴⁷ J.Kenyatta, *Facing Mount Kenya*. (Nairobi: Kenway Publication, 1965).

⁴⁸ D. Bulow, Bigger than Men? Gender Relations and Their Changing Meaning in Kipsigis Society, Kenya. *Africa: Journal of the International African Institute*, Vol. 62, No. 4.(Cambridge University Press on behalf of the International African Institute, 1992), 523-546. Retrieved from <http://www.jstor.org/stable/1161349pdf> Accessed: 23-09-2016.

bride's father and arrange for the transfer of bridewealth cattle to avoid conflicts and hostilities.⁴⁹ The above analysis guided the study in examining how parents and extended family concerned themselves with marriage of their sons and daughters among the Isukha. This communitarian dimension of marriage portrays the importance of parents and community life and the mandate of each individual to share in it.

Marriage forms varied from one community to another. Polygamy marriage was the most prevalent form among African communities. A wealthy man could marry as many wives as he deemed fit.⁵⁰ However, many authors have overemphasized the economic value of polygamy. As the data will show, a married man was expected to take his deceased brother's wife and raise children on his behalf. He thus could become a polygamist not because of his economic status but as a social requirement. Okiya⁵¹ quoting Kirwen in his study of levirate unions brings out clearly the nature of African marriage as a lasting union that transcends death. In this way, he makes a connection with the world of the living dead and the ancestors and highlights the important role of community in the success and continuation of any marriage in Africa. His discussion on why widows were inherited and remained part of the family of the dead husband is essential to the present study. Beattie and Evans-Pritchard have also written on other forms of marriage like the group marriage among the Marqueses of Polynesia, woman-to-woman marriage and Ghost - marriage.⁵² Their views are

⁴⁹ Ibid, 533.

⁵⁰ R.L.Beals and H.Hoijer, *Introduction to Anthropology* (New York: Macmillian Company, 1971), 375 and P.L Kilbride & J.C.Kilbride, *Changing family life in East Africa women and children at risk* (London: Pennsylvania State University Press, 1980), 71

⁵¹ D.O.Okiya, *The Centrality of marriage in African Religio-culture with reference to the Maasai of Kajiado County, Kenya* (Ph.D Thesis Kenyatta University, 2016), 9. Retrieved from www.ir-library.ku.ac.ke/pdf Assessed on 18-10-2016

⁵² J.Beastitie, *Other cultures aims methods and achievement* (London: Cohen and West Limited, 1964), 123 and E.Pritchard, *Kinship and Marriage among the Nuer* (Oxford: Clarendon Press, 1951), 106-110

useful guide to this study as for the application and effects if such marriages existed among the Isukha.

Bridewealth was an important social, economic and religious significance in traditional African marriage. Through bridewealth, a new relationship was formed between the families of the spouses. The union between the two families remained effective beyond the lifetime of the original individual spouses. Gumo's study asserts that payment of bridewealth by young man's family was an essential element in the establishment of legality of the marriage institution, therefore stabilizing marriage.⁵³ Through bridewealth, family alliances and contracts were made between the families of the bride and the groom. Bridewealth, thus, helped to strengthen the relationship between the two families.⁵⁴ It was a form of gratitude from one kinship group to the other. Mathu defends the institution of bridewealth by arguing that bridewealth was but just a token of appreciation by the groom's people.⁵⁵ The importance attached to bridewealth is shown by Wagner who stated that marriage was not concluded until full bridewealth had been paid.⁵⁶ Beattie concurs with Wagner when he says that; "(X union in which bridewealth had not been paid was looked down on as immoral, and the children of such a union had no recognized status in the community."⁵⁷ It is not clear from the above account on how such marriages were treated. This work revealed the action taken by the bride's people in case bridewealth had not been paid or if it had not been paid in full.

⁵³ S.Gumo, *The Impact of Christianity on the Abanyala Levirate marriage* (M.A Thesis, University of Nairobi 1993), 69-72. Retrieved from <http://erepository.unobi.ac.ke/pdf> assessed 4-02-2017.

⁵⁴ Ibid.,

⁵⁵ G. W.Mathu, *Gikuyu marriage: beliefs and practices*. Discussion Paper Number 17, Institute of African Studies, University of Nairobi

⁵⁶G.Wagner. *The changing family among the Bantu Kavirondo*.Vol. XII No.1.(London: Oxford University Press 1939),381.

⁵⁷ J.Beastitie, *Other cultures aims methods and achievement* (London: Cohen and West Limited, 1964), 125.

Family stability was achieved as a result of women's contributions as moral teachers to their children. Part of the reason for this was that women's traditional care-giving roles, which put them in a unique and strategic position not only to produce and sustain life but also to help instill socio-cultural, religious and moral values in the family and society as a basis for establishing good and appropriate relationships between members. Mark⁵⁸ widens this scope when he writes that: "Hausa wives were not only regularly involved in adjudicating disputes between their children but were also frequently consulted over their husbands' and children's marriage arrangements." As mothers, wives and professionals, Hausa women's domestic roles had a profound influence on socio-religious conduct in the family and society. As the main agents of socialization and moral education, the survival of the family and future of marriage depended on a great deal on the female population. This was not only because the traditional social, moral and cultural upbringing of young people was at the centre of the female domain, but also because, through their expressive and productive roles, women provided a stable emotional environment that helped to cushion individuals against the socio-psychological damage of disintegrating families.⁵⁹

African mother thus played a key role in teaching children social, ethical and moral values which were part of the cultural standards for evaluating "proper" behaviours. Much of the teaching was focused on regulating sexuality and family life in general.⁶⁰, Wachege⁶¹ noted that among the Luo of Western Kenya mothers,

⁵⁸B.B. Mack, 1992. *Harem Domesticity in Kano Nigeria*. In: African Encounters with Domesticity, K. Tranberg (ed.), 75-79.

⁵⁹C.A.Suda, Formal monogamous and informal polygamy in patriarchal African family traditions in Transition. Inaugural Lecture 4th October 2007 Retrieved from [https://vpn.uonbi.ac.ke/proxy/http/erepository.uonbi.ac.ke/bistream/handle/11295/795/suda1pdf?\(2007\), 7](https://vpn.uonbi.ac.ke/proxy/http/erepository.uonbi.ac.ke/bistream/handle/11295/795/suda1pdf?(2007), 7). Accessed on 25/102014,

⁶⁰B. M. L. Kitembo, and A. Shorter, A.1977.*African Christian Marriage*.(London and Dublin: Geoffrey Chapman, 1977), 83.

⁶¹P.N. Wachege, *African Single Mothers: Socio-Ethical and Religious Investigations*. (Nairobi: Signal Press, 1994), 83.

grandmothers and aunts taught young girls how to sit in a proper, decent and respectable manner (with their legs together). Young women also received advice on how to relate to men. Their mothers also taught them all that they needed to know about sexuality, including the importance of pre-marital virginity. Among the Tharaka of Eastern Kenya, for example, mothers gave their girls special chains to wear around their waists for as long as they remained virgins before marriage. It was therefore, a taboo to keep the chain if a girl had lost her virginity before she got married.⁶² Wachege and Kalule brings out the different roles that mothers played during the process of preparing their children to marriage. The foregoing ideas were at the core of this study. Each theme highlighted was examined on how they manifested in pre-colonial Isukha marriage.

The study holds the position that colonialism altered the nature of Isukha family and marriage in the process of production and reproduction using land, labour and tax policies, which restructured Isukha economic organization subsequently transforming family. The responses to these changes affected marital stability. This study examined if the Isukha marriage repulsed the penetration of colonial capital or if the traditional Isukha marriage restructured itself in the phase of “modernity” to re-emerge with alternative “stronger” marital structures.

Africa Marriage and Family during the Colonial Period

In order to measure the effect of changes in traditional African marriages, and to understand why they have sometimes resulted in conflict. This study reviewed action of the colonial administration and missionaries’ authority, who sought to influence their development towards conformity with standards regarded as desirable in the

⁶²H. Kalule, Family Life in G.S. Were and Joshua Akong’a (eds). *Machakos District Socio-Cultural Profile*. Nairobi: Ministry of Economic Planning and National Development and the Institute of African Studies, University of Nairobi, 1987), 48-55.

western world, and partly by the impersonal force of modern economic conditions. There is no doubt that colonial situation introduced new discourses regarding land, which undermined but did not completely replace the principles that undergirded pre-colonial social formation.⁶³ A situation which simultaneously led to changes in marital relations and eroded women's property rights. To explain further, Ndege conceptualizes the nature of colonial land policy and reforms in Kenya such as the Swynnerton Plan and land consolidation.⁶⁴ In fact, land shortage, wage labour, taxation, and reduction in the number of livestock, conversion to Christianity, western education and colonial legislation on monogamy were factors which made polygamous relatively expensive.⁶⁵

Langley present the concepts of Christianity, western law and values, which contributed considerably to the weakening of women's status in the society.⁶⁶ He asserts that many traditional practices were condemned or abolished. For example, the age of initiation and marriage were lowered to abolish such "immoral" customs as pre-marital sex and infanticide. Polygamy was discouraged or condemned outright in favour of monogamous marriage. Subsequently, the house property complex lost some of its logic, and women's status as heads of houses and the concept of house property were gradually replaced by the perception that men were heads of households and guardians of all household property. Etienne and Leacock⁶⁷ have called this transformation "the emergence of the patriarchal nuclear family. Men obtained judicial power to sell or otherwise dispose of household property, although

⁶³P.B.O.Ndege, From Accumulation of women and children to 'Land grabbing, 10.18. Retrieved from www.ir.mu.ac.ke/pdf . Accessed 25/11/2016.

⁶⁴ Ibid.,

⁶⁵G.Kitching, (1980). *Class and Economic Change in Kenya: The Making of an African Petite Bourgeoisie, 1905- 1970*. (Britain: Yale University Press, 1980), 201.

⁶⁶M.S. Langley, *The Nandi of Kenya: life crisis rituals in a period of change* (New York: St Martin's Press, 1979), 12-17.

⁶⁷M. Etienne and E. Leacock, *Women and Colonization: anthropological perspectives*. (New York: Praeger, 1980), 19.

they were obliged to consult their wives according to custom.⁶⁸ The adoption of monogamy as a system of marriage caused a steady increase in the number of surplus unmarried women. The western Christian missionaries also taught that African bridewealth system was tantamount to “buying and selling women.”⁶⁹ From this observation, the Christian missionaries contributed to the disintegration of the African traditional pattern of marriage. Wagner clearly and concisely points out that;

The coming of missionaries affected the Luyia family pattern. Initially, traditional African marriage pattern was polygamous. Widow inheritance was also practiced. With the coming of the missionaries, monogamous was recognized by Christians as the ideal form of marriage. Widow inheritance was compared to immoral acts. Therefore, this meant that, the traditional family life had to adjust itself to the Christian marriage system.⁷⁰

From this assumption, Christianity had actually shifted the Luyia system of marriage. Gunter’s work will therefore be a guide to this study in attempting to analysis difficulty owing to the fact that the law regulating the status of persons contracting marriage under Christian rites often paid insufficient regard to the conditions of African social life.

Commenting on similar processes among the Agikuyu, Davison noted that the African ideology of obligation and responsibility was replaced by a Western ideology of exclusive rights. In this case, it was clear who came to hold the majority of rights: “men”.⁷¹ While these ideologies partly derived from pre-colonial patriarchal forms that were prevalent among Kenyan communities, the colonial situation reinforced their role in the subordination of women. For instance, according to Staudt “colonial and missionary officials introduced a domain of ideology that portrayed women as

⁶⁸E. Cotran, *The Law of Marriage and Divorce 1*. (London: Sweet & Maxwell, 1968),120-121

⁶⁹S.Gumo, *The Impact of Christianity on the Abanyala Levirate marriage*), 10 Retrieved from <http://erepository.unobi.ac.ke/pdf> assessed 4-02-2017.

⁷⁰ G.Wagner,. *The changing family among the Bantu Kavirondo*.Vol. XII No.1. (London: Oxford University Press, 1939), 29.

⁷¹J.Davison,. *Land and Women’s Agricultural Production: the Context. Agriculture, Women and Land: The African Experience* (ed.) (London, Boulder: Westview Press, 1988), 163.

consumers, moral guardians of the home, and helpmates to the husbands, rather than include their active roles in trade and production.”⁷²

Men’s greater access to colonial education availed them disproportionate political and economic opportunities and the ideology to rationalize their dominance. Moreover, the almost exclusive recruitment of men into wage labour led to the belief that it was proper for a man only to travel away from home. Ndege extends the argument that due to wage labour and Christianity men and women developed different perceptions about each other and contributed to a variety of marital instability, which women either accommodated or combated.⁷³ The essence of the above argument was that women’s economic status was altered from one of relative autonomy to one of relative dependence. Although they continued to be the main producers of food crops, women no longer worked as autonomous producers but rather as unremunerated family labour on their husbands’ farms. The distinction between men’s and women’s domains was to a large degree dissolved, and the house property complex had increasingly been replaced by the notion of the household as a unit of “communal interests” albeit under the jurisdiction of the man as household head. Mutual respect, complementarily and reciprocity between women and men had been replaced by women’s economic dependence on men and intensified gender competition over production resources.⁷⁴ This process was not very different from what most other Kenyan and East African women experienced during the colonial and post-colonial

⁷²S.Stichter, *Migrant Labour in Kenya: Capitalism and African Response 1895-1975* London: Longman, 1982), 152.

⁷³P.B.O.Ndege, From Accumulation of women and children to ‘Land grabbing’;46. Retrieved from www.ir.mu.ac.ke/pdf . Accessed 25/11/2016

⁷⁴A.P.Okeyo, Daughters of the lakes and rivers: colonization and the land rights of Luo women in M. Etienne and Eleanor Leacock (eds.), *Women and Colonization: Anthropological Perspectives*, (New York: Praeger, 1980),186-213. and B.Kettel, 'The commoditization of women in Tugen (Kenya) social organization', in C. Robertson and I. Berger (eds.), *Women and Class in Africa*, (New York and London: Africana, 1986),47-61. And J.Davison. *Land and Women’s Agricultural Production: the Context. Agriculture, Women and Land: The African Experience* (ed.) (London, Boulder: Westview Press, 1988)

period. This thesis therefore draws a great deal from the rich debates on colonial policies, practices and missionaries activities in analyzing the process of marital relations among the Isukha during the colonial period.

There is little information about women's reactions to these drastic changes, but certainly it must have been a period of aggravated gender conflicts. From other parts of Africa there were reports of women's collective demonstrations and protests against the political and economic encroachments they experienced during the colonial era.⁷⁵ Among the Kipsigis of Kenya, for example, there are reports of similar protests.⁷⁶ Reportedly, Kipsigis women migrated to Nairobi and other town centres in the 1920s, 1930s and 1940s.⁷⁷ Wiper explained that by migrating to Nairobi these women escaped from the orbit of customary law and were no longer subject to male authority. She further notes that: "they appear to be a woman willing to rely on their own resources and unafraid of breaking with tribal traditions. They had an independent spirit because they controlled valuable resources and had relatively high status vis-à-vis men."⁷⁸ These works elucidated the various social and economic changes taking place in the whole of western Kenya, concentrating on the changes in women and men economic roles and rights in property. Sexual stratification increased due to the colonial policy and commoditization of economic resources. Commenting on similar issues, Oboler noted that Nandi women who travelled into neighbouring areas to trade for grain were known to exchange sexual favours as well as stock. Later, during the 1930s and 1940s Nandi women made their way into most of

⁷⁵A. Wiper, *Riot and Rebellion among African Women: three examples of women's political clout* Working Paper 108. East Lansing: Michigan State University, 1985. See O. B. Jean. *Pare women: a case of political involvement*, *Rural Africana* 29, 121-34(1976); Van Allen 1972)

⁷⁶R.S.Oboler, *Women, Power, and Economic Change: The Nandi of Kenya* (1985),173.Retrieved from <https://books.google.co.ke> Accessed 14th December 2016

⁷⁷ Ibid.,

⁷⁸A. Wiper, *Riot and Rebellion among African Women: three examples of women's political clout* Working Paper 108. East Lansing: Michigan State University, 1985,13

Kenya's cities as prostitutes. Wipper wrote that: "their numbers were seemingly large compared with the numbers of prostitutes from other ethnic groups of western Kenya."⁷⁹ It may not be possible to get a clear explanation to Kipsigis and Nandi women's migration to urban centres in the period between the 1920s and the 1940s, but it is likely that the women responded to an intensified struggle over productive resources and men's increased attempts to control them. This work is quite informative to this study in terms of the colonial policies, practices and impact on male and women migrating to urban areas and other town centres in search of employment, and the initiatives which they both took to survive.

Ochwada describes the effects of wage labour on African women.⁸⁰ He states that colonial officials tended to visualize women in terms of a Victorian image of what a woman (a lady's) should be, instead of observing woman's functions.⁸¹ The colonial administration thus envisioned women's responsibilities as largely limited to nurturing and conserving society, while men engaged in political and economic activities. Colonialism, thus equated "male" with "breadwinner" and introduced technologies to men with opportunities for wage labour, education and access to resources. In this regard, women were considered dependent wives of wage labourers. Moreover, Ndeda makes an attempt to examine a section of female-headed household taking Siaya District as a case study.⁸² She analyses the impact of the labour policies on women as it drew male labour from the household, agriculture and other economic activities. Furthermore, Ndeda notes that the extent to which women's responsibilities increased as energetic male left the households for work in the colonial plantation and

⁷⁹ Ibid, 173.

⁸⁰ H. Ochwada, *Women and conflict resolution in the Great Lake Region* in *Conflict in Contemporary Africa* (Nairobi: Jomo Kenyatta Foundation, 2000), 208-214.

⁸¹ Ibid.,

⁸² J.M.Ndeda, *The impact of Male Migration on Rural Women: A case Study of Siaya District c. 1894-1963* (Ph.D Thesis, Kenyatta University, 1993).

urban centres.⁸³ The effect of male migrant labour was also felt in other parts of colonial Africa such as Mozambique where Mozambican women were required to grow both cotton and subsistence crops. Overall Kenyan men migrated to Nairobi and Mombasa in large numbers during the Second World War. What is implied is that in the absence of able-bodied males, agricultural production automatically fell on women, children and other men left in the rural areas.⁸⁴ Borrowing from the authors, this study examined how external factors affected women, noting the key roles which women performed during the pre-colonial period.

Statutory registration of land only partially replaced customary land tenure, which allowed patrilineal groups to exclude women and children's land claims.⁸⁵ In his study Kitching⁸⁶ pays particular attention to central and Nyanza region. He argues that both ownership of land and access to off-farm income caused differentiation between men and women. He concludes that increased women's agricultural labour was significant in the agricultural expansion in Kikuyuland. Kitching work is significant to the current study for he examines the impact of colonial economic policies on -the Kikuyu of Kenya. As such, it is imperative to examine colonial land policies practices to ascertain its influence on marriage among the Isukha.

From the literature review it has been established that a gap exists which could be filled using historical data to demonstrate how colonial policies, practices and missionaries activities impacted on marital relations. Most studies have been very general on the economic and social issues touching on women. Moreover, there have

⁸³ Ibid.,

⁸⁴ S. Stichter, *Migrant Labour in Kenya: Capitalism and African Response 1895-1975* (London: Longman, 1982).

⁸⁵ M.W. Musalia, *Gender relations and food crop production: a case of Kiambu District Kenya, 1920-1985* (Ph.D. Thesis Kenyatta University, 2010), 198.

⁸⁶ G. Kitching, (1980). *Class and Economic Change in Kenya: The Making of an African Petite Bourgeoisie, 1905- 1970*. (Britain: Yale University Press, 1980).

been limited studies that recognized the changes that took place at household levels arising from colonial policies and practices such as how colonial taxation policy impacted on widows and polygamy form of marriage and how men and women responded to them. It was these gaps that the research envisaged to fill using Isukha people as a case study.

African Marriage in Post-colonial Period

In Africa, the late 1960s and even 1970s were marked by a tremendous sense of excitement in rediscovering the African past, a strong feeling of African nationalism and a pride in African historical achievements. Among the historians, this excitement helped motivate a search for queens a search for glorious past with particular emphasis on the role of African women and especially in the traditional political structures. It was within this literature that it has been acknowledged that colonialism and especially the development of wage labour led to the increase in women's burden or workload (Ndege, 2012, Ndeda, 1993, Stichter 1982). Yet despite their various categories, these works have depicted African women as a homogeneous group laying emphasis on women in general, women with absent migrant husbands and labour policies. But when it comes to widows and abandoned women, the works do not tackle their problem at all.

The new conception of marriage after independence in Kenya shifted its focus from the family to the individual and this heralded a movement from collective responsibility to individual accountability. Post-independence Kenya created conditions favourable to autonomous decision making. Capitalism, urbanization, and social mobility exposed many Kenyans to other options in deciding who to marry.⁸⁷ Although there was still some social pressure exerted on the individual in

⁸⁷ P.N. Wachege, *Third Millennium African Single Mothers and Widows*).

considerable measure, the male had the final say on who to marry. This is however not the case for females. The thrust of this argument is reflected by Gicheru when he mentioned that “single mothers are generally viewed as home-breakers and therefore isolated, yet the same judgment is not applied to men who are bachelors.”⁸⁸ This indicates that patriarchal attitudes were still alive.

This study was influenced by the colonial anthropology and ethnography of social studies that facilitated the creation of myths, stereotypes and warped images that came to dominate in panelist discourses on Kenya, as was the case with Africa in general. But the declaration of 1975 as Women’s year, local initiatives towards gender equity, globalization in the 1990s have led to the emergence of scattered studies which attempt to examine the changing patterns and marital relations in the post-colonial period. The pattern of mating, parenting, kinship utilization, and sexual division of labour is extremely robust and widespread and shows few signs of changing under the influence of modernization. It has its roots in an earlier pre-colonial period when the availability of land, the farming technology, the sexual division of labour, and polygamy enabled a domestic organization for which the men’s contribution as husbands and fathers were not essential to the maintenance of women and children. Under such circumstances male reproductive effort were not channeled into parenting, but into mating.

At postcolonial the social and economic contexts in which people live changed markedly, yet old values persist; multiple contradictions accumulate both at the level of individual experience and at the level of the functioning of institutions.⁸⁹ A good

⁸⁸E. Gicheru, *The psychology of unmarried men in Nairobi: A Case study of three bachelors over forty*” pg 128. In African Journal of History and Culture. Retrieved from www.academicjournals.orgpdf Accessed 25/11/2016.)

⁸⁹Ibid, 154.

example comes in the case of “outside wives.”⁹⁰ Many men, of the skilled and educated upper-status groups, reported that they are monogamously married, a technically correct response. However, men often maintain other women and make variable contributions to these women as long as the relationship lasts. These outside wives consider that they are not “legally” married but they and their neighbours recognize the unions as customary. The men recognize paternity of offspring and may arrange for their children to be fostered to families in their own kin group. The outcome, however, from the point of view of women regardless of whether they are legally or customarily married and their children is that the father’s resources in the form of time, energy, cash and influence are spread thinly.⁹¹ They talk of changes in polygamy. No reasons are given by these authors as to why ‘modern’ men tend to support polygamy. These studies were however, useful guide in demonstrating their application and effects of westernization in Isukha are concerned.

Clark for example explains why women compete with men over the same productive resources.⁹² Contrary to former perceptions of men’s and women’s separate economic and political spheres, women can today in principle via the market accumulate wealth, gain economic independence and thereby challenge men’s status and authority as household heads. Clark gives an example of an Agikuyu woman who challenged her husband’s authority by referring to the fact that she had her own money.⁹³ Clark quotes the woman in his assertive: “Who are you to tell me what to do? I have my own money!”⁹⁴ The husband’s response was to beat her up. The main draw of Clark’s

⁹⁰M. Hunter, *Reaction to Conquest* (London: Oxford University Press, 1961), 200-210.

⁹¹P. Draper “*African Marriage Systems: Perspectives from evolutionary ecology*” (1989) 154 Incomplete. No place of publication and publisher.

⁹²C. M. Clark, 1980 *Land and food, women and power, in nineteenth century Kikuyu* In Africa Vol. 50 (4), 357-69.

⁹³Ibid, 358.

⁹⁴Ibid,.

analysis however, is that generally, husbands approved of their wives money making it remains small in scale, yet men fear that their wives' may become too independent and usurp their household authority. In other cases some men reduced their own contribution to the family if they learn that their wives were making money. Other men force their wives to hand over whatever small amounts they have made. This therefore, makes many women to keep their activities secret from their husbands.⁹⁵ This work was informative to the study as far as new forces of changes caused mainly by westernization impacted Isukha family.

In the same vein, men's authority and prestige are maintained not only by economic and physical force but also by ideology. Men fear women whose actions may be interpreted as a transgression of the female sphere and an encroachment on men's domains. Women who have engaged in large-scale ventures meet strong opposition from men accusing them of behaving "manly" and "trying to be bigger than men". It is considered quite disgraceful for a woman to behave "manly" and signifies lack of respect towards men. On the other hand, however, there is one group of women who cannot easily be controlled by men. These are single, unmarried or divorced women. Single women behaving in a 'manly' way often meet with suspicion and hostility and are excluded from participation in community life. In particular, divorced women are a threat to prevalent ideas and beliefs about female and male. The only proper thing for a woman is to be married; anything else is against customary law and considered dangerous.⁹⁶ The study is valuable to the present study in developing a historical account of how socio-economic changes brought about by the post-colonialism from

⁹⁵ D. Bulow. Bigger than Men? Gender Relations and Their Changing Meaning in Kipsigis Society, Kenya. *Africa: Journal of the International African Institute*, Vol. 62, No. 4. (Cambridge University Press on behalf of the International African Institute, 1992), 538. Retrieved from <http://www.jstor.org/stable/1161349pdf> Accessed: 23-09-2016.

⁹⁶ Ibid.,

various dimensions, revealed itself in Isukha. Further development in this theme comes from Bulow who discusses how widows are treated by their male relatives as custody of their deceased husbands' property.⁹⁷ Bulow study is helpful to the study more particularly in considering aspects touching the changing Isukha structures and social values.

It is thus clear from this review of related and relevant literature that there is need to examine what factors can be held responsible for the changes in marriage among the Isukha and what were the impact of these changes on the social life of the people. Marriage among the Isukha has been presented as a basic human institution that enhanced life mainly through procreation but also through family, clan and community relationships. These relationships were created through the various stages of life, known as institution, which prepared the Isukha for marriage and which also enhanced their lives as married people. By examining the marriage institution during the pre-colonial period, and tracing colonial antecedents this study attempts a contribution to bridging this scholarly gap by documenting what factors can be held responsible for the changes in marriage among the Isukha and what were the impact of these changes on the social life of the people. The conclusion of the study serve as an invaluable source in resolving marital instability not only among the Isukha, but its finding combined with other case studies, will help build a more or less complete picture of the Kenya's marital institution.

1.9 Theoretical Framework

This study is guided by two theories; namely articulation of modes of production and agency in analyzing the process of change in Isukha during the colonial and post-

⁹⁷ Ibid, 539.

colonial periods. This is based on the fact that no single theory can sufficiently explain this historical process, given its diversity. As a result, the study utilized articulation of modes of production in order to adequately capture the totality and complexity of experiences of Isukha marriage under the colonialism and post-colonialism. However, the theory of agency was utilized in order to bring out how women participated in setting up, maintaining and altering the system of marital relation in Isukha. Consequently, an integrated approach may help us in reconstructing and examining an aspect of the society's history such as the totality and complexity of marital relations.

“Articulation” is the most distinctive and important concept to emerge from the Marxist theory in the so called “modes of production controversy.”⁹⁸ “Modes of production” on the other hand is a combination of forces of production for instance land, labour, technology, knowledge, crops and livestock. While relations of production and reproduction include marriage and marital relation. The notion of articulation of modes of production, which were dominated by the capitalist mode aimed at explaining underdevelopment and the persistence of pre-capitalist forms of production in Third World countries. The key problem was to answer the question “how does capitalism become dominant in the regions such as Africa without replicating itself in each instance? One of its assumptions is that specific modes of production within a given social formation constitute the unit of analysis. Each national economy is seen as a concrete, historically created social formation comprising different modes of production which are articulated with another, thus various modes of production co-exist within a given social formation. Yet the articulation perspective rejects the notion that there is only one mode of production

⁹⁸ B.Berman. *The concept of “Articulation” and the Political Economy of colonialism*. Canadian Journal of African Studies, vol.18,No.2 1984:407.

and that is capitalism. Instead, it argues that the world economy is a totality of relation. Articulation of modes of production theory conceives a mode of production as an abstraction which links the material realities of everyday life in the society in which they occur. It is defined by societal forces of production and the corresponding relations of production. In other words, the inter-relationship between forces of production and the social relation of production make up a society's mode of production or its economic structure.⁹⁹ In this case, pre-capitalist modes of production were either destroyed or have been preserved. The capitalist mode of production gradually aligned itself with non-capitalist modes and uses them to its benefit. This process made the periphery to become an appendage to the capitalist World system.

In the "strongest" model of articulation in the work of Pierre-Philippe Rey, the subordinated mode of production continues to exist for a considerable length of time, retaining a significant degree of autonomy in its transactions with the dominant capitalist mode and capital may even encourage the emergence of a new non-capitalist modes.¹⁰⁰ Generally, the theory asserts that when the capitalist mode of production is introduced in non-capitalist or pre-capitalist social formation, it does not directly or immediately displace the existing modes of production. Rather the capitalist mode of production will gradually align with non-capitalist modes of production and use them to its own advantage or benefit. This continuous process of subordination culminates in the domination of the capitalist mode of production over non-capitalist mode.¹⁰¹

The articulation of modes of production concept explains that the capitalist penetration involved both building upon Kenya's traditional economies and

⁹⁹M. Kizito, *Impact of economic activities on the ecology of the Isukha and Idakho areas of western Kenya C. 1850-1945*. (M.A. Thesis., Kenyatta University, 1998), 38. Quoted Cooper 1981.

¹⁰⁰Ibid, 407.

¹⁰¹ B.J. Berman and J.M. Lonsdale, Crises of accumulation coercion and the colonial state. The Development of the Labour Control System in Kenya, 1919-1920. *Canadian Journal of African Studies*, Vol.14, No.1, 1980, 55-56.

introducing new elements in the economic system. The capitalist mode of production did not eliminate all pre-capitalist forms but reshaped some of them while others have been left intact.¹⁰²

Some scholars have been very critical of the use of the concept articulation of modes of production in African studies. For instance, Clarence Smith contends that modes of production did not exist in Africa. They were only models and abstractions.¹⁰³ He does the same with the concept “articulation” which to him is unsuitable in the analysis of slave mode of production or lineage, feudal or capitalist modes of production. Smith thus extends this to the application of the concept in relation to the colonial period in particular, to migrant labour.¹⁰⁴ Yet in the same debate the mode of production concept has been accused of creating typologies and that the concept is a mere abstract and formal specification of relations that do not have any concrete existence in its pure form.¹⁰⁵ On the other hand, Freud and Newbury support the use of the mode of production concept in historical analysis.¹⁰⁶ They believe that the modes of production exist in Africa and are important tool in the analysis of historical process in African societies especially for the colonial era in which there are evidences of destruction, transformation and preservation.¹⁰⁷ The same belief is shared by Berman and Lonsdale who identified the centrality of “articulation” and the mode of production concepts in the analysis of capitalist establishment in a pre-

¹⁰²M. Kizito, *Impact of economic activities on the ecology of the Isukha and Idakho areas of western Kenya C. 1850-1945*. (M.A. Thesis., Kenyatta University, 1998), 38. Quoted Zeleza Cooper 1985:23.

¹⁰³S.C.Clarence. *Thou Shault Not Articulate Modes of Production*. *Canadian Journal of African Studies*, Vol. 19,No.1.19 (1985:19)

¹⁰⁴ Ibid 21

¹⁰⁵B.J. Berman. *The Concept of Articulation and the Political Economy of Colonialism*, 408).

¹⁰⁶ D. Newbury. *Modes of production Analysis and Historical Production*. *Canadian Journal of African Studies*, Vol.19.No.1., 1985:40)

¹⁰⁷ Ibid,.

capitalist or non-capitalist social formation.¹⁰⁸ They have applied this concept very effectively in the analysis of the colonial capitalism, labour and accumulation in Kenya between 1919 and 1920.

Despite the shortcomings the concept of articulation has assisted in examining the role of the colonial state in the process of the interaction between the capitalist and indigenous modes of production hence, it's a good tool by which the study of colonial capitalism may be enhanced. In colonial Kenya, land alienation, taxation and forced labour were some of the mechanisms used by the colonial state to erode or dissolve the 'self-sufficiency' of African economies or peasant social formation and the resultant changes in gender relations of production.¹⁰⁹ Articulation should then be perceived as a linkage of or between two societies exemplified by dynamism and change. Therefore, scholars should not endeavour to look for a pure mode of productions. Nothing idealistic as that exists. The central issue here is then the analysis of the establishment and entrenchment of capitalist production within a pre-capitalist or peasant social formation; the nature and form of penetration providing the basis of explaining articulation process.

The initial changes in marital relations among the Isukha like any other community in Africa was achieved through European expansion in the nineteenth century and eventual transition to capitalism. Before the late twentieth century, virtually no society remained unchanged by these historical processes. It was at the household level that the impact of colonialism with its demands for labour and taxes were felt most. It was these historical processes that caused shifts in household duties and

¹⁰⁸B.J. Berman and J.M. Lonsdale, Crises of accumulation coercion and the colonial state. The Development of the Labour Control System in Kenya, 1919-1920. *Canadian Journal of African Studies*, Vol.14, No.1, 1980, 55-81.

¹⁰⁹M. Kizito, *Impact of economic activities on the ecology of the Isukha and Idakho areas of western Kenya*, 38.

responsibilities as the need for maintenance of prior relations of production took the centre stage. These arguments make the concept applicable to this study for it is argued that pre-capitalist Isukha community was self-sustaining as far as labour and social and economic demands were concerned. Women, men and children had specific roles to play in economic production. These roles were subjugated, subordinated and partially restructured as the colonial capitalist took to stage in the later parts of nineteenth century. As the colonial state withdrew more productive labour it was women who maintained household production and reproduction in the area under investigation.

The concept of articulation is silent on how men and women participated in setting up, maintaining and altering the system of gender relations. The theory of agency elucidates the way in which women and men supported and challenged the existing system of gender relations. Agency describes system of control, coercion and the way women and men bargain for privileges and resources. The study argues that this theory produces a more sensitive and complex set of analytical tools for understanding gender relations in the marital structure.¹¹⁰

Agency is the capacity of individual to act independently and to make their own free choices. This ability is affected by the cognitive belief structure which one has formed through one's experiences, and the perception held by the society and the individual of the structures and circumstances of the environment one is in and the position they are born into. Disagreement on the extent of one's agency often causes conflict between parties, such as the backdrop of changing relations between men and women

¹¹⁰C. Walker, *Women and Gender in Southern Africa to 1945*. Retrieved from <https://books.google.co.ke>. Accessed 22/09/2017, 8

in contemporary societies.¹¹¹ Most notably the concept of agency carries with it, distinct tones of resistance by the subjugated and contained within it the idea that agents should have the ability to effect some changes on which they are embedded.¹¹² The concept serves as an important re-assessment of the idea of power and gender identity against the changing setting between men and women during colonialism and post-colonialism.

Western norms and gender definitions especially as espoused by missionaries in church and schools did not recognize women as productive members of society. They circumscribed the position of the African woman and undermined a pre-colonial ideology that emphasized female initiative, activity and self-reliance.¹¹³ Dissatisfaction with the emphasis on women as victims of oppression has led to attempts to recast accounts of how power operates in gender relations. The concept of agency maintains that for a proper understanding of gender relations, there is need to examine how gender intersects with other social forces. What needs to be avoided is an uncritical fusing of the notion of women's agency with that of women's resistance to oppression, and to gender oppression in particular. Guy¹¹⁴ points out with specific regard to the pre-colonial period but with more general applicability such escape did not constitute a wholesale rejection of the dominant notion of gender relations, the broad parameters of the sexual division of labour were rarely challenged by women rebels.¹¹⁵

¹¹¹D.R. Bolger "Gender Agency and Power" (2003), 184. Retrieved from <https://book.google.co.ke>. Accessed 22/04/2017

¹¹² Ibid.,

¹¹³ Ibid,9.

¹¹⁴ Guy,J. (1990),“Gender oppression in southern African’s pre-capitalist societies” In *Women and Gender in southern Africa to 1945*. C Walker & David Philip eds Cape Town, London: James Currey.

¹¹⁵ Ibid.,

What this study established is that the analysis of women's agency needs to come to terms with the perverseness of women conservatism with their resistance to change. Without belittling the historical significance of women's rebelliousness, one needs to take note of how women have also acted as agents of gender socialization on behalf of their prevailing norms of their society but also at upholding women's subordinate position. The blunt assertion of female subordination and male control does not adequately describe the complexity of the sexual and the emotional in the relationships between men and women and within the family network. It was often precisely their endorsement of their domestic roles that underlay African women militant resistance to the intrusion of the colonial and post-colonial state.¹¹⁶

In colonial Africa, African and European forms of patriarchy intermingled to form a new system of patriarchy.¹¹⁷ The most outstanding aspect introduced by European patriarchy was the separation of private and public domains assigned to women and men respectively. This compartmentalization of life was aimed at making the ideology of capitalism work in Africa colonization and capitalism became sources of women's oppression especially in economic production.¹¹⁸ The demand for women's labour in the production of cash crops and the inflationary rise in bridewealth over the colonial period, tied women more firmly into their marriages. For men this inflated bridewealth tied them to the esteem associated with wealthy men, whether or not they were wealthy. Thus, via the payment of bridewealth, men had demonstrated that they had acted like men and they therefore wanted their wives to act like wives.¹¹⁹ But how were wives supposed to act, particularly given these production transformations

¹¹⁶ Ibid,30.

¹¹⁷M.I. Ayesha, *Engendering African Social Sciences: An Introductory Essay in Engendering African Social Sciences* (ed.). Ayesha M.I, Fatou S. (Codesria Book Series,1997), 19-20.

¹¹⁸B. Clare, "Moral authority, power and women's identity in colonial Kenya" *Journal of ARAS Vol.33 No. 1 June 2012*, 70. Retrieved from <http://www.afsap.aupdf> Accessed 8/05/2017

¹¹⁹ Ibid,.

coupled with the changes occurring within the marriage process itself? African women employed their own agency and initiative against any measure that was oppressive and hence transformed gender relations. In reference to the experiences of status of married women in the pre-colonial traditional Isukha, at no time was the idea of resisting hegemony, resisting the dominant social group or resisting patriarchy present. There was no evidence of married women attempting to fight explicit or implicit against the hegemonic patriarchal constructs that defined them as mentally physically and morally weaker than men. It can then be argued that during the pre-colonial era Isukha traditional society should be viewed as a “patriarchal equilibrium” because married women gained the benefits of accessing land through their husband. Colonial situation through colonial administration and missionaries introduced new discourses regarding land which undergirded pre-colonial social formation. A situation which eroded women’s property rights which simultaneously led to women attempting to resist, maneuvering within the structures of patriarchy for their own advantages. Colonial policies denied African women to male labour. Women had more responsibilities of sustaining household. The concept of agency is applicable in this study due to its emphasis on subjectivity, female empowerment and resistance to instrument of social oppressions imposed during colonialism and post-colonialism.

The patriarchal system practiced by the Isukha in the nineteenth century organized socio-political power, which influenced individual’s ownership and access to productive resources. For instance, marriage among the Isukha was polygamous and residential pattern was patrilocal. Moreover, bridewealth was given to the woman’s family. This kind of organization impacted on husband-wife relationship. A married Isukha woman was meant to provide both productive and reproductive labour to the husband’s lineage. It was through a woman and her children’s labour that an Isukha

man was able to accumulate wealth. Therefore, the more wives and children a man had, the more wealth he could accumulate. Women could not inherit land, but always held it in custody for their sons.

To examine female agency in marriage in both colonial and post-colonial period, the state has to be problematized in relation to gender. The state wields power to establish institutions that shaped gender relations in society. During the colonial period, the state formulated economic policies that had differential effects on various categories of men and women and, therefore, had implications on gender role which affected marriage. Among the Isukha both land and labour policies significantly transformed gender relations. The newly introduced individual land tenure system destroyed women's access and young men's right of land inheritance. Land consolidation reduced landholding that could be put under cultivation. The independent government did not deviate from the colonial policy on land ownership in favour of men. In the labour market women tended to earn less than men. It should be noted that it was always not possible for African men and the colonial government to agree on the issue of women. Whereas on many occasions African politicians complained about the issue of forced labour on women, they were reluctant to have their women move to towns. The women took advantage of changing terrain to create new space for themselves.¹²⁰

Attributing too much explanatory power to integration male conflict has also inadvertently put scholars in a position of denying women agency.¹²¹ Women sometimes appear only as things over which men fought. Young men are often presented as the instigator of illicit relationships, who perhaps even used the unions as

¹²⁰T. Kanogo, *African Womanhood in colonial Kenya 1900-1950*. (Oxford: James Currey, 2005)

¹²¹B.L. Shadle, "*Girl Cases*": *Marriage and Colonialism in Gusiland Kenya, 1890-1970*. (Heinemann: Portsmouth, 2006), xxx.

a way to strike out at senior men. Shadle, for example argues that high bridewealth led men seek alternative forms of marriage.¹²² Bridewealth helped produce a climate in which elopement flourished. But Shadle fails to consider why women may have wished to take part in these unions. Similarly, Robertson argues that the upended social world of the 1930s “was used by “Gikuyu men” who were landless to secure women.”¹²³ But women were very clearly involved in elopements. As these scholars rightly point out it was poor men who were most often involved in elopements, but it was women dedicated to their poor lovers who agreed to or proposed elopement. The silencing of women extends to discussion of abductions. This study will show how women fought against, escaped from and experienced a whole tolerance of emotions because of abduction cum marriage. Clearly women were active agents in the making of the illicit unions, but how did they choose to whom they would run?

Scholars have shown that in many parts of Africa, marriage can be consumed by struggles and negotiations over access to land, control of wages and cash crops, and responsibility of household expenses. This is in many cases close to the truth. Scholars wished to denaturalize the assumption of the uncontested patriarchal head of the homestead and put into question the notion “of the household as a unitary actor.”¹²⁴ Instead, it was pointed out that women have their own goals and strategies that often conflict with those of their husbands. African women do not blindly subsume their interests to those of the male rules homestead. However, scholars inadvertently invented a new model in which individual African were ruled by economic interests (broadly defined, including such things as land and people

¹²² Ibid.,

¹²³ Ibid.,

¹²⁴ Ibid.,

strategic resources). That is, women acted not according to the demands of customs and kinship but according to some type of cost-benefit ratio.¹²⁵

With such ongoing familiar struggles over homestead resources one might be excused for wondering how husbands and wives managed to live together at all. Yet if marriage was simply a matter of resources many Isukha women acted rather irrationally. The men from whom they ran away were wealthy individuals who had been able to give bridewealth while the men to whom they ran generally were not wealthy. If not plentiful land and a household rich in cattle, what was then a runaway Isukha woman after? The answer, in part, is a man whom she shared an emotional attachment: love. The role of emotion in marriage has garnered little attention among Africanist scholars, despite stray references in primary and secondary sources. This study has demonstrated however, that women and lovers said that they loved each other. In addition, many women in unwanted marriages explain their resistance in terms of lack of emotional attachment. A woman forced into a marriage by her father might explain that she did not love her husband, and women charging their abductors offered lack of love as evidence of their lack of consent.

Although the concept of agency theory is often utilized by historians to characterize the actions of those deemed powerless in the past, agency theory is inherently problematic in many ways. Most notably it carries with it distinct tones of resistance by the subjugated and contained within it is the idea that agents should have the ability to effect some changes on the society, where they penetrated that is to transform, to some degree the dominant structures in which they are embedded. Labouring status wives during colonialism and post-colonialism cannot be described as attempting to resist and change patriarchy, but they can be seen as maneuvering

¹²⁵ Ibid.,.

within the structures of it for their own advantages. Another criticism is that the approach's assumptions about women's socializations seem to entail that women's agency is compromised by sexist oppression. In particular women's agency appears to be diminished in ways that interfere with their capacity for feminist action, which is against sexist oppression. The theory has also been subjected to criticism for emphasizing the social differences between men and women while neglecting the bonds between them and also the potential for changes in roles. Lastly the approach calls for greater attention to women in development and emphasizes the need to challenge existing gender roles and relations.¹²⁶ This will ensure that it takes women as agents and enables women to transform gender relations and attitudes. Strategic interests are long term, related to improving women's position.

The concept of agency is appropriate in this study if we consider the extent that it analyses the internal gender relations among the Isukha with women pursuing self-agency to preserve their marriage by taking up male functions roles to their absence as necessitated by both colonialism and post-colonialism. Such situation reinforced their role in the subordination of women and women's reactions to these drastic changes that aggravated gender conflicts protesting against men's increase attempts to control them. The concept also enabled the study not to regard power within gender relations as repressive and women as inevitable victims of male supremacy helpless and hapless at the hands of evil intentioned, omnipotent male. Rather, it brings out how women participated in setting up, maintaining and altering the system of marital relations in Isukha.

¹²⁶M. Mataire, "WID, WAD, GAD theories in gender and development" (2017). Retrieved from www.academic.edu Accessed 25/04/2017.

1.10 Justification of the Study

The Isukha marriage is one of the many systems that have not been exhaustively studied. None of the existing literature illustrates the important role played by the colonial state, western education, Christianity, post-colonial state and globalization that propagated foreign values systems as the ideals in Isukha Marriage. This then is one rationale of the present study. The choice of Isukha is based on the unique history as far as marriage and family stability is concerned. However concern will be with colonial and post-colonial economic, social and political policies and global activities applied among the Isukha and their effect on marital relations. Taken from this perspective, they then become a case in point of how they coped with the mounting challenges while keeping true to the tents of indigenous marriage. The Isukha thus become the most appropriate people to examine gender relation and marriage stability.

1.11 Significance of the Study

The study contributes to knowledge in explaining the resilience of traditional marital structures among the Isukha in the contemporary internet age, validate the study. The study awaken people understand the disjuncture between African traditional marriage to their continuing transition which is encoded in the emergence of alternative social arrangements and family formation. It therefore locates the structure of the African marriage away from the traditional patterns to new ones generated by the expansion of colonialism, Christianity, education, migration, capitalism, political factors especially laws passed by both colonial and post-colonial state on marriage, social and economic position of women, and globalization within the historical process in Africa. The African moral and value system has thus been challenged. These challenges, if addressed, will help African societies develop home-based approaches

in tackling the myriad of challenges confronting Africa. Studies of this nature are very vital because they broaden our understanding to comprehend a community's traditional way of life. One can then be in a position to identify the various aspects in a community's culture that have been borrowed from different communities.

The recommendation of this study will help scholars to reaffirm the place of marriage within society as the bedrock of culture and as fundamental building block of society. The ideal of raising children by a mother and a father of the opposite sex who are married is still widely accepted and seen as the most effective way of raising a family. Also, given that there is a lot of commonality among the African peoples, the findings and proposed recommendations will inevitably be useful in predicting how the future trend of the Isukha marriage and Africa are likely to look like.

It is also hoped that the findings will play a role in influencing families, religious institutions, national and county governments to see marriage as the beginning of the formation of social systems that embody beliefs and values that build a good society. This would lead to formulation of policies that support the formation of good marriages and families amidst contemporary diverse and unprecedented challenges confronting this vital institution. An example of the challenges is the upsurge of globalization propagated by the media and seen by many as better than African moral and value systems.

1.12 Scope of the Study

The year 1894 has been chosen as the starting point for the study because it was the year that the British declared a protectorate over Uganda and this included the areas covered by the present study. Moreover, by that time, a considerable degree of administrative control had been established all over the most densely populated parts

of Luyia land. However, for the sake of laying a base for the study, a detailed discussion on the Isukha traditional marriage during pre-colonial era is provided. Specifically, how colonialism and later its legacy affected the social organization in the family household of the Isukha was of interest to the study. As the country slowly ambled toward the path of democracy the post-independence government realized that dismantling the colonial framework of governance to be inimical to the ruling African elites' own individual interests. Realization that law had been transformed into a tool of discrimination led to various initiatives to change it to aspirations of equality for all citizens regardless of sex. These changes necessitated restructuring of the laws and ultimately led to the adoption of a new constitutional framework. As such, the year 2010 was an appropriate time to end the study noting that it was when the country adopted a new constitutional 2010 framework that greatly set the standard compliance with the provision of equality in marriage. The Kenya constitution 2010 attempts to address discrimination based on gender and seeks to provide a framework that will lead to equal access to economic resources like land, education among others. The years 1894 and 2010 therefore provide sufficient timeframe for the historical narration of the changing patterns in marriage among the Isukha.

1.13 Research Methodology

This was a historical study, based on both primary and secondary sources. Primary sources included archival information, anthropological data and oral interview. During field research at the Kenya National Archives (KNA) in Nairobi from October- November 2017 and May-June 2018, records consulted included District deposits for North Nyanza and Kakamega; Provincial deposits for Nyanza and Western Province; Local Native Council minutes reports, African affairs reports, colonial government publications, confidential reports; missionary reports; colonial

land; labour and taxation reports, journals; Complaints and Petition; The *East African Standard*, The National Assembly official debates on marriage and community and development reports of both colonial and post-colonial. It was on the basis of the content of each available documents and other literature that key variables were abstracted especially those concerning the Isukha during the colonial and post-colonial period. Efforts were made to narrow down these sources to the area under study.

Information for the study was also derived from oral interviews that were conducted among the Isukha in December 2017- January 2018. The oral interviews were conducted based on prepared unstructured interview schedules. A total of 60 participants among the Isukha were interviewed. The participants were identified through purposive sampling and snowballing sampling procedures. Six administrative wards were purposively sampled. Purposive sampling method selects a sample from participants or group of participants that are judged to be appropriate, or especially knowledgeable, for the purpose of the research. A contact person was of much assistance, who through his connections in Isukha was personally known to many of the Isukha elders. He was able to advice on who to visit and where to find the desired participants presumed to be well versed with Isukha culture and how Isukha traditional marriages were conducted. A part from giving their own information such key participants identified in the purposive sampling above, were identified, interviewed and asked to identify other people who were knowledgeable on the history of Isukha culture and possessed the characteristics of interest in the study. Thus, the researcher obtained participants through “snow-balling” technique (11 participants were interviewed individually).

Focus Group Discussion (FGDs) was also employed to gather information. Participants comprising married, single, divorced, widower and widow's single parents female/male individuals falling within the ages of 35 years and above were purposively selected with the help of the contact person and field assistant and were interviewed. Fifty five years was assumed to be the appropriate age because they were well versed with information of marriage and might have heard from their grandparents thus were more knowledgeable and resourceful than young generation. Two groups of men, two groups of women and five groups of mixed gender were interviewed to take care of the gender issues. Participants were selected from cross-sections of the entire six wards in Shinyalu sub-county as shown below;

Isukha East	3 groups
Murharnda	2 groups
Isukha North	1 group
Isukha West	1 group
Isukha South	1 group
Isukha Central	1 group

A total of 49 participants were interviewed using FGDs with each session holding between 4-6 people. The FGDs provided participants with a space to discuss a particular topic, in a context where participants were allowed to agree or disagree with each other. FGDs allowed the researcher to explore the thoughts about marriage and the range of opinions and ideas, and the inconsistencies and variations that existed in Isukha community in terms of beliefs and their experiences and practices. Participants were selected from a cross-sections of the entire community in Shinyalu sub-county considering:

- a) If the person was mentioned by either documentary or oral participants.
- b) If the persons were recognized by local administrators and researcher.

- c) Elderly people who were knowledgeable on matters of people's history.

Interview schedules were open-ended to allow participants to maximize discussion. The researcher and her assistant guided the participants on the sub themes in relation to the period of the study. The oral interviews were conducted in *Lwisukha* and Kiswahili since the researcher, research assistant, and participants were conversant in the two dialects. Interviews were recorded by note taking and voice recording (with the consent of the participants). The voice recording information was later transcribed. Using interview schedule the researcher gathered data until adequate information was obtained. All the information were later scrutinized and subjected for analysis with a view to arrive at viable historical conclusions. Since there were possibility of some participants to exaggerate certain information, the researcher corroborated the information gathered from different participants so as to ascertain the truth.

There were limitations encountered during oral interviews. The fact that the researcher was not married was negative especially when identifying herself during fieldwork, thus the researcher did not enjoy the status of respectability in the eyes of men and women. Although some participants shared with the researcher their several frustration and marital obligation, men were very open about the obligations of wives to them as men of the home. There were distortations and variations of information on personal recollections, posing many of the problems that arose while dealing with more formal and oral interview. It was noticed that some of the old persons who were rich in knowledge had failing memories. This was eventually settled by recourse to corroborative evidence from archival sources. Sometimes the accounts could contradict or be drilled with pronounced romanticization of the past and denigration of the present. Thus, the researcher relied on contact persons to identify the potential

participants. Knowledge of the area was also one of the challenges, encountered during oral interviews. The other difficulty encountered while collecting data from oral evidence was that sometimes participants were not comfortable with narrating some topics and events in relation to marital institution. For instance, topics that dealt with taboos related to marriage, reproduction relations and relations of labour and property. This forced me to assure them that the purpose of research was for documentation. This assurance mostly permitted them to open up for the interview.

In addition, secondary information was used to support an analysis and discussion based on primary sources and in search of information relevant to the study. The library materials that were utilized to write this thesis included both published and unpublished work of both electronic and non-electronic books, journals, newspapers and dissertations. These information were accessed in major libraries in Kenya namely: Moi University's Margaret Thatcher Library; University of Nairobi's Jomo Kenyatta Library; Kenyatta University Post Modern Library and Kenya National Library Services in Eldoret town were visited in search of the information relevant to the study. The secondary data gave various interpretation scholars had given on family and marriage not only in Kenya but also in Africa and other continents of the world. This study however, relied heavily on primary sources for purpose of originality.

Data analysis was done using three methods. The first one involved theoretical reflection in which data collected were examined against the theories used. Secondly, the extensive field notes gathered during oral interviews were corroborated with archival and secondary data. This was done to remove any bias and to ensure accuracy and reliability. Since the researcher was interested in general patterns and dominant themes as set on the objectives, repetition of data was looked for. Careful

re-reading of both colonial and post-colonial records, field records and other secondary data were very useful in unearthing significant patterns. Issues or aspects that seemed to fit together and reinforce each other were considered to be more significant than the isolated ones. Lastly, the researcher went through necessary sources and then extracted excerpts or relevant information. In most instances, the researcher quoted verbatim to make strong arguments. Collected data was analysed qualitatively. This method provided ways of discerning, examining, comparing and contrasting, and interpreting meaningful patterns or themes on which conclusions were drawn.

Prior to the beginning of the research, an approval letter from Moi University was obtained which enabled the researcher to be granted a Research clearance permit from the National Council for Science and Technology. The letter authorized the researcher to carry out research in Shinyalu Sub-county within Kakamega County. In addition to authorized letter, the researcher obtain local permit from the local leaders. The participants and the field assistant participating in the study were contacted beforehand and the purpose of the study was explained to them in advance. In this way, their consent for participating in the research was sought. Key participants gave the researcher the authority to use their real names because they wanted to own the narratives. In addition what was discussed were matters that would not cause harm to them. They were thus, assured that their rights, interests, privacy and sensitivities were safeguarded.

1.14 Conclusion

This chapter has outlined the need for the study, situating the study in Kenya among the Isukha. The chapter has identified marriage as an important institution among the Isukha where life revolves, noting that marriage takes a central role and all members

of the community are not only expected to marry but also take part in the marriage ceremonies of other members of the community. The chapter has also argued that the agents responsible for the transformation of Isukha traditional marriage. These agents necessitated a change in how marriage life was viewed. The chapter has also presented statement of the problem which demonstrates the uniting factor for marriage and culture among the Isukha. It has also looked at the research questions and objectives and outlined the conceptual framework for the study. The study used three theories: articulation, agency and negotiation, which together with literature have been examined and interpreted and revealed that the culture of the Isukha was manifested through marriage. The methodology that was employed to acquire the data for the study has also been discussed. It has explained the way in which the samples were selected from the six wards in the study area and has described the manner in which the data was collected and analyzed. The results and the conclusions based on the data analysis formed themes in the next five chapters for the study.

1.15 Chapters Presentation

The study is divided into six chapters. The background of the study; the problem of study is defined and contextualized, the objectives; the theoretical framework as well as the modes of data collection and analysis used in the study are stated in the first chapter.

Migrations and settlement of the Isukha from Eastern Uganda near mount Masaba to their present habitat are dealt with in chapter two. Also examined in this chapter is a description of the structure of the pre-colonial Isukha social organization. Specifically, the rite of passage, gender roles, betrothal and courtship, bride-wealth, marriage ceremony and the forms of marriage among the Isukha during the pre-

colonial period are explained to form a baseline for understanding marital institutions in which the pre-colonial Isukha society operated.

Chapter three focused on the genesis of the transformation of marital institution among the Isukha. The chapter laid the foundation for understanding of the establishment of relations of the Isukha with the British imperialists and missionaries from 1894 to 1945 and the response of the households in the area to colonial capitalism. The entrenchment of foreign rule and the progressive introduction of western capitalism and how they affected the Isukha household are examined particularly in terms of land policies, taxation, and forced labour recruitment through conscription have also been examined. At the end of the First and Second World Wars many men were forced to seek employment in European economic ventures which took them away from labour responsibility they used to have in the traditional Isukha economy. This directly transformed gender relations because of re-organization of land tenure system and labour relations. Furthermore, the chapter discussed how moneterization of the Isukha economy led to the gradual decline of livestock as a currency with which to pay bridewealth. Lastly, the study discussed the impact of Christian missionary penetration and its activities. The overall impact was the individualization of decision making concerning marriage matters.

Chapter four continues to examine the influence of colonial rule and the missionary factor on the transformation of Isukha marriage from 1945 to 1963. The chapter elaborated the problems and the difficulties of Isukha economy after 1945 set many men migrating to towns. This directly transformed gender relations because of re-organization of land tenure system and labour relations. Marriages were strained as the colonial administration attempted to tie women to their location and forcing them to perform a subsidizing function for the male labour which was increasingly

employed in many parts of the colony. Separation of family members through migrant labour system greatly undermined the communal aspects of marriage. It had far reaching negative repercussions on almost all aspects of Isukha marriage.

Chapter five assessed Isukha marriage in independent Kenya between 1963 and 2010. The chapter analysed the changing economic circumstance, globalization, media and western education especially on women, on how they have influenced marriage both positively and negatively among the Isukha. Key issues discussed are legislation and marriage; decline of polygamy and Isukha marriages during the economic crisis of 1980/1990 with focus on HIV/AIDS epidemic. The study has demonstrated that some of the new family arrangements have been influenced by globalization and have become increasingly more acceptable or more tolerated, or simply just ignored by the Isukha. In addition, the chapter has examined issues of divorce, single-parenthood, cohabitation and clandestine polygamy.

Chapter six a summary and conclusion of the thesis. The study concluded that marriage in general among Isukha people is still an important analytical social category in understanding Isukha culture during pre-colonial, colonial and post-colonial times.

CHAPTER TWO

PRE-COLONIAL ISUKHA MARRIAGE PRACTICES

2.1 Introduction

This chapter presents an analysis and interpretation of data related to the theme of marriage among the Isukha during the pre-colonial period. An attempt is made to trace the various lineages that constitute the peopling of Isukha, their social and individual responsibilities are also discussed. The chapter further, discusses the Isukha concept of marriage, the main steps that were involved in marriage, the main marriage activities and their significance. Secondly, the chapter explains the length of preparation for marriage ceremonies, items used during marriage and their significance and meaning. The study maintains that the practice of marriage among the Isukha in the pre-colonial period was a collective social process that affirmed their communal approach to life with the family unit perceived as the fundamental foundation of solidarity and the social binding seed of the communal life of the Isukha. The chapter also analyses the Isukha marital institution before the Isukha interacted with western values. This will serve as a background against which succeeding chapters will be analysed to understand British colonial intervention and the means by which the penetration of incipient capitalism constituted an episode that set the stage for the process of change that occurred in Isukha marriage before 1894.

2.2 The Settlement and Establishment of the Isukha in their Present Homeland

The Isukha or (Abisukha) are part of the Bantu people of western Kenya known as the Luyia as a whole.¹²⁷ Before settling in their present-day localities, the Isukha were

¹²⁷ N. Nabakayashi 1. The clan system and social change in Modern Isukha. In N.Nagashima (ed), *Themes in Socio-Cultural ideas and Behaviour among the six ethnic groups in Kenya*. Tokyo: Hitotsubashi University, 1981.

preceded by the Kalenjin and the Maasai.¹²⁸ The origin and movements of the Luyia people to their present homeland in Kenya have been a continuous debate among scholars. Barker observed that the earliest Luyia settlers, including the Isukha, arrived from Uganda about 1250 AD.¹²⁹ On the other hand, Were asserts that the Luyia people migrated into their present country about 1598-1733.¹³⁰ This is the time, according to Were when the clans and sub-tribes of the Luyia seem to have been founded.¹³¹ Thus it was during this period that the location of Isukha was settled by the great majority of their present inhabitants. Bode asserts that the Isukha had already been in their present settlement since the 16th century.¹³² However, his view is not born out of the oral accounts of the various clans which point at Mount Elgon (*Masaaba*)¹³³ as their origin. According to Mwayuli, the *Abashimutu*, *Abasilitsa*, *Abakisila* and *Abakukhumi* (clans among the Isukha) are believed to be the “indigenous” Isukha.¹³⁴ However, this is still debatable because written accounts of Were and Osogo indicate that the area referred to as Luyia was occupied by the Proto-Kalenjin groups who were absorbed by the in-coming Bantu groups.¹³⁵ Further research does not provide enough evidence to authenticate the view that the Isukha evolved. Other Isukha clans trace their origin beyond Mount *Masaaba* and point to “Misiri” as their original homeland. These include the *Abalira*, *Abamakhaya*,

¹²⁸ G. S. Were, *A history of the Abaluyia of western Kenya c1500-1930*. (Nairobi: East African Publishing House, 1967), 57.

¹²⁹ E.E. Barker., *A short History of Nyanza*. Nairobi: East African Literature Bureau, 1958), 24.

¹³⁰ G. S. Were, *A history of the Abaluyia of western Kenya c1500-1930*. (Nairobi: East African Publishing House, 1967).

¹³¹ *Ibid*, 64.

¹³² F.C Bode, *Leadership and Politics among the Abaluyia of Kenya*. (Ph.D Thesis, Yale University, 1978).

¹³³ This Mountain has become part and parcel of the culture of the Luyia and that it means “the North”. So that when one travels northwards, one says, one is travelling in the “masaba” direction.

¹³⁴ M.S. Mwayuuli, *The History of the Isukha and Idakho Clan: Among the Abaluyia of western Kenya*. (Nairobi: Kenya Literature Bureau, 1989), 3-41.

¹³⁵ J.Osogo, *A history of the Baluyia* (Nairobi: Oxford University Press, 1966) & Gideon S. Were, *A history of the Abaluyia of western Kenya c1500-1930*. (Nairobi: East African Publishing House, 1967).

Abasakala and *Abashikulu*.¹³⁶ The myth of “Misiri” would appear to have dominated most groups that peopled East Africa. According to Were “Misiri” stands for a country or countries yet unidentified, from which the ancestors of many of the Luyia clans came.¹³⁷ For instance, were dismisses the “Misiri” origin as a myth emanating from the biblical influence. Instead of Egypt, he suggests the present –day territories of Karamoja and Turkana. However this may not be true. Therefore, the whole question of Egypt or “Misiri” and the peopling of Africa south of Sahara need to be re-examined critically. The myth of “Misiri” or “Egypt” to many societies would represent the beginning of time and the centre of creation.¹³⁸

Apart from the stories narrated by scholars to explain migration and settlement of the Isukha people in their current location, the Isukha people themselves also have stories which tell how their respective clans migrated and settled in Kakamega County. Evidence from historical records and oral traditions recognize the fact the Isukha have no common ancestor, they emerged in the same framework of interactions and assimilations that took place in Luyia. For instance, even a layman cannot escape noticing the odd forms of so many place names in this region. For example, Ileho, Lubao, Ilucheho, Kakamega, Ichirovani, Ingolomosio and Indidi which are Maasai and Kalenjin in origin and meaning.¹³⁹

Isukha area experienced an independent influx of populations from all directions and at different times. The inculturation between these groups and the Kalenjin as well as the Luo and the Maasai resulted in various clans that formed Isukha. From the foregoing, it would appear that the assertion that Isukha came from one place as

¹³⁶ Mwayuuli, *The History of Isukha and Idaho*., 3-41.

¹³⁷ Were, *A history of the Abaluyia of western Kenya*, 62-63.

¹³⁸ Ibid.

¹³⁹ K. Muchanga, *Impact of economic activities on the Ecology of the Isukha and Idakho areas of western Kenya C1850 to 1945*. (M.A.Thesis, Kenyatta Univeristy,1998), 76.

commonly assumed is not convincing.¹⁴⁰ There has not been any common ancestor of the whole Isukha. Progenitors such as Mwisukha as son of Muluyi as propounded by Osogo do not exist. This study has unraveled the fact the legendary Mwisukha is a recent inventions and created mythical personalities to illustrate some kind of unity that exist among the Luyia in general and Isukha in particular. Each clan moved and settled independently in their present habitat. As various clans moved, their migrations were rational processes which reflected their perception of what, in the long run would be in their best interest. Since most of these clans practiced subsistence agriculture, there was a link between rainfall, soil and migrational patterns. For instance, *Abitsende*, *Abalira*, *Abakhulunya*, *Abachina*, *Abarimbuli*, *Abasakala*, *Abakuusi*, *Abamakhaya*, *Abamusali*, *Abashimuli* clans among others, appear to have settled in favourable habitats by 1850.¹⁴¹ The *Abashimuli*, *Abamahalia* and *Abamilonje* clans are believed to have emerged as a result of some Isukha groups intermarrying with the Maasai.¹⁴²

The presence of the Maasai in the region is debatable. However, it is believed that the Maasai were on their way from Turkana region in pursuit of the Nandi to get back what they believed to be their animals as well as in search of pastures. As a result, the Maasai spread to many parts of Luyialand. In Isukha for instance, they settled at Ikhonga-murwi the great granitic rock, which became a place from where the *Abamilonje* people of Isukha and *Abashirotsa* of Kisa originated.¹⁴³ It is not clear when these people were referred to as Abisukha. The term might have been coined by the people themselves. For instance, the term Isukha has two versions. One, it is

¹⁴⁰ Were, *A history of the Abaluyia of western Kenya* & J.Osogo, *A history of the Baluyia* Nairobi: Oxford University Press, 1966).

¹⁴¹ Oral Interview (OI), Thomas Shikundi, 30/12/2018 Ibid., pg 76

¹⁴² OI. Joseph Lubelela, 2/01/2018 see M.S. Mwayuuli, *The History of the Isukha and Idakho Clan: Among the Abaluyia of Western Kenya*. (Nairobi: Kenya Literature Bureau, 1989).

¹⁴³ K.Muchanga, *Impact of economic activities on the Ecology of the Isukha and Idakho areas of western Kenya C1850 TO 1945*. (M.A.Thesis, Kenyatta Univeristy, 1998),77.

derived from another word *Khubisukhila* which means to emerge miraculously or the people hitherto are now seen in darkness.¹⁴⁴ Secondly, are the *Abamilonje* coined from the word *bilongi* meaning self-formed. Thus, it was in this context that Abisukha as a term is said to have originated. On the other hand, the name Isukha comes from the name of the river “Isikhu”. People who stayed near this river were referred to as the people of river Isikhu (*bandu bisiukhu*). With time the term Isukha came into existence. Later on the, term Abisukha came to be synonymous to all clans in present Isukha.

The Isukha people did not migrate as a mass to settle in their present habitat. Each clan emerged on its own. For instance, each Isukha clan has no blood relations nor were they brothers as explained by participants. Whereas *Abakhaywa* clan and *Abasaalwa* clan of the Isukha have close relationship with the Batsosto and Idakho respectively.¹⁴⁵ The *Abashirukha* clan originated from the Kalenjin person of Nandi group called Arap- Baba.¹⁴⁶ From the foregoing, it may be valid to claim that Isukha do not have a common ancestor.

The clan (*litala*) is patrilineal and exogamous without totems and it is localized within a defined territory. Nabakhayashi¹⁴⁷ and Muchanga¹⁴⁸ noted that Isukha are composed of 27 clans while Mwayuuli¹⁴⁹ noted that Isukha are composed of 18 clans. This is contrary to the present study derived from oral interview where participants

¹⁴⁴Ibid.,78.

¹⁴⁵ Mwayuuli, *The History of Isukha and Idaho*, 3-4 and 41.

¹⁴⁶Ibid,37.

¹⁴⁷N. Nakabayashi. “The clan system and the social change in modern Isukha” in N.Nagashima (ed). *Themes in Socio-Cultural Ideas and Behaviours among the six Ethnic Groups in Kenya*. (Hitotsubashi University, Tokyo, 1981), 18.

¹⁴⁸ Muchanga, *Impact of economic activities on the Ecology of the Isukha and Idakho areas of western Kenya*, 61.

¹⁴⁹ Mwayuuli,.

mentioned 30 clans.¹⁵⁰ It can, therefore be argued that this must remain largely speculation, until, more research is carried out regarding Isukha clans. Some clans have two or more separate territories because of their historical immigration patterns.

The clans that were mapped during oral interview were:

Abasakala	Abamahalia	Abatuura
Abakhaywa	Abalira	Abakukhumi
Abarimbuli	Abashitaho	Abasilitsa
Abachina	Abakhoombwa	Abamakhaya
Abamilonje	Abayokha	Abasuulwa
Abatsunga	Abasuulwa	Abashimutu
Abitsende	Abashirukha	Abakhwanga
Abakhulunywa	Abateheli	Abasheleli
Abakuusi	Abasaalwa	Abashimbembe
Abashimuli	Abamusali	Abakisila

Source: Adopted from the oral interview that were carried out in Dec 2017 and Jan 2018

The common clan name as a rule bear of the person name of the founder of the clan. There are some other clans which are very small and “hide” in the territories of bigger clans though their identity is none the less distinct. Examples of these clans are the Abasheleli in the Abatsunga territory, the Abakhonyi in Abateheli and the Abashikali in Abitsende.¹⁵¹ I do not know the precise number of such small clans in Isukha hence need for further research.

Clans and lineages in Isukha used to be the core of the social system in the pre-colonial era. It was possible to describe the traditional Isukha clans and lineage system as segmentary in the sense that the society was divided into segments along

¹⁵⁰OI., Philip Nabwangu, David Kwasira and Peter Lubelela, Andrew Mulima Shirandula, Joseph Shikundi Mbalilwa, 2017.

¹⁵¹OI, Andrew Mulima Shirandula, 31/12/2017, See also N. Nabakayashi, *The clan system and social change in Modern Isukha*. In N.Nagashima (ed), *Themes in Socio-Cultural ideas and Behaviour among the six ethnic groups in Kenya*. (Tokyo: Hitotsubashi University, 1981),18.

the cleavages of the clans and there were no institutionalized central authority.¹⁵² The boundaries of the clan territory could be a river, a path or a watershed, but sometimes there were boundaries between neighbouring farms or homestead. Each boundary of nearby clans was well known because territoriality was one of the distinctive features of Isukha clans. A clan was regarded by outsiders as having stereotyped uniformity. For example, the Abachina clan were regarded as (*abahuvi*) the fishermen, while the Abitsende people were known as great warriors among the Isukha.¹⁵³

Looking through the origin of many clans found in Isukha, the crucial point was trying to put across their relationship as far as marriage was concerned. It has been noted that Isukha consisted of many clans but of different origins. The Isukha are forbidden from marrying into or from the same clan or clans with pacts, which prohibited members from marrying one another. A good example of clans with such a pact was the Abasheleli clan and the Abatsunga and Abashikali and Abitsende clan. To this date, members of these clans do not inter-marry. Taboos existed to reinforce marriage prohibitions. It was, for example, believed that children born in a relationship involving relatives would “ripen” like bananas and die. Such marriages would be doomed. Marriage among the Isukha thus, brought together people from two different clans. There were strict rules of exogamy that governed marriages. Marriages were recognized between Isukha men and women within Isukha community. They also intermarried with their neighbouring Luyia groups’ such as the Idakho, Batsotso, Samia, Wanga and Kabras. The implication here is that, the Isukha intermarried within their own clans, so long as the partners did not descend from the same clan. The rule of exogamy, among Isukha and in most cases in African cultures,

¹⁵²O I, Joseph Shikundi Mbalilwa, 30/12/2018.

¹⁵³ OI., Peter Lubelela, 2/01/2018, see N. Nabakayashi, The clan system and social change in Modern Isukha. In N. Nagashima (ed), *Themes in Socio-Cultural ideas and Behaviour among the six ethnic groups in Kenya*. (Tokyo: Hitotsubashi University, 1981), 18.

extended also to the mother's clan. For example, a boy could not look for a marriage partner in his mother's clan. A girl could not accept marriage proposal from any young man who belonged to the clan of her mother. An Isukha could marry anybody from any clan so long as there was no blood relationship as far as clan and totem aspect was concerned.

2.3 The Social Organization and Division of Labour

As already mentioned, the Isukha organized themselves into clans (*litala*). These clans were made up of lineages, each claiming descent from a common ancestor. Each clan had a leader (*omwami*) who was vested with the responsibility of determining clan affairs. Within the clan, were families with extended relationships due to marriage alliances. Each family lived in one homestead. A homestead was the basic unit of lineage. In some homestead there were more than one household each comprising of the husband, wife (wives) and children. In the whole of Isukha the individual family constituted basic social group that co-operated most widely and intensely in the activities of everyday life.¹⁵⁴ Marriage was initially patrilocal. As a rule each individual family lived in an isolated homestead, erected in the middle of the family gardens. The round living-hut (*enzu*) was shared not only by the husband, his wife and their small children, but usually also by the livestock.¹⁵⁵

There were no formal schools in the traditional set-up. The family and village played the role of school. Oral instructions were given with the development of language and basic cultural traits learned. Through education Isukha language, religious beliefs and technical skills were taught. These were passed on from one generation to the other.

¹⁵⁴ J. Osogo. *Life in Kenya in the olden days: The Buluyia*. (Nairobi, London & New York: Oxford University Press, 1965), 43 & OI, Peter Lubelela, 02/01/2018

¹⁵⁵ G. Wagner, *The Changing Family among the Bantu Kavirondo Volume XII, No 1*. (London: Oxford University Press, 1939), 6& OI, Peter Lubelela, 02/01/2018.

Education that was taught was meant to correspond to the needs of life and to emphasize the right relations with the other people. Education was thus meant to promote social integration within society. Personal responsibility and individual creativity were stressed. Children were assigned responsibilities according to their sexes. Boys learned from their fathers while girls learned from their mothers. All these rules were taught to prepare the youths for good parenthood in future. Sexual roles were related to the whole life of an individual. This was reinforced by means of taboos. The grandparents had a role of telling instructive tales which vividly depicted the consequences of violating some taboos.

Economically, the traditional family was essentially self-sufficient unless abnormal events such as droughts, hailstorms or prolonged sickness upset the family economy it did not depend upon outside help or trade for its food-supply. Although experts existed for every craft, the economic significance of such specialization remained very small.¹⁵⁶ The traditional craftsman pursued his craft more as a hobby than as a profession. The craftsman neither depended on its proceeds for his family's food supply, nor does he seem to increase his possessions substantially from it. The skill required being low, nearly every man or woman was an expert in one or two of the dozen traditional crafts and knew something about the others. Only magical and medical practitioners, whose occupations required a higher degree of skills, training, or personality, appeared at times to derive substantial gain from their profession.¹⁵⁷

¹⁵⁶ Wagner, *The Changing Family among the Bantu Kavirondo*, 6.

¹⁵⁷ OI, Philip Nabwangu, 02/01/2018, David Kwasira, 2/01/2018, see Wagner, "*The Bantu of North Kavirondo* 6.

There was a clearly defined division of duties within the family group. It was a rule of custom that a person could not do the work that was on the side of the other person.¹⁵⁸

To quote further from a statement of a participant on the sexual division of labour;

It was the wife (*mukari*) work to sweep, to grind, to cook, to build the fire and to clean out the cattle partition. Making beer, looks after the children, she carried the water from the river, and gathered firewood. She cleaned the walls of the house and the surface of the yard with cow-dung beats the floor of the house so that it became hard and level (*khuhoma*) and to know about the food on the food shelter.¹⁵⁹

In addition to this list of household duties the wife performed the greater and more strenuous part of garden labour, as hoeing cultivation, sowing, weeding and harvesting was almost entirely woman's work.¹⁶⁰ The main duties of the husband (*musaza*) on the other hand were:

To take care of his stool and beer-pipe, to sweep his yard, to look after the cattle, goats and sheep, to know the place of digging and to cut the grass in the garden thereby selecting that section of the land which his wife was to till, to know when the roof of the house deteriorated and to pull the grass for thatching, to plait the string for tying the grass) and to hand up the grass (to the thatcher who was always a specialist.¹⁶¹

Both sexes (*musaza*, *mukari* and child *omwana*) finally joined fairly equally in the task of planting weeding and harvesting. Children were trained at an early age to share the duties of family life, soon after they have themselves learnt to walk properly. Boys as well as girls were taught to carry about and generally "nurse" their younger siblings and to make themselves useful in various little ways. At about the age of six boys began to herd goats, then sheep and later on cattle, a duty which they outgrew after they had been circumcised. The girls assisted their mothers in the daily work of carrying water, gathering firewood, wild roots and vegetable and above all, in

¹⁵⁸G. Wagner, *The changing family among the Bantu Kavirondo Volume XII, No 1.*, 8.

¹⁵⁹ OI, Angelina Muhinja, 16/01/2018.

¹⁶⁰ Wagner, (1939). *The Changing Family*, 1 41.

¹⁶¹ OI Philip Nabwangu, David Kwasira and Peter Lubelela

the weary task of grinding sorghum (*bulee*) for the morning meal. The wife cooked for all members of the family, but they ate in two groups. The mothers, the daughters and sometimes small boys-ate together in the cooking partition while the father and the older sons took their meals in the front partition.¹⁶²

The matrimonial relationship became fully established only after the birth of one or several children. It was only then that the bond between husband and wife was considered permanent. The pair then established their own household and not as “boy” and “girl”. They could receive visits from and offer hospitality to their parents and other persons who were married, who before would not have entered their house. A prolific wife commanded more respect from her husband and his kinsmen than a wife who was barren or who bore daughters only, a fate for which the wife alone was held responsible.¹⁶³ Although neither of these two misfortunes was openly accepted as grounds for divorce, they were often the real cause for divorce, especially if the husband was poor and could not marry again without having first recovered the bridewealth that he had given for the first wife. However, a variety of magical rites and sacrifices were performed throughout a number of years. Their aim was to detect and remove the cause of barrenness, which was chiefly attributed to the anger of ancestral spirits.¹⁶⁴ Impotency of the husband, on the other hand, could disrupt a marriage for reasons of sex but hardly so for reasons of procreation, as with the husband’s tacit agreement, one of his brothers stepped into his place. In the frequent

¹⁶²OIs Jennifer Ayosta Aluvala, 4/01/2018, and David Kwasira, 02/01/2018 see also Wagner, *The Changing Family*), 8.

¹⁶³OI, Peris Kavukha, see Wagner, *The changing family*, 10.

¹⁶⁴ OI, Dinah Shilazi, 06/01/2018

cases where old men married young wives this was quite a customary arrangement which did not often seem to lead to divorce.¹⁶⁵

The husband held exclusive sexual rights over his wife.¹⁶⁶ Any extra-marital indulgence on her side was considered adulterous, and the husband could demand a cow as compensation both from the wife's father and the lover.¹⁶⁷ For repeated unfaithfulness husbands divorced their wives and demanded their bridewealth back. The only exception to this was the custom that before the birth of the first child the brother of the husband was to have occasional sex-relations with the wife which the husband was expected to tolerate. Even after he had children, a husband could not legally accuse his brother of adultery with his wife but had to secure his rights by the less drastic means of persuasion or by asking his father to intervene on the strength of his paternal authority.¹⁶⁸ The wife on the other hand, had no exclusive sexual rights to her husband, as under the conditions of polygamy, any courtship that he might carry on with an unmarried woman would be regarded as possibly leading up to a second marriage. The only mutual right in their sexual relationship was the claim to sexual attention from the marriage partner. If either husband or wife persistently evaded his or her marital duties, the dissatisfied partner brought a complaint before the forum of the husband's or the wife's kin as in any other matrimonial conflict.¹⁶⁹

The formal "social" relationship between husband and wife was, like wise ill balanced. The husband enjoyed a superior status and expected formal obedience and

¹⁶⁵ Ibid.,

¹⁶⁶ Provided the husband was not impotent and engaged in sex to more women the more delighted and praise to her parents. This was opposite with girls/women. The more she engaged in sex she became a shame to her parents. Oral interview Peter Lubelela, 02/01/2018

¹⁶⁷ Such conduct was considered adulterous only when engaged in with intention of secrecy. A wife who openly leaves her husband to live with another man with no intention to return, was considered divorced and merely the bride-wealth was returned.

¹⁶⁸ Oral interview i.e. by bringing the matter before the judicial council of clan elders

¹⁶⁹ OI, Edward DC Konzolo, 16/01/2018

certain outward sign of submission from his wife.¹⁷⁰ This state of affair was clearly reflected by the arrangement of the homestead and soon became apparent to the observer of the daily routine of the family life. For instance, the front partition of the hut with the main entrance and the front yard was called the “husband’s side” while the rear partition with the cooking stones, the side door, and the back yard was the “wife’s side” of the homestead.¹⁷¹ It was the husband’s privilege to possess and sit on the stool (*endeve*) while the women sat on the ground. Both husband and wife maintained the social relations with their respective kin on an equal level. The status of women was quite different from that of men. While with age men would become completely independent, women remained dependent on male guardians either as daughters or wives. However, age and seniority helped women to have some limited power.

A first wife in a polygyny family exercised authority over her co-wives especially by influencing the husband. In fact, a hard-working first wife needed to be consulted if another wife was to be married.¹⁷² In other instances, she could encourage the husband to marry and would even pick a girl for him.¹⁷³ The main aim of getting co-wives was to help in the provision of the much needed agricultural labour. But despite her privileged position, the first wife was answerable to the male head either a husband or the first son of the widow. The wife could pay frequent and especially during the first years of matrimony extended visits to her parents.¹⁷⁴ Although the husband gave his formal permission, he seldom prevented his wife from paying these visits. The husband’s and the wife’s relatives were usually accorded an equal degree

¹⁷⁰ In many instances women were viewed as containers Oral Interview Christine Muhatia

¹⁷¹ OI. Peter Lubelela, 02/01/2018

¹⁷² OI., Lena Khakhuya, 25/12/2017, and Sara Shitambatsi, 27/12/2017,

¹⁷³ OI., Nathan Timboi, 25/12/2017

¹⁷⁴ When the wife got her first pregnancy she had to go back to her home (*kusarwa*) to be decorated by cutting round her stomach. OI., Peter Lubela, 02/01/2018 and Joseph Mahero, 27/12/2017

of hospitality in the family household. Although wife beating occurred and was not considered a serious disgrace to the matrimonial relationship, there were safeguards against a husband's cruelty. The wife could always return to her parents or brothers where she was given protection until some agreement was reached or the marriage was formally dissolved by the return of the marriage cattle.¹⁷⁵

The economic as distinct from the social status of the wife was also inferior to that of the husband. As one of the participant pointed out:

A woman's position was characterized by the fact that she had no ownership status whatever. In her role as the husband's wife she had a claim to be supplied by her husband with certain objects for her own and her children's use. The husband had to build a hut for her, furnish her with a garden, supply her with meat at reasonable intervals and, if possible with milk while children were still small. Moreover, the crops planted by the wife were under her control in so far as she took care of the stores and was alone responsible for making an economical use of them in the interest of the family. But a wife had no rights of ownership to any of the objects which she handled.¹⁷⁶

All material objects, whether they accrued to the family from without, through inheritance or as the result of the family's combined economic effort, were owned by the husband, including even the various household utensils which were daily used by the wife. She had no right to dispose of any of those objects unless she acted upon her husband's order. Whatever she realized through the sale or barter of any goods "belonging" to the household or even produced by her (such as pots) came under the husband's control. If the marriage became dissolved a wife had no claim to anything in the house except her own dress and personal ornaments. The husband's rights of

¹⁷⁵Ol., Joseph Mahero, 27/12/2017, see pp Wagner, *The changing family*, 12

¹⁷⁶ Ol.Margret Mukasia Shiverenga, 03/01/2018

ownership, on the other hand, were limited only by a number of kinship obligations within his lineage group.¹⁷⁷

The low status of the wife with regard to property was paralleled by the fact that she had no right over her children in her role as a mother.¹⁷⁸ If the marriage became dissolved, even if entirely due to the husband's fault, the wife could under no circumstances claim any of her children, in the sense that she would have a right to take them with her to her father's house or to her new husband and there brought them up. If the divorced husband had no other wife and no close relatives in whose house his children could stay, he could temporarily let them go with his divorced wife. But he could fetch them back whenever he wanted to do so, and in all circumstances he would receive the marriage cattle given for his daughters and had to furnish the same for his sons. If the husband died the widow had the option of remarrying one of her deceased husband's brothers or of marrying any one she liked, in the latter case the marriage cattle or part of it was to be returned to her husband's heirs.¹⁷⁹

A necessary corollary to the lack of property status of the wife was the fact that she had no economic independence or individuality. That is to say, a wife by herself could not take legal action, nor has she any personal legal responsibility for her conduct. Before a woman married, her father (or his substitute) was her legal guardian. After her marriage the guardianship became divided between father and husband.¹⁸⁰ If the wife committed an offense against a "third party", for instance, if she sets fire to a neighbour's house or injured someone else's child, her father and the husband jointly

¹⁷⁷ OI.,Flora Kuhola Shimwati, 03/01/2018

¹⁷⁸ As a distinct from her role as a wife and member of the household

¹⁷⁹ OI. Joseph Mahero, 27/12/2018

¹⁸⁰ OI.Peter Lubelela, 02/01/2018

raised the fine.¹⁸¹ Conversely, if the wife was the victim of an offence, her father or husband took legal action on her behalf, and the compensation paid usually went to the one who had made the case and paid the court dues. If the wife committed adultery, her father had to compensate the husband, as per acceptance of the marriage cattle a father assumed responsibility for his daughter's marital conduct.¹⁸²

The relationship between parents and children was characterized by the strong desire for numerous offsprings. The reasons which participants gave for this attitude can be summed up under three headings:

A large family enhanced, a man's prestige, as through it his name became known to many people who would accordingly respect and listen to him. Secondly, a man with many children could obtain justice, as he would be feared by the people, who would not dare to take his cattle or other things away from him by force. Lastly, where there were many children there would always be statements that "many sons would capture many cattle in war."¹⁸³

The truth of these assumptions is confirmed when they are viewed against the general economic structure of traditional Isukha life. All these reasons for favouring large family implied, male and female children were not valued equally highly. Although a fairly even distribution of sons and daughters was appreciated, it considered far less of a misfortune if a wife bore sons only than if she bore daughters only. This different valuation cannot be fully explained by the conditions under which the individual family lived. One of the participants argued that: "Before her marriage a daughter at least was a useful member of the family household as a son. After she was married, (a daughter), it was true she saw her parents less frequently than a married son, but she continued during her regular context of family life."¹⁸⁴ As a wife grew old and

¹⁸¹ OI., Philip Nabwangu Shiholo, 02/01/2018

¹⁸² OI., Peter Lubelela, 02/01/2018, see Wagne, *The changing family*, 14.

¹⁸³ OI., Timona Burinda Khamalia, 09/01/2018 and Charles Musame Madegwa, 13/01/2018

¹⁸⁴ OI., Thomas Shikundi, 30/12/2018

became the mother of adult sons and daughters, her social position improved. Her husband and other people no longer called her wife (*mukhari*) but old woman (*mushiere*) a term which implies respect and social standing. The relationship between husband and wife in old age became more personal as they spend most of their time together, maintaining less strictly the segregation in work and recreation that prevailed in their former matrimonial life.¹⁸⁵

2.4 The Marriage Process among the Isukha in the Pre-colonial Period

Marriage, according to The New Encyclopedia Britannica Volume 7 is;

a legally and socially sanctioned union between one or more husbands and one or more wives that accords status to their offspring and is regulated by laws, rules, customs, beliefs and attitudes that prescribe the rights and duties of the partner.¹⁸⁶

Here we are given monogamy, polyandry and polygyny as the types of marriages practiced in different communities as legal and socially accepted by the communities that practice them. There were two main types of marriage among the Isukha that fell within this definition. These were monogamy, a marriage with one spouse at a time. Another type of marriage was polygamy, a marriage with more than one wife at a time. Polygyny was an integral part of the Isukha cultural heritage. However, the Isukha appreciated their daughters to marry as first wives in polygamous homes that were economically stable. Getting married as a first wife in such a home had significance. Her house was the centre of all activities in the home. She was consulted on all matters affecting the home. She similarly had the responsibility to guide and counsel other wives. This was as far as social, economic and religious matters were concerned. Gumo asserted that:

Polygyny as one type of marriage, was believed to be the most convenient way to enable all girls to get married. Through it, the

¹⁸⁵ OI., Joseph Mahero, 27/12/2017

¹⁸⁶ *Marriage*. Vol. 7. (The New Encyclopaedia Britannica: Micropedia, 1993), 871.

society was able to marry off virtually all women who had reached a marrying age hence it helped to curb prostitution.¹⁸⁷

On a further economic point of view, polygyny helped in raising the income of a family. Many wives meant cheap labour, therefore through polygyny, there was enough labour, meaning enough production from the farm. This earned a man prestige and popularity in Isukha.

The Isukha concept of marriage differed from that of the Western World. *Khuhila* is the term used by the Isukha people to mean “to marry”. This was a social institution which united a man to one or more women and further united the families and clans of the married couple. Thus as suggested by Evans-Pritchard: “Marriage is the creation of a series of new social relationships which once formed are not easily or lightly severed, especially when the union is completed by the birth of child.”¹⁸⁸ The relationship was a communal affair in which all members participated. Therefore, it was highly valued in the Isukha social structure. Marriage was a central institution upon which all other institutions were dependent for life revolved around it. Mbiti’s work sums up the importance of marriage. In his view:

For Africans, marriage is the focus of existence. All community members meet: the departed, the living and those yet to be born. Every community member has to participate in it. So marriage is a duty, a requirement from the corporate society and a rhythm of life in which everyone must participate. One who fails to take part is a curse to the community, a rebel a law breaker, abnormal and “under-human”. One will have rejected the society and it will reject him in return. Marriage ensures procreation.¹⁸⁹

Marriage among the Isukha and indeed Africans as a whole was a complex affair. Marriage occupied an important place because of the privileges and obligations attached to it. It provided legal and ritual sanctions for the founding of a family, a unit

¹⁸⁷S. Gumo, *The impact of Christianity on the Abanyala Leviratic Marriage*, 72.

¹⁸⁸E. Pritchard, *Kinship and Marriage among the Nuer*.(Oxford: Clarendon Press,1951), 84.

¹⁸⁹ J.S. Mbiti, *African Religions and Philosophy*,133.

of religious, social and economic significance. Therefore, the Isukha marriage was held in high esteem and it was the entire community's concern. There were laid down procedures to be adopted before marriage's final consummation could be realized. Marriage was generally viewed as a union between a virtually mature man and woman or women in order to have children for the continuation of family.¹⁹⁰ Some participants considered marriage to be a situation where two or more mature adults of the opposite sex got together for the purpose of bearing children.¹⁹¹ The two responses cited above are significant. They emphasize important elements of marriage, which was maturity, the goal of having children and marriage as heterosexual. Other meanings of marriage included a rite of passage, a union of companionship to kill boredom, the starting point of one's life, to have one's own home and family and an institution.¹⁹²

Marriage among the Isukha, as in most African communities, also conveyed status. Strauss speaks of the true feeling of repulsion, which most societies have towards 'bachelorhood'.¹⁹³ This fact was also true of the Isukha. Bachelorhood was unknown among the Isukha. A bachelor was seen as an incompetent man. A similar thought, although milder, was directed towards childless couples. Spinsterhood on the other hand was unthinkable. It was almost an abomination for a woman not to get married. An unmarried woman, who remained in her village of birth, was a target of hostility even from her own brothers. Such a woman was an eyesore to her family. She had no role or status in the society and was denied access to certain occasions. A married person was thus, socially respected. For instance, in an elders' meeting, a married person could be given a chance to air his views regarding the issue being discussed.

¹⁹⁰ OI., Joseph Shikundi Mbalilwa, 30/12/2017

¹⁹¹ OI., Joyce Alivisa, 08/01/2018 Ziporah Ayuma, 08/01/2018 and Joy Makhangu, 08/01/2018

¹⁹² OI., Philip Nabwangu Shiholo, 02/01/2018.

¹⁹³ C. L. Strauss, *Structural Anthropology*. (New York: Basic Books, Inc, 1963), 46.

Such a person thus participated in all matters affecting the running of the community's affair. Illegitimate births were untidy, random events which threatened the proper order of things. It was only through marriage that the couple could express their intimate love and conjugal feelings which was done in recognition of sexual differences. Marriage and birth of children were occasions for celebration, congratulations and festivity. Through marriage an individual acquired social status in the Isukha community.¹⁹⁴ Childbearing was therefore the final seal of marriage, the sign of complete integration of the woman into her husband's family and kinship circle. A groom or a new father had in a sense "arrived" among the Isukha.¹⁹⁵

Among the Isukha, marriage was not a one day process. It entailed diverse rituals and other corresponding ceremonies. For one to be considered ready for marriage, an individual had to undergo all necessary rituals between birth and marriage. These rituals were known as rites of passage. Mbiti, observes that:

Rites of passage were performed to make a child a corporate and social being. Initiation rites made him a mature, responsible and active member of society. Marriage made him a creative and reproductive being, linking him with both the departed. The living and the generations to come. Finally comes death, that inevitable and most disrupting phenomenon of all.¹⁹⁶

The process of becoming an adult commenced at birth. After the birth of a child, several rites and observances were performed for their meaning and significance. It started with the naming in which a child was given a name. This ritual was often marked by ceremonies. Child-naming individualize and incorporated the child into the society. Naming also gave a child dignity, respect and social recognition in the community. Among the Isukha, names were given after the ancestors describing the

¹⁹⁴ OI., Elizabeth Acheisa Mukabwa, 12/01/2018.

¹⁹⁵ OI., Andrew Mulima Shirandula, 31/12/2018.

¹⁹⁶ Mbiti, *African religions and Philosophy*, 149.

personality of the individual.¹⁹⁷ After naming, it was the responsibility of the community to bring up the child and in many ways to incorporate him or her into the wider community. Kinship was fully recognized during childhood as it made the child a part of the community, and not a child of an individual.¹⁹⁸ In summary, both birth and childhood involved a sequence of rites of separation, transition and incorporation into community.

Initiation as a rite of passage signified further incorporation into the society. It was a rite which enabled an individual to pass from one defined position to another equally well defined one. This rite signified gradual incorporation into the community of adults. As such it was a vital preparation for marriage.¹⁹⁹ Initiation as a process involved rites, ceremonies, ordeals and instructions. Through it an individual was introduced into full adult community life and was transformed from childhood into adulthood.²⁰⁰ Genep observed that: “Initiation modified the personality of the initiate visible to all and it enables the initiate to become removed from the commonness of humanity.”²⁰¹ Similarly, Gumo posited that: “Initiation introduced an individual into another humanity, to humanity of adulthood.”²⁰² On the other hand, Mbiti asserted that: “The initiation of the young is one of the key moments in the rhythm of the individual’s life which is also the rhythm of the corporate group of which the individual is part.”²⁰³ Among the Isukha, initiation involved a greater change in social status of an individual in the community. During this process, young men and women, identified themselves with the moral and normative issues of their society. This

¹⁹⁷ OI., Joseph Shikundi Mbalilwa, 30/12/2018

¹⁹⁸ OI., Peter Lubelela, 02/01/2018

¹⁹⁹ S.Gumo, *The impact of Christianity on the Abanyala Leviratic Marriage* (M.A Thesis: University of Nairobi, 1993), 64 75. Retrieved from <http://www.werepository.uonbi.ac.ke> Accessed June 4th 2017

²⁰⁰ Ibid., 64.

²⁰¹ Genep, *The rites of Passage*, 65.

²⁰² Gumo, *The impact of Christianity on the Abanyala Leviratic Marriage*, 64 75.

²⁰³ Mbiti, *African Religions and Philosophy*, 121.

pattern was both formal and informal. It was through education that children were prepared for marriage. Through marriage and procreation, parenthood was a necessary step in the process of acquiring social status.²⁰⁴

During initiation process, the initiates acquired both formal and informal education. This included teachings on blessings and curses for the improvement of the society. Sex education was given in preparation for marriage. Duties, roles and responsibilities were well defined. The education given included how to be responsible fathers and mothers in the community. Young women acquired skills in cookery, childcare and hospitality, while young men got skills in building, hunting and fishing.²⁰⁵ The initiates were made aware of taboos, curses and blessings as a way of reinforcing law and order in the society. The Isukha initiation system was for both girls and boys. The initiates were tattooed on their body in different shapes and styles. Tattooing, modified the personality of an individual in a manner visible to all. During this process, blood shedding signified solemnity with the ancestors. It also signified a new stage in life since the individual had been initiated into adulthood and made ready for marriage. This was done between ages fourteen and sixteen of both sexes.²⁰⁶ As already stated, initiation was a transition period from childhood to adulthood. Young men and women identified the moral and normative issues of their society. People of the same age-group (*Likhula*) were usually born in the same year. They grew together, generally doing the same things. For example girls fetching water, looking for firewood whereas boys hunted together. It was from doing things in fellowship that they looked for marriage partners who were of the same age-group or from different age-groups.

²⁰⁴ OI., Nathan Timoni, 25/12/2018

²⁰⁵ Ibid.,

²⁰⁶ OI., Lena Khakhuya, 25/12/2018 and Peter Lubelela, 02/01/2018

Before any arrangements for the actual marriage were made, it had to be determined whether the mate had the capacity to contract a marriage. Determining the capacity to marry was a long process with key moments marked by rituals. A suitor had to be fully prepared by the community for marriage. One could thus not marry without following the community's laid down procedures. Philip is one of the scholars who has written on the preparations for marriage.²⁰⁷ According to him: "Initiation is a dispensable preliminary to marriage and involve instructions on sexual matters and marital and other duties."²⁰⁸ Among the Isukha it was the boy who under-went circumcision in preparation for marriage, which was a prerequisite for marriage. Uncircumcised man was considered not yet grown-up and was, therefore not allowed to marry. Such men were despised by women and no woman accepted to be married to them. One of the participant noted that in cases where men got married without being circumcised, though rare, during circumcision his wife (*mkoko*) touched the husband stomach as he was being circumcised.²⁰⁹ Writing about the Isukha Malusu observed that: "an adult male who died just before circumcision was circumcised before his burial."²¹⁰ Circumcision thus, changed one from boyhood to manhood. Many of the participants could not remember the exact age at which boys were initiated, because they did not keep records. It was however agreed that the boys were to be mature enough to withstand the pains. This could mean the boys were slightly above 18-20 years old. But being circumcised was not a guarantee that the initiate was fit for marriage. One of the participant pointed out that:

Apart from being circumcised, a boy was required to uproot enough grass with bare hands; enough grass that could be used to thatch a very big house. He had to uproot and carry the grass to where the house was. The size of grass carried also determined whether he was

²⁰⁷ P.. Arthur, *Survey of African Marriage and Family Life*. (London: University Press, 1953).

²⁰⁸ Ibid, 49.

²⁰⁹ OI., Nathan Timboi, 25/12/2017.

²¹⁰ J. Malusu, *The Luyia way of Death*. (Nairobi: Oxford University press, 1978) , 6.

mature to be given a wife in marriage or not. Carrying very little grass implied that the boy was still a child hence unsuitable for marriage.²¹¹

After circumcision boys were given lessons on manhood, society expectations and responsibilities, on the institution of marriage.²¹² On the other hand, the girls were expected to have a complete mastery of the household chores and also had to be ready to conceive. The partners were to be slightly of the same age. But in most case, boys were slightly older than girls, for the later were compelled to marry earlier to enable their parents to receive bridewealth. In many cases men married about 30 years and above while women had to be slightly younger than men of about 25-30 years.²¹³ The poor parents in Isukha community preferred their daughters to marry earlier than boys. As one of the participant narrated: “daughters were cows and wealth: generally girls could elevate one’s economic status from poverty to richness so a daughter brought cows while boys used them.”²¹⁴ When there was a proof that the partners had the capacity to marry, the next step, was nothing but to determine whether there was consent. The communal participation in the whole affair meant that the young were prepared for marriage and family life by the entire corporate body.

2.5 Marriage Arrangements among the Isukha in the Pre-colonial Period

Following a series of incorporation rites; birth, childhood and initiation, a young person was viewed as an adult member of the community. There were three forms of marriage arrangements among the Isukha whether monogamous or polygamous marriage. The first form of marriage arrangement was where the husband had to pay bridewealth as was required by the father of the girl also referred to as *khusevula*. This was the most honourable form of marriage. It took place after the whole question

²¹¹ OI., 06/01/2018.

²¹² OI.,27/12/2017

²¹³ OI., 04/01/2018

²¹⁴ OI.,Jedida Ahebiriwa Musava, 12/01/2018.

of bridewealth and all other matters relating to it had been settled. The bride's father would finally give her permission to go to the home of the husband.²¹⁵

Marriage negotiations could not commence unless consent had first been sought from the concerned parties. Any socially approved marriage was expected to get consent of the parents of both parties to be married. Although other people's consent were sought, it was the parents' consent which was paramount. A go-between usually an old man was sent from the boy's home to the girl's home to inquire if there was consanguinity between the two partners. On an agreement that there was no blood relationship, a group of men from the boys home went to request the girl's father a hand to marry their son. On acceptance, the payment of bridewealth was discussed. This was in form of cattle. The bridewealth paid was shared between the girl's parents, uncles, aunties and sometimes grandparents. When parents and relatives of the girl were satisfied with the bridewealth paid, arrangements for the wedding were made. However, it should be noted that the payment of bridewealth did not completely qualify a marriage to take place. A very crucial stage before the wedding was looked into. This period was known as the betrothal period. The interval between betrothal and marriage, never seemed to have lasted for more than a month. When nothing happened during this stage, preparations, for the wedding were set in process. This was marked by a series of festive ritual occasions which culminated in marriage.

On the wedding day, the boy's kinsmen sent a delegation (*abakwe*) to the bride's place to request her father to release her. The girl was escorted by a group of bridesmaids (*abeya*) to her new home (the groom's place). On that very night, the girl's virginity was tested. Once a girl was found to be a virgin, the following day, a message was sent back to her people, who received it with joy and pride. The groom

²¹⁵ OI., Rebecca Mtumbuza, 07/01/2018

side would give out the bedding in which the couples had slept on that night which was taken to the bride's paternal grandmother. The groom's mother would also give a cow or goat which the bride had chosen among their livestock to accompany the bedding to the bride's home.²¹⁶ The marriage was then consummated. The bridesmaid who had given the bride company then went back home leaving behind the bride and a small girl to keep watch on the bride's activities in her new home. The performance of the above ritual ceremonies incorporated the girl into that particular home as a wife not only to her husband, but to the husband's lineage as well.

The second category of marriage arrangement was by elopement (*khubaira*). Marriage by elopement was the quickest and the easiest form of marriage. A man who did not have enough property to pay as bridewealth decided to elope with his lover. In many instances, a girl went to visit the groom and decided to stay with him in the hope of getting married. A girl could also visit a relative and decide to choose a man to live with as a husband. A girl and her lover, equally eloped and ran to a distant place. This process was done without the consent of parents from both sides. Eloping took place when parents of either side did not approve a girl or a boy to marry somebody of his/her choice. This also happened when the suitor and the kinsmen were unable to assemble the full bridewealth that the girl's father would have demanded. It also happened when somebody had a particular person in mind as a future partner but was being forced to marry somebody else. After eloping, the partners entered into marital relations with one another and left it to the girl's father to take the next step. However, the father of the girl later acknowledged the marriage without holding any grudge against his son-in-law's kinsmen.

²¹⁶ OI., Lena Khakhuya 25/12/2017, Monica Mkatili, 04/01/2018 and Dinah Shilazi, 06/01/2018.

Among the Isukha once a girl had slept at a boy's home she was expected not to return to her home since it would bring shame to the girl's family.²¹⁷ Bridewealth was then paid, but no wedding feast was celebrated in such a case. Though, the marriage could be consummated ceremonially with the bridewealth paid. The man paid the bridewealth by installment while living with the wife and the period when he was required to complete the bridewealth payment was not defined. A father could raise objection to such a marriage only if he knew for certain and could prove to the elders that the suitor or his father practiced witchcraft (*omuloji*) or if there were some clan relationship (*obwikho*) between the two. It was against Isukha laws for a man to elope with somebody else's daughter when he knew that he had practically nothing to offer as bridewealth to the parent's of the girl. If a man eloped with another person's daughter and was not prepared to pay some bridewealth when he was requested to do so, he committed an offense against customary law. A man who committed such an offense was reported to the elder (*liguru*). When the elder (*liguru*) and his kinsmen found that he was guilty they ordered the girl to be taken away from him.

The third type of marriage did not require any previous arrangements. This was marriage by abduction or capture (*khukwesa*). Such a marriage mostly took place when the girl was unwilling to get married to a particular man. It was a serious offence against Isukha customary law for a man to seize another person's daughter by force without her consent or the consent of her parents. If a man took somebody else's daughter by force and tried to make her a wife, the case was so serious that it often caused skirmish between the clan of the man and the clan of the girl. The warriors of the girls' clan had to fight members of the man's clan taking their cattle.²¹⁸ In many cases the man was never liked by women in the village. Due to the anxiety to have a

²¹⁷ OI., Elizabeth Wendo, 03/01/2018.

²¹⁸ Political records for North Kavirondo, KNA DC/NN/3/2 21

wife, the boy could not wait until food for the wedding was available. He could use his sisters, brothers or other age-mates who could abduct the girl as she went to fetch water, wood or to the market place (*matizsa*). She was forcefully carried to the groom's home. Once her virginity was broken by the husband to be, it was a taboo for her to go back to her father's home. This marriage was mainly caused by fear of expenses incurred in formal marriages. Most girls who were victims of such marriages were non-Isukha. This form of marriage arrangements became necessary when a man had reached the age of marriage but had not done so. His age-mates could thus use all means at their disposal to make sure the man got a wife at all expenses.²¹⁹

A man could also abduct a girl whose parents had prevailed upon her not to go to her new home after the wedding; demanding for full bridewealth to be paid first. In such instances, if a man happened to come across the girl he could drag her to his home thus evading the other remaining rituals. The remaining bridewealth could be cleared while the man was already putting up with his new wife. When the girl whose parents had prevailed upon her not to return to her new home became very inaccessible, the man devised other means of getting her. Accompanied by his friends, they could pretend to visit the girl at her grandmother's house at night. They could "politely" seek for "her audience". When she came out to have a chat with them, they grabbed her and carried her shoulder high to the man's home. This could, mark the end of any other remaining ceremonies. Only bridewealth could be asked for and the marriage was socially recognized.²²⁰ Sometimes the girl's parents secretly gave the man the consent to abduct their daughter. If they knew that the girl would not accept the man of their choice, they could allow him to abduct her. He was only required to pay the

²¹⁹ OI., Joseph Mahero, 27/12/2017.

²²⁰ OI., Kenneth Shisimba, 04/01/2018.

bridewealth after or before the abduction depending on the agreement between the two. Abduction could also result if the boy's suggestions to win the girl were futile. In case the boy kept persuading the girl to marry him but the latter turned down the offer, the boy could become impatient and abduct the girl. The man could organize a group of young men who would waylay the girl and carry her home.²²¹ Although this form of marriage was not encouraged, they did occur and were sanctioned by the community.

In conclusion, different forms of marriage arrangements, involved ritual festivities and ceremonies. Whether one underwent a typical form of marriage arrangement or through elopement, the ritual performed made the wife believe that she was the wife of the lineage.

2.6 The Qualities sought in Identifying a Marriage Partner

Before a partner was identified for marriage, he or she was expected to have admirable qualities. All the study participants unanimously agreed that there were certain qualities which were sought in a mate. Writing on this topic, Goode had observed that: "In mate selection, each individual seeks within his/her fields of eligible for that person who gives the greatest promise of providing him/her with maximum need gratification."²²² Good's argument illustrates that although one had a variety of eligible individuals from which one could choose a mate, one had to choose an individual perceived to be possessing certain admirable qualities. The issue of mate selection was carefully handled by the Isukha people to ensure that the right mate was selected. The choice of a mate was a contract between families or other groups. Selection of a mate was therefore made on one who had most admirable

²²¹ OI., Joseph Lubelela, 02/01/2018.

²²² W.J. Goode., *The Family*. (New Jersey: Prentice Hall Inc, 1964), 38.

qualities when compared to others. The qualities sought when selecting a wife included among others: modesty, industriousness, physical strength, good character and behavior like obeying the seniors and being generous or welcoming, chastity, and experience in household chores like cooking and fetching water. The attainment of the right age for marriage was mandatory for both boys and girls because of what their roles entailed. According to participants, the correct marriage age for both boys and girls was “between twenty five to thirty years of age during which period the boys and girls were energetic and mature enough to carry out manual work.” A man had to pass the following tests before he got married:

- a) To mow a thick bushy garden.
- b) To cut enough grass for thatching.
- c) To make enough mud for a house.
- d) Above all, the boy’s manners was to be exemplary.
- e) The boy had to be habitual hard-workers and industrious.

Source: Oral Interviews

This means that a man had to pass the society’s marriage tests before he got married. Interestingly, the participants mentioned that a man was criticized if he failed to comply with his roles, yet it was due to his fulfillment of Isukha’s expectation of his roles that he was wedding. This was usually a foreshadowing of his family life that would make him run into debts and probably depend on his future in-laws. Participants went on to explain that a girl too had to pass the following tests:

- a) Hardworking in doing manual work with special reference to digging since Isukha was an agriculturalist society.
- b) Grind grain on a grinding stone into fine flour, enough for the family’s meal.

- c) Fetch water from the river using a reasonably big pot.
- d) Hardworking and prove mature before their parents allowed them to be married so that their parents could know that they were able to look after their family members adequately.
- e) Quick and active
- f) Obedient and had a good character
- g) Parents were well known and were well-off and generous.

Source: Oral Interview

In Photo 1 a woman demonstrate how digging was done by women with special reference to a hoe tool (*mkumbeti*). This was a crucial evidence of a woman as a hardworker in the field and its connection with Isukha being an agricultural society which brought wealth to a man.



Photo 1, Example of a hoe- tool that women used for farming (mkumbeti).

This test gives a summary of the roles of both the man and the woman in marriage in the society. Regarding the qualities sought in a mate the researcher had a conversation with one of participant who narrated that:

We advised our boys not to choose a girl for her looks but to court a girl who was industrious, modest and physically strong so that she could stand up under strain of the heavy work that was expected of a wife. Beauty had no value in selecting a girl?" Just ask yourself the use of marrying a very beautiful girl: would you eat the beauty of the girl when you felt hungry?" It was advisable for one to marry a girl who was ugly who could till the land and provide the family with enough food."²²³

The same criteria applied to the boys. Isukha people sought qualities in the boys as one participant narrated:

Definitely, not any boy could be earmarked for marriage. He too had to possess certain qualities. There were very many qualities sought but the most valued were the following: he was to be physically strong, a man, not quarrelsome, able to pay bridewealth, polite, not drunkard, careful with property, faithful, and wise.²²⁴

The above conversation is a clear indication that one needed to possess certain qualities before one could be earmarked for marriage.

A part from these qualities, one's background was probed. A boy or a girl from a "bad" family like that practiced witchcraft, suffering from contagious or other hereditary diseases like leprosy, and /or sorcery was not accepted as a suitable mate. Different people including even the parents themselves did the spying on one's family background. Spying was carried out with utmost secrecy to ensure that the individual being observed was not aware of the ongoing observation.²²⁵ One of the participants stated that: "Isukha wanted a girl who could bear children and till the land irrespective of her physical appearances."²²⁶ The groom-to-be was as well given opportunity to go and talk to the girl and make his own observations. In case the man wanted to secretly

²²³ OI., Timona Burinda Khamalia, 09/01/2018

²²⁴ OI., Nathan Timboi, 25/12/2017

²²⁵ OI., Philip Shiholo Nabwangu, 02/01/2018 and Peter Lubelela, 02/01/2018

²²⁶ OI., Peris Kavukha, 06/01/2018

make his observations on the girl, he could go and hide in tree near the girl's home to see for himself how his potential wife worked, moved, or responded when called. To know how fast a girl could till the land one participant said:

Communal gardens were best places where they observed the girl's speed in cultivating. One could intentionally pass at such places to see for himself how the girl was working. If the girl spent most of the time standing *akimbo*, she was said to be lazy (*mukara*) and so unqualified for marriage.²²⁷

Furthermore, to establish if the girl was welcoming, a very old man could passby her home during a sunny day and time when nobody was around pretending to be so tired and hungry and looking for someone. The elderly man could say, "My granddaughter help me with water." A humble and welcoming girl was expected to give him a seat under a tree or in a shade and bring him some water plus any food available in the house like milk or beer (*amalwa amasiile*).²²⁸ The intention of the elderly man was to test the girl's character and to get details about the family. The elderly man would then report to the groom's family his observations. If the report was positive, two men from the groom's side would be chosen to go to the bride's father and make marriage propose.²²⁹

Although beauty and love were not prerequisite for an Isukha marriage, some participants admitted that the former was not absolutely ignored. In the Isukha context a beautiful girl was to be fat, with big breast and buttocks, and without cicatrices. Big eyes and lips rendered a girl ugly. Nevertheless, as stated earlier beauty could not prevent a girl from getting married. It was only considered in cases where two or more girls were being assessed to get a suitable one. If such girls possessed almost equal qualities, then the beautiful one was given priority.

²²⁷ OI., Elizabeth Ngaira, 07/01/2018

²²⁸ OI., Lena Khakhuya, 25/12/2017

²²⁹ Ibid.,

In pre-colonial Isukha society, a spy who was seen as a go-between played a very important role in marriages because when a man wanted to marry, he went through the mediator who according to participants were always trusted elderly men. The go-between then approached the parents of a girl who had passed the marriage test and after investigating her family background and finding no fault or relationship, then marriage negotiations began. The relationship was too broad. As Wagner observed, the laws of exogamy “prohibit marriage between a man and woman if any of his four grandparents belonged to the same clan as one of her four grandparents.”²³⁰ This observation expands the scope of one’s kin. Having ascertained that there were no kinship ties, other issues were looked into. Wagner for instance notes that diseases such as leprosy, epilepsy and severe ulcers would make one remain unmarried.²³¹ Apart from illnesses, other unacceptable practices such as witchcraft and sorcery were considered anti-social. When both parties were satisfied with their findings, the girl’s parents gave the father of the prospective bridegroom an appropriate day when they would go to the bride’s home for formal negotiations on the bridewealth. The bride’s family then prepared for the delivery of the bridewealth.

2.7 The Courtship Period and Marriage Negotiation in Pre-colonial Isukha

Marriage process was generally complex to comprehend in the African context because as suggested by Mbiti there were no rites performed to mark their commencement. The commencement could proceed even when the couples were very young. The Isukha marriage negotiations were initiated and arranged by parents.²³² Every adult person in the community longed to marry. The unmarried man (*musumba*) was considered to have failed to fulfill a societal duty. The Isukha used

²³⁰ Wagner, *The Bantu*, 383

²³¹ Ibid. 382

²³² OI., Joseph Mahero, 27/12/2018.

the word (*khumanyana*) to mean “to know each other”. This was the courtship period where the partners as well as their families had the opportunity of interacting with each other well before marriage was conducted. The family members involved included the couple’s matrilineal and patrilineal kins as well as their friends. In most cases, the boy used his sisters and the girls’ grandmother to get in touch with the girl. Most meetings between the couple-to-be were at the girl’s grandmother’s house at night due to the community’s strict observance of the joking and avoidance relationships. The girl’s grandmother acted as an intermediary. She secretly allowed the boy to talk to the girl but in the house for chastity reasons.²³³

The first negotiations between the parents took place at the bride’s home. The boy’s paternal uncles or other relatives and friends went for the negotiations usually in a company of three to four people. The girl’s parents on their part held discussions with other family members before reaching a conclusion on the marriage issue. If both parties were satisfied that their children should marry, more meetings were organized where the family members could come together with the aim of knowing each other further, proceeding with the negotiations and ironing out any differences whenever they arose. Whenever there was a need for a meeting, a trusted person especially a close relative or friend was sent to go and organize for it at the other side. All the family members especially the elders could attend such meetings. Every person who had attended the meeting was given a chance to air his/her views on the issues at hand. It was the bride’s father’s brother who was the chief organizer of the negotiations on his side. Such meetings were accompanied by feasts and celebrations. The chief foods of such meetings were local brew (*amalwaa*), meat, and “ugali” from sorghum or millet (*vusuma wa bulee*). People did not go for such meetings with

²³³ OI., Hezron Ngaira, 04/01/2018

“empty hands.” There were gifts and counter-gifts during the meetings. The quality, quantity and frequency of gift exchanges depended on the existing relationships as well as the families’ economic status, even a bull could be offered, as a gift. The gifts were however not to be of the same type. Presenting a similar item as a counter-gift was tantamount to rejecting the original gift and could cause suspicion on the other side.

Despite the various gifts involved, marriage negotiations could still cease if one or both parties discovered that the affair was not serving meaningful purpose. Among the things that could cause termination included change of mind or discovering that the parties were within a prohibited or degree of death of one of the parties. Just like the Giriama and other Mijikenda communities at the Kenyan Coast, replacement of a boy or a girl by a brother or sister was not recognized in case of death of one of the fiancés.²³⁴

The length of courtship depended on the concerned families’ co-operation. It could last as long as the parties were not well acquitted with each other. A betrothal girl was well cared for so that she could be in a healthy condition on the wedding day. The girl was well cared for so that she could remain “nice” and “plump”. She was assigned very light duties like staying at home to care for the house. The girl’s mother’s spent most of the time “coaching” her on how to behave when she got married. The girl at this time was still referred to as girl (*mukhana*) and not bride (*shirebwa*). Although a boy could ask for sexual intercourse during his frequent visits to the girl, the latter was discouraged from yielding to such demands. A girl who succumbed to the boy’s

²³⁴ See *Law Panel-minutes* KNA, CC/13/35 in a meeting held at Kwale and Kilifi February 1963 on The law of marriage and divorce of the Digo, Duruma, Giriama, Rabai, Chonyi, Jibana, Kambe Ribe and Kauma

demand was regarded as a “loose girl” (*omuhenzihenzi*). She could be dropped as a prospective wife or despised when she got married.

Virginity was highly valued and a girl who upheld it was praised and her mother rewarded with a cow or goat. This is in line with Mbiti’s view that: “Marriage is just accepted in traditional African background as a normal rhythm of life through which everyone must go. Sex is not a guiding principle.”²³⁵ Pre-marital sex was thus abhorred in the Isukha community. Traditionally, during courtship, if the young girl got pregnant, the lover could disown her because of many circumstances such as fear of being punished or consanguinity. This girl was referred to as (*shitwati*) and was a disgrace to her family. As one of the participant stated:

(Shitwati) was a bad omen and was mocked by the community and was never valued thus could not get married to men of her age because many boys feared if married there was a possibility of the girl going back to the father of his child. Thus many young unmarried men didn’t have confidence with her. Such a girl was forced to end up in a polygamous union, married to an older man as a second or third wife.²³⁶

Isukha girls were therefore expected not to have a child before marriage. A girl who was discovered to have lost her virginity when she got married brought shame to herself and her family members as well. Girls were taught that if a man was trying to seduce them then such an individual was not a well-mannered man. Therefore, it was the duty of the girl to keep off from such men since virginity was treasured and a virgin girl was respected and her bridewealth was high.²³⁷ For chastity reasons, a boy was accompanied during his night visits by some age-mate friends. While in the house of the girl’s grandmother, the boy slept next to the girl’s sisters or friends while his comrades slept next to the girl. The major talk of the night was on the imminent

²³⁵ Mbiti, *Love and Marriage in Africa*, 39.

²³⁶ OI., Angelina Muhenje, 16/01/2018.

²³⁷ OI., Joseph Lubelela, 02/01/2018.

marriage.²³⁸ Visiting the girl frequently was also a security measure as it barred other possible rivals from getting close to her. The girl was discouraged from visiting the boy's home for such acts could lower her dignity in the face of the community in which she was intending to settle as a wife. There were no special procedures to mark the commencement or end of betrothal period. Intimacy was avoided by the partners to ensure that the elders' power to arrange marriage for the young was not weakened. Encouraging love before marriage would be erasing the elders' role in the whole process. It would be tantamount to making marriage an individual affair where the main participants could be the youths.

Marriage negotiations were along and tedious process. After various visitations, there was discussion and payment of the bridewealth and finally the wedding. The interval between betrothal and the actual wedding was marked by the transfer of the bridewealth and the beginning of a series of wedding feasts. The interval varied depending on the relationship between the contracting parties. The betrothal ceremony meant that the marriage was provisionally agreed upon by both sides. Once all the concerned parties were satisfied that all the previous arrangements had been properly adhered to, the next step was formalization of the whole affair through discussing the question of bridewealth as it was the backbone of the Isukha traditional marriage as discussed in the next section..

2.8 Bridewealth in the Isukha Marriage Ceremony

The Isukha concept of bridewealth differed from that of the Western world in that the latter has an element of purchase. The term *bukhwi* is used by the Isukha community to mean bridewealth. It should be distinguished from presents or gifts made by either spouse or his/her family to the other spouse, which were not returnable on

²³⁸ OI., Dinah Shilazi, 06/01/2018.

dissolution.²³⁹ Cattle paid as bridewealth were not subject to replacement should they die or fail to produce offspring. The Isukha people had a fixed number of cattle paid as bridewealth. This contradicts Goode's assertion that: "There is haggling over bridewealth."²⁴⁰ Goode's view is a generalization that does not apply to the Isukha culture where there was no haggling over bridewealth. No matter how poor an individual was, he was required to pay the whole bridewealth.

Bridewealth had an important social, economic and religious significance. Through bridewealth, a new relationship was formed between the families of the spouses. The union between the two families remained effective beyond the lifetime of the original individual spouses. The wider the family extends, the stronger the bonds of kinsmanship and the chances of social disintegration were lessened. Shorter observed that: "Bridewealth was a real symbolic gift of exchange legalizing the children of the union, indemnifying the bride's family, stabilizing the marriage to a limited extent and propitiating the lineage spirit."²⁴¹ Obudho asserted that bridewealth among the Luo was the basis of a whole network of interpersonal relations and an expression of gratitude from the husband to the family members of his wife.²⁴² Mbiti holds the same view. He noted that, bridewealth was a token of gratitude on the part of the bridegroom's people to those of the bride, for their care over her and for allowing her to become his wife.²⁴³ The two scholars make it clear that the payment of bridewealth by the young man's family, was an essential element in the establishment of legality of the marriage institution, therefore stabilizing marriage. Through bridewealth,

²³⁹Avukhwe were cattle sent from the groom's side to the bride's people as bridewealth.

²⁴⁰ Goode *The Family*, . 42.

²⁴¹Shorter. *African Culture and Christian Churches.*, 170-171

²⁴²L.O. Obutho, *The Impact of Christianity on the Luo Marriage system*. (M.A Thesis: University of Nairobi, 1985),75 Retrieved from <http://www.werepository.uonbi.ac.ke> Accessed June 4th 2017.

²⁴³ Mbiti, *African religions and Philosophy*, 140.

family alliances and contracts were made between the families of the bride and the groom.

The relationship which was through bridewealth endured beyond the life time of the individual spouses. All children born of a marriage of this kind, belonged to the kinship group of the husband. That is why among the Isukha when bridewealth had been paid, in case of separation and divorce, a woman had no right to take the children with her.²⁴⁴ The wife also belonged to the clan. Consequently, when a husband died, the widow was inherited by the deceased's brother or close relative. The Isukha also believed that a marriage without payment of bridewealth was like cohabiting with a woman as a concubine. That is why a man had no claim over a woman unless he had paid bridewealth. Among the Isukha bridewealth was usually paid in the form of livestock.²⁴⁵ The average full bridewealth for the Isukha marriage was three to six heads of cattle, three goats and 12 hoes (*imboko*).²⁴⁶ Only cattle were counted as bridewealth. The other things such as beer, hoe (*imboko*) and goats were not counted as part of bridewealth, but as gifts. Goats were never used in payment of bridewealth, according to one of Isukha saying which states: “*livusi liekhuba muvukhwe*” meaning, the goat had just joined the bridewealth's bandwagon. The Isukha culture portray the goats as very mischievous and so they could run and join the cattle which were being taken away, as bridewealth. When this occurred, the goats were left to accompany the cattle, not as part of the bridewealth but as gifts.

Bridewealth was the cornerstone of the Isukha marriage hence the rule “no bridewealth, no marriage”. The Isukha culture required that the bridewealth be paid

²⁴⁴ OI., Joseph Mahero, 27/12/2017

²⁴⁵ OI., Mary Meja, 07/01/2018

²⁴⁶ E.A.Andrere, The Abaluyia Customary law relating to marriage and Inheritance, KNA: PC/NZA/3/3/2, 10

before the wedding day. However, basing on the understanding between the contracting parties, part of the wealth could be paid and the remaining amount completed in bits while the couple were cohabiting. This also applied to many communities in Kenya for instance, among the Kamba there was no fixed amount of bridewealth (*ngasya*) payable.²⁴⁷ Bridewealth was negotiated between the families and varied according to the agreement reached. In addition, payment was made in installments that was spread over a number of years.²⁴⁸ However, among the Isukha such a marriage was only temporary for it could come to an abrupt end at any slightest excuse. It was thus not socially approved.

Just like the Giriama²⁴⁹ among the Isukha, it was the father's duty to raise bridewealth for his son's first wife. In case the son later married extra-wives, a thing that was normal and welcomed, the man shouldered the whole burden of raising and paying the bridewealth alone.²⁵⁰ No one could come to his aid in such situations. In most cases, polygynys individuals were economically well off hence did not need other people's assistance to raise bridewealth. Since Isukha marriage was a communal affair, all members participated in raising the bridewealth if the groom came from a poor family. One participant confirmed that raising bridewealth was a communal affair. He said: "the Isukha sons belonged to the community. We could not sit back and watch them loitering around without a wife just because they could not afford to raise bridewealth. It was our duty to assist in raising the required bridewealth."²⁵¹ It was quite probable to infer that whenever need arose, the Isukha could call "an impromptu *harambee*" with an aim of raising bridewealth for a poor person.

²⁴⁷ Law and customs-General law panel, KNA, PC/EST/2/29/7 P7.

²⁴⁸ Ibid.,

²⁴⁹ Law panel- minutes KNA CC/13/35 1961-1962 p 9.

²⁵⁰ OI, Joseph Lubelela, 02/01/2018

²⁵¹ OI., Francis Major, 04/01/2018

Bridewealth among the Isukha like in many African communities was motivated by noble and genuine necessity, rather than by reason of malicious profiteering. Bridewealth did not mean selling of the bride in the Isukha culture. The element of purchase has been introduced as a result of the socio-economic changes taking place in all the communities. Mathu in his work defends the institution of bridewealth.²⁵² In his view: “Bridewealth is not purchase but rather it is expressed through the gifts and ceremonies that accompany it. It is not wife buying.”²⁵³ Bridewealth played a very prominent role in the whole marriage process. Among the Isukha, the children were highly valued for the community’s survival depended on them. Being a patrilineal community, the children among the Isukha belonged to the father. So the bride’s people were deprived of her services, her presence and the children that she was going to bear. Her marriage was seen as giving away something very valuable hence had to be replaced by something small “bridewealth.”²⁵⁴ The most honourable thing the bridegroom could do was to give something to appease the bride’s parents for dispensing with their daughter’s presence and her service. Bridewealth was therefore a token of love and a sign of a lasting bond of friendship as well as recognition that the woman would be an asset to the husband’s clan.

In case a woman died before bridewealth was paid, she was buried at her parent’s home. However, if the husband insisted that his wife burial to be done at his home, then the husband had to pay full bridewealth. Bridewealth thus confirmed and sealed marriage for the latter could not be said to have taken place even if the couple were staying together, until bridewealth had been paid. The bride whose people had

²⁵² G. Mathu. *Gikuyu marriage: Beliefs and Practices*. (Discussion paper number 17, Institute of African Studies, University of Nairobi, 1971), 2. Retrieved from <http://www.repository.uonbi.ac.ke> Accessed June 4th 2017

²⁵³ Ibid.,

²⁵⁴ OI., Samuel Makomele, 22/01/2018

received bridewealth felt honoured and respected. It secured the wife's place in the new home. This assertion is echoed by Ember and Ember who posit that: "the bridewealth does not reduce the woman to the position of a slave but rather gives her family prestige."²⁵⁵ The husband who had paid bridewealth was socially permitted to control the wife and her children as well. That is why the Isukha marriage implied an exchange between separate groups. One group "receiving" and the other one obtaining something in return for the woman who was handed over. Any slightest excuse like failing to properly cook for the bride's people when they paid her visit could cause marriage dissolution if bridewealth had not been paid. This meant that the stability of marriage depended on whether bridewealth had been paid or not. Bridewealth among the Isukha was therefore a social obligation and had nothing to do with wife-buying. When a man died before completing the bridewealth, his sons were expected to finish the balance.

Although the bride's people received the bridewealth, they still retained some rights over her. She had thus not been sold. Bridewealth only marked the transition of some rights from one group to another. Due to the importance attached to bridewealth, the final marriage conclusion could not be performed until the entire bridewealth was paid. The cattle which died immediately after being taken to the bride's people as bridewealth were supposed to be replaced. Depending on whether the couple had children or not, bridewealth could be refunded either in full or in part. The quality of the cattle paid was also considered. A bride's people could not be fooled by the quantity alone. To ensure, that "good cattle" were received the bride's father sent his brothers and his sons to go and be shown the actual cattle which the groom's people wished to bring as bridewealth. The "bad cattle" were rejected even while still at the

²⁵⁵C.R.Ember. & M. Ember, *Anthropology*. (New York: Appleton Century Crafts, (1973), 317.

groom's home. Such cattle had to be replaced by "good ones."²⁵⁶ One of the participant stated that:

After the girl is accepted by the bridegroom's family, bridewealth negotiation was organized at the bride's home. On the day of negotiation the bridegroom's family would be accompanied with a sheep and foodstuff. The sheep was placed outside the bride's homestead. If an agreement was reached the bride's father would then allow the sheep inside his compound and some ritual were performed. Later the bride's relative's especially paternal aunt (*senje*) who were married would secretly investigate the bride groom's home.²⁵⁷

On the last day when bridewealth was taken to the bride -to -be's home, the prospective bride could still change her mind at such a time and refuse the imminent marriage. She expressed her disapproval of the marriage by trying to drive back the cattle paid as bridewealth. She could also not drink of the cattle milk. To evade her people's pressure, she could run away to a distant relative or simply eloped.

Bridewealth was a very important in Isukha customary marriage. It was hard if not impossible to come across a marriage where nothing had been paid in form of bridewealth. Even poor individuals were assisted by the community in raising the bridewealth. No marriage could be allowed to proceed unless and until the bridewealth question had been settled. Once the issue of bridewealth had been settled, all was headed for nothing but the wedding. The next section examines how the Isukha traditional wedding ceremonies were conducted.

2.9 The Traditional Isukha Marriage Wedding Ceremony

The marriage wedding was the most important ceremony in the Isukha marriage system. The Isukha referred to it as *shiselelo*, a word which simply means "the wedding". *Shiselelo* too required the participation of all community members. It was

²⁵⁶ OI., Andrew Mulima Shirandula, 31/12/2018.

²⁵⁷ OI.Dinah Shilazi, 06/01/2018.

yet another social responsibility where the living and the dead joined together in its celebration. The Isukha marriage ceremony comprised two phases; the pre-wedding feast held at the bride's home and the actual wedding ceremony in the bridegroom's home. The preparations and celebrations took place concurrently at both homes. Arbitrators were used to communicate messages between the two groups when need arose. The wedding intervals marked the climax of the entire procedure. There were lots of feasting and its duration depended on the families' economic status. A well to do family could hold celebration for a whole month. To ensure all members' participation, the Isukha, like any other Luyia community arranged weddings at the time of little activity. In most cases it was after harvesting season and when there were no rains. These considerations ensured that lavish ceremonies were offered for more food was available and no rain could interfere with the proceedings. The feasting and merry-making were usually conducted in open arena, which were the only available places that could accommodate all the participants and give room for dancing.

2.9.1 The Pre-wedding Ceremony

The pre-wedding feast among the Isukha were held at the bride's home some days prior to the wedding day. The wedding day having been fixed, the bride in the company of her best maid visited both her paternal and maternal relatives informing them about the wedding and at the same time gathering foodstuff from them which would be cooked during the wedding feast in her home.²⁵⁸ This indicates that marriage was a communal affair.

Arrangements for the wedding were made prior to the material date. There was dancing and flirting mostly done by young girls at the bride's home. This period was

²⁵⁸OI., Dinah Shilazi, 06/01/2018

referred to as *khuisia*, meaning “preparing the bride psychologically for the coming ceremony”. The girls used to come in the evenings, sing, eat, dance and leave late at night. Both maternal and paternal relatives were invited to come and partake of the feast. A relative who did not turn up unless with permission was held responsible if the couple encountered any misfortune in their new marriage. People sat and ate in groups according to age and gender. The elders were the main directors of the occasion. They assigned duties to the young. The main duties on such occasions included fetching water, firewood and assembling the knives to be used in meat sharing. The meals eaten during these occasions were the traditional beans, meat, finger millet (*vushumawa bulee*) groundnuts, monkey beans (*tsimbande*), cassava (*mihoko*), chicken (*ingokho*), milk and “simsim”. This was time of (*khulia*) or “eating period”. To make the occasion even livelier, a musician playing “*lipala* and *isukhuti*” or a lyre was invited.²⁵⁹ The musician sang songs in praise of the bride’s family for organizing such a wonderful ceremony: he also praised old women for their chastity and also wished the bride good luck in her new life. These arrangements were mainly held in the bride’s home and was meant for the bride’s relatives and neighbours. It excluded the bridegroom and his relatives and friends. On that occasion, the bridegroom was really satirized in songs and the stylized jokes while the bride was praised. Examples of songs that were sang to the bride before the wedding as sang by participants were:

Nuulangwaa eeehh...
Nulangwaa
Uvorere ndi hanu

Translation into English

When you are called eeehh.....
 When you are called
 Say you are here

Source: Oral Interview

²⁵⁹ OI., Thomas Shikundi Mbalilwa, 30/12/2017.

The above song means that when the bride is called by her husband, she is required to leave whatever she is doing and attend to the husband. The song passed the message of the bride's obedience to her husband. Apart from being instructed to be obedient to the husband the bride was reminded that she was going to join a new family hence the need to acknowledge and respect the new family as her home especially the in-laws. One participant illustrated it through a song:

Nivutinyu ahoo x2
Nivutinyu khulanga mama wa vundi mama wewo ahoo

Translation into English

It is hard ahooo x2
 It is hard to call someone else mother as your mother

Source: Oral Interview

The bride had to be soothed as she was going to leave her home and join the bridegroom's home. One of the participant also narrated that they also sang songs to rebuke the bridegroom. The spouse's role was insignificant. They were only told of how, what, and when to do things.

Prior to the wedding day, the bride-groom's sister brought a perfume prepared from cream to the bride. During this occasion, the bride and her party made technical appearances at the bridegroom's home after the pre-wedding feast held at her home. That meant that the feast had to end to enable the bride and the bride's maids to go to the bride-groom's home. The girls went singing wedding songs and on reaching the home, the bride pulled off a lot of grass from the house of the bridegroom's parents if she was a virgin.²⁶⁰ The pulling of grass from the house was known as *kwiha ekesesu*. This pulling of grass was symbolic of the bride's inevitable loss of her virginity during the consummation of her marriage. According to one of participants: "no

²⁶⁰ OI., Peris Kavukha, 06/01/2018.

sooner had the bride pulled off the grass and thrown it on the ground than one of the girls threw a bunch of firewood in the doorway of the bridegroom's parents' house and they took off very fast singing and dancing.”²⁶¹

They had to go away very fast or else the bride would be hijacked so that there would be no wedding the next day. What is observed from the foregoing is the fact that the bunch of firewood symbolized the bride's role of collecting firewood and cooking for her husband's family.

2.9.2 The Actual Wedding Ceremony

The wedding which was the last phase of the marriage ceremony was a very important occasion as it was the day the marriage was sealed; marking the beginning of the new lifestyles for the spouses. It was on this occasion that the bride joined the bridegroom's family and had to adjust to life in her new environment. On the wedding day, the girl's who had accompanied the bride started arriving in turns. The time to start the journey depended on the distance between the two homes. Since village exogamy was the rule among the Isukha, most of the homes conducting a marriage were not quite far apart. Therefore, in most cases, the journey commenced in the afternoon.²⁶²

On the wedding day, before leaving the home, the girl (now referred to as the bride) stood on a cow's skin and spread it directly in the doorway of the house of her parents. The bride was then asked to stand on that skin to be anointed with ghee and *simsim*. Only a virgin stood on the cow's skin. Adornment of the bride followed the anointing. According to one of the participants, the bride was adorned with ornaments of a well decorated skin known as *endeeretsi* which was decorated with “beads,

²⁶¹ OI.,Dinah Shilazi, 06/01/2018.

²⁶² OI.. Lena Khakhuya, 25/12/2017

cowrie shells as well as the beads of a wild hog. This ornament was only given to virgins.”²⁶³ This reveals the society’s gendered blindness in its emphasis of the bride’s virginity and her adorning without such special treatment to a bridegroom who was also expected to be a virgin. Moreover, this being a fertility rite overlooked the bridegroom’s role in procreation. The father of the bride was given some traditional brew or water. He sipped and spat it on the bride’s body. This was a blessing ceremony. The father would then utter the following words:

Now you are getting married, let your first born be a boy, respect your husband, your parents-in-law, and all the neighbours: Do not involve yourself in unnecessary village matters.²⁶⁴

Or

My daughter hold your husband well and take care of him, respect him and don’t come back.” The bride mother would respond by saying: “*Ztia mwana wanje tsia.*” (go my daughter go).²⁶⁵

While still standing on the skin, the bride was shaved, and then smeared with *simsim* and perfume that had earlier been brought to her home by the groom’s sister. Whatever fell on the skin in the course of smearing was later taken by one of the bride’s father’s sister (*senje*). The bride was then given a small walking stick by her paternal grandmother which symbolized the power to succeed in the marriage. Gifts most of them household goods, were given to the bride as a sendoff and as a surety of a stable beginning of a new home. The group was then wished good luck by all the participants as the journey commenced. In the course of the journey, the party sang and danced. Those who remained behind continued with feasting.

A similar feasting ceremony was also taking place at the groom’s home as they eagerly awaited the visitor’ arrival. While on the journey, the bride became very shy.

²⁶³ OI., Joseph Lubelela, 02/01/2018.

²⁶⁴ OI., Joseph Lubelela, 02/01/2018

²⁶⁵ Ibid.

This was referred to as “bashfulness” (*lukoosi*). The party sang songs in praise of the bride, her father’s wealth and all those people who had married “the Isukha way.” The singing became even louder as the party approached the groom’s home to alert the host of the former’s arrival. The bride-groom’s sisters went singing to meet the visitors on the way. On joining the visitors the singing and dancing intensified. The group then headed for the bride-groom’s father’s house. The bride could refuse to enter the house unless and until she was given a gift, such as a goat. The party then entered and sat on animal skins spread along the walls. Meals such as milk, “*ugali*” and roasted meat were offered in plenty. The bride however played a very passive role for she never talked, sang, laughed nor ate anything. She could sometimes weep instead. Presents were showered on the visitors in the course of the singing and dancing.

In the middle of the night, both parties adopted an exceedingly contemptuous and haughty attitude towards one another with the bride- groom’s party being very defensive. The visitors accused (feigned or true accusations) the bride-groom of being very ugly yet he had married their beautiful daughter. The bride-groom’s sisters were not spared either. They were ridiculed for preparing very little and poor meals, as well as being too slow when attending to the bride’s team. Customarily the hosts were not expected to outdo the visitors in such ridicules. The ridicules and counter-ridicules were made mainly through songs. On this day, the bridegroom was a little shy since he was not familiar with the bride’s relatives, neighbours and friends; he ate gently so as not to be regarded greedy.²⁶⁶

The following morning, the visitors went to the river to bathe. While in the river, some boys were sent by the bride-groom’s party to go and spy and report on whether

²⁶⁶ OI., Elizabeth Ngaira 07/01/2018.

the bride was physically beautiful or not.²⁶⁷ The boys would go and hide in the bushes near the river and watched the group especially the bride as they bathed. The bride who was discovered to be ugly became the community's laughing stock. After three to four days, mature and strong women (*avakomi*) would come to the bride-groom's home, singing and dancing as well. The women carried with them some foods like dried meat, groundnuts and beans. These foods were meant for them and the bride. This could be the bride's first meal at the bride-groom's home. In case the *avakomi* came across the bride-groom in the home, he was subjected to severe beatings and fined. He could be ordered to pay a goat as a fine. To avoid such humiliations, the bride-groom went into the hiding when the *avakomi* came calling. After four to six days the bride and her party could be ready to go back to her home. She once more stood on the skin and similar rituals were performed on her on her parent-in-law house.

Before departing, the bride's groups were given traditional beer and other gifts to take to her parents. The bride-groom's sisters tried in vain to restrain the bride from leaving the former's home. The bride's group went back singing and dancing led by the bride's father's sister (*senje*). The meeting was a very happy occasion for the bride was considered successful in her first major assignment. The bride was eventually left in the bridegroom's home with a small girl to wait on her. Since unmarried men did not own houses of their own in those days, the newly married couple would either put up with the bridegroom's married brother or with his grandfather if he had no married brother. What this reveals is that a man only owned a house if he was married. In short, marriage for a man empowered him to own property. If the bride was a virgin, she went to the cowshed of the bridegroom's parents and put her *endeeretsi* round the

²⁶⁷ OI., Lena Khakuya, 25/12/2018.

neck of the fattest cow or goat that she chose the next day. That animal was then taken to her home where it was eaten by her relatives excluding her parents and herself because it was taboo for them to partake of it.²⁶⁸ This exclusiveness shows that Isukha society had unfair rules.

The bride stayed in her marital home for one week after which she visited her parents. During her one week's stay in her marital home, she was still considered a bride. For example, she ate very slowly as though counting each food particle she was eating and that was really trying for the girl waiting on her. At time she could refuse to eat what was given to her and demanded a specific food to be prepared to her.²⁶⁹ During this period she participated in some household chores such as fetching water from the stream, grinding millet and sweeping. Ironically, although these are generally women's roles, the bride insisted on being paid the first time she performed any duty. For instance, the bride would go to the stream and on coming back refuse to lower the water-pot from her head until she was paid. According to one participant, the bride's insistence on payment for her first duties in her marital home was a subtle way of saying that she was much more precious than the bridewealth that had been given to her father.²⁷⁰ This means that bridewealth should not be equated to a woman's toil in her marital home.

After one week the bride made her first visit to her parents' home taking with her all her gifts in the form of payments. If there was any witchcraft in the bride's home that she was to inherit, that was the time the bride's parents gave it to her together with foodstuff.²⁷¹ If the bridewealth had not been paid in full it had to be completed at such

²⁶⁸ OI., Lena Khakhuya, 25/12/2017 and Dinah Shilazi, 06/01/2018.

²⁶⁹ OI., Joseph Lubelela, 02/01/2018.

²⁷⁰ OI., Dinah Shilazi, 06/01/2018.

²⁷¹ Ibid.,.

times lest the bride's parents withheld her from returning to her new home. The Isukha referred to this action as *khwikhasia*. In case the bride's parents prevailed upon her not to return to her new home, the bride could not risk walking outside the home lest she was waylaid by the bride-groom's party and carried forcefully to his home.

The bride's visit to her home marked the end of her play-acting and the beginning of her full participation in the family affair of her marital home. When all matters had been settled, the bride could start the preparation for her second journey to her new home. When returning to her marital home, she was given a lot of foodstuff to take to the bridegroom's parents.²⁷² This shows that gift exchanges among the Isukha people was a lifelong process. The bride was accompanied on this journey again by some girls and one of the bride's brother for security purpose. There was little feasting when the bride and her party arrived at the bride-groom's home. Those who had accompanied the bride went back to their home the following day leaving behind the bride and a young girl to give the former some company as she was yet to get acquainted to her new environment.²⁷³

2.10 Taboos against Marriage and Sex among the Isukha

The Isukha traditional marriage had very little to do with sexual gratification.²⁷⁴ The marriage system dealt with the establishment and maintenance of social relationships. Mbiti views regarding sex in marriage does not apply to the Isukha people. Mbiti contends that: "marriage is just accepted in traditional African background as a normal rhythm of life through which everyone must go. Sex is not the guiding principle."²⁷⁵ Sex was first and foremost for procreation. That is why among the

²⁷² Ibid,

²⁷³ OI., Angelina Muhinja, 16/01/2018.

²⁷⁴ OI., Joseph Lubelela, 02/01/2018.

²⁷⁵ J.S. Mbiti, *Love and Marriage in Africa*, 39.

Isukha it was officially only allowed in marriage. Other uses of sex existed, which were religious and sacred. Any breach of them carried serious consequences. Sexual offences included pre-marital, incest, rape homosexuality and bestiality. Many traditional rituals involved sex. A man after building a house officially inaugurated it by engaging in sex in the new house with his wife. Sex in the new house with another woman other than his wife was a taboo. It signified that the house did not belong to his wife. In the same breath, a couple that lost a child through death was under obligation to have sex immediately after burial.

A girl who got pregnant out of wedlock (*shitwati*) was a disgrace to her family. This type of pregnancy was called *indasimba*, the pregnancy obtained in a “boy’s hut”. A boy’s hut was called *isimba* in Isukha language. Such a pregnancy was an offence and it received heavy punishment like other sex offences. The boy responsible for the pregnancy was compelled to marry the girl and if the man refused the girl could only be married to an elderly man as a second or third wife.²⁷⁶ It appeared that the concept of romantic love did not exist among the Isukha and the matters to do with sex were not discussed openly. Adultery was a serious offence. What was notable about adultery was that it was only applicable to women. A woman who committed adultery was sent to her parents to bring a cow, which was slaughtered in an elaborate ritual.

As a participant pointed out:

If a woman committed adultery one of the cows which had been taken to her home as part of bridewealth would be returned to the husband’s home. If it was a man who had committed adultery then a cow was slaughtered at a junction near his home by the elders to rebuke the bad spirit. Young people were not allowed to eat the meat of the cow slaughtered as it was believed that the young people would get into the trap. It was very rare for women to commit adultery and if any woman was accused of adultery and she denied, she was had to undergo some tests to confirm her innocence. The woman was commanded to take traditional beer (*amalwaa*) to the

²⁷⁶ Oral Interview Monica Mkatili, 04/01/2018.

elders who sat under a special fig tree. If the woman passed through the fig tree her innocent was confirmed. If the woman was guilty she could not dare take the beer to the elders because she could die.²⁷⁷

Photo 2 shows a surviving special fig tree that was considered sacred and acted as a measure of controlling adultery among the Isukha.



Photo 2, A fig tree

It was against customary laws for a man to have an affair with another man's wife. Anybody who engaged in such illicit love had to pay a fine of one cow. This animal was known as *ingo'mbe ye eshiruchi*. The adulterous woman was made to go through an intricate ritual before she could become intimate with the husband again. Incidentally, a man who committed adultery did not have to go through any ritual. However, the man was not supposed to attend the funeral of a man whose wife he had committed adultery with. As narrated by one participant:

If a man committed adultery with another man's wife, it was a taboo for that man to sleep in that home if the husband of the woman died. He stood at a distance and if he stepped on the soil at the grave of the

²⁷⁷ Oral interview Nathan Timona, 25/12/2017

late husband the man would die after a short period. The death confirmed that the man had committed adultery. In addition, such men were also not supposed to eat any meat at the deceased home during any ceremony²⁷⁸

Adultery within Isukha community with a fellow clansman's wife was particularly disapproved. In case of incest, a child born out of such relations was killed at birth or given out to a neighbouring clan. Rape was also regarded as an outrage upon females. A rapist would be beaten by members of his age-grade or in a serious case would be cursed by the elders and held in social ridicule. Certain prohibitions also existed in relation to sex. The Isukha prohibited men from engaging in sex if they were preparing to go for war.

2.11 Widow Inheritance

According to Isukha customary law, a man was allowed to inherit his brother's wife, his cousin's wife (*mukhwasi*), a widow from his clan and a young wife of his father (step-mother) if his father's brothers or anyone in the same clan who is a "brother" to the deceased had been consulted to inherit the widow without success.²⁷⁹ This was in contrast to the Nandi custom as Snell posits:

A Nandi widow could not be forced to place herself under the care of her brother-in-law. She could return to her parents, or, if her husband left a considerable number of cattle and the children were still minor, she would probably live alone with her children. If she was poor she might live with another man in a state of widow concubinage."²⁸⁰

This type of marriage was Levirate marriage (*khukerama*). This was when a brother inherited the wife of a deceased brother, and cohabited with her. This type of marriage was of two types. First, where a married man with more than one wife inherited a deceased brother's widow. Secondly, where unmarried man inherited a widow of a deceased real brother or classificatory brother. In this case, a widow was not

²⁷⁸ Ibid.,

²⁷⁹ Andrerre, *The Abaluyia Customary law relating to marriage and Inheritance*, , 31.

²⁸⁰ Snell. *Nandi Customary Law*, 34.

considered to be a full wife of *musumba*. However, the *musumba* had to marry his own rightful wife in future. After a man had inherited a widow he could not sleep with her before slaughtering of a goat (*okhutisa*).²⁸¹ If the man disobeyed and went out of his house before providing a goat, he was obliged to pay a goat if he happened to enter another person's house.

It's worth noting that widow inheritance was important among the Isukha. Death was viewed as a rite of separation. However funeral rites incorporated the deceased into the world of the dead. The mourning of the widow was a transitional period for she had to go through rites of separation. As a rite of passage, death involved many ceremonies such as burial and after burial rites, inheritance and so on. Death was believed to cause ritual impurity. But this was not permanent since it was cleansed and normal life was afterwards resumed. Death was conceived of as a departure and not a complete annihilation of a person. The dead person was suddenly cut off from the human society and yet the corporate group clung to him.²⁸² Since death was a rite of passage and did not take the deceased away from his people, the deceased's daily activities had to continue through someone else, but of the same kinship. It was for this reason that if the deceased was married, his family had to be maintained through inheritance of the widow. This was shown through the elaborate funeral rites, as well as other mechanisms of keeping in contact with the departed. Levirate marriage was therefore a convenient arrangement to protect and give support to the widows and their children in the traditional Isukha society. The wife belonged to the individual and to the kinship group and when the husband died, she remained in the kinship group in the husband's lineage. The duties of the deceased husband were taken over by his brother.

²⁸¹ Andrerre, *The Abaluyia Customary law relating to marriage and Inheritance* 31.

²⁸² Gumo, *The Impact of Christianity on the Abanyala Leviratic Marriage*, 81.

2.12 Divorce and Separation in Pre-colonial Isukha Community

In Isukha community lineage elders helped to settle divorced cases which could not be settled by family members. The attention of the clan head (*omwami*) also known as *liguru* and his group of advisors (council of elders) were drawn to discuss cases and make a decision. They could decide to authorize divorce and separate the couple, or prevent its occurrence. There were, however, few instances in which divorce was sanctioned. The Isukha feared witchcraft sorcery or “wizard” (*omuloji*).²⁸³ When one party accused the other of witchcraft the parents or elders always cautioned the party concerned to keep the matter secret while further investigations were being carried out to establish the truth before anything could be done to effect divorce or separation.²⁸⁴ When the elders had established truth of the matter they assembled to discuss the matter. Elders from both the bridegroom’s and the bride’s place were to be present. They discussed the matter exhaustively with the aim of helping the situation if possible, and only granted divorce when an agreement completely failed to be reached. They often tried as much as possible to save the situation because granting a divorce involved especially the bride’s parents into very embarrassing economic situation. This was because with such justified divorces the bridewealth had to be returned except that portion which was regarded to have cancelled out or rather have paid for the amount of expenses that the bride’s parents incurred for entertaining their guests (the groom’s people) during the process of paying the bridewealth.²⁸⁵

A man’s impotence could also lead to divorce or separation in the traditional Isukha community. However, this was not so serious a case as that of sorcery because the Isukha believed that when the woman had proved herself worthy of being a wife in

²⁸³.Andrere, The Abaluyia Customary law relating to marriage and Inheritance, KNA: PC/NZA/3/3/2, p 32.

²⁸⁴ OI., Nathan Timona, 25/12/2017.

²⁸⁵ OI., Joseph Mahero, 27/12/2017.

the home based on the acceptable qualities she could not be allowed to divorce simply because of sexual impotence. On the contrary the woman was granted complete freedom of having sexual intercourse with some of the husband's brothers or cousins. The children born of such unions were however wholly regarded as the husband's children. But if the impotent man was quarrelsome or a drunkard then this was sufficient cause for the woman to seek complete divorce or separation.²⁸⁶

The other important factors which normally led to divorce was when the woman was barren. In such a case the husband and his parents got worried least he died without their heir. In this case divorce was only taken as a last resort, for at first, the man would desire to marry a second wife. When he expressed this wish to the wife and she offered strong opposition to the suggestion, then the man, with the support of his parents, decided to marry despite the first wife's jealousy. These could therefore create trouble in the marriage. Under such conditions then the elders would assemble to effect divorce or separation. It should be understood that the initial cause of divorce in this case was the woman's sterility though the immediate cause was definitely her obstinate behavior after her husband's second or subsequent marriages. The couple would also decide to divorce when one party had done a dishonorable act like murder, an act of homosexuality, theft or most seriously the commission of adultery. The latter factor gave rise to an apparently queer aspect of family relations.²⁸⁷ In all cases of divorce or separation the children of the marriage belonged to the divorced or separated father, who in most cases had fully paid the bridewealth.²⁸⁸ This clearly demonstrates the fact that a child in the context of the traditional Isukha customs belonged to biological father. The divorced man also got his bridewealth back

²⁸⁶ Andreré, *The Abaluyia Customary law relating to marriage and Inheritance*, , p 32.

²⁸⁷ Political Record Books of North Kavirondo KNA DC/NN/3/2 21.

²⁸⁸ OI., Joseph Mahero, 27/12/2017.

depending on the number of children he got with the wife. Divorce took effect after the case had been heard by the clan head (*likuru*) and his elders in the presence of the relatives of the wife including parents from both sides.²⁸⁹

2.13 Burial of Unmarried Man and Woman

Marriage among the Isukha community was very important. It was an abomination for an Isukha man or woman to die before marrying or being married and if this happened, the man or woman was buried without respect. Writing about death among the Isukha people, Malusu asserted that: “strictly, there were no bachelors among the Bisukha.” Every grown up man (in Isukha this required circumcision first) was expected to marry.²⁹⁰ To fulfill this, an impotent man would marry and have children through his brother. If the man refused to marry or is incapable of doing so, he became an outcast. If the man refused to marry it meant that the man died without ever having got a girl pregnant, he was regarded as being of no importance. In such a case a long thorn was pushed into his anus on his burial and passed through a virgin wall that some strong warriors had broken through. He was viewed to have run off before completing his duty as a man and had forced his way to the grave.²⁹¹

Such a man was regarded as an outcast, as a person who took his own life by hanging, or someone who was struck down by the “red cock” lightning. The men who buried the outcasts went through some rituals to protect them from the spirits of the dead. Among the Isukha such people were buried in river-beds (*mushinoko*) and forgotten.²⁹²

²⁸⁹ Andere, *The Abaluyia Customary law relating to marriage and Inheritance*, p 33.

²⁹⁰ J. Malusi. *The Luyia way of Death*, (Nairobi: Oxford University Press, 1978), 5.

²⁹¹ OI., Andrew Mulima, 31/12/2017.

²⁹² OI., Joseph Shikundi Mbalilwa, 30/12/2017 and Paul Mulima, 31/12/2017.

The same case also applied to women. A married woman was buried with respect unlike an unmarried woman who died after attaining an advanced age. As Malusu pointed out: “a woman who had children with her husband was buried on the husband’s land.”²⁹³ In this case, the woman’s children were her roots, her foundation, her seal or marriage in that land. The children were the certificate that incorporated a woman into the new community. On the other hand, a barren woman was returned to her clan for burial, as a newly married girl with no children. Such women had no roots in the husband’s clan to claim burial rights. However, such women were buried in their husband’s land if payment of bridewealth (*bukhwi*) had been completed.²⁹⁴

On the other hand, women who had attained the age of marriage and refused to be married and died without ever having a child, such an individual was thought to be an outcast. In such a case, a long thorn was put on her grave and buried next to a fence in her father’s land while in some cases she was buried at her father’s home where bananas (*maremwa*) were grown²⁹⁵ The reason why such women were buried next to the fence was because they were regarded as not being part of the family and so were strangers. No child in the family was named after the deceased since she was believed to be a bad omen, hence no member wanted to be associated with her for the fact that she was in the community.²⁹⁶ Although it was condemned, the same treatment was never linked to a woman who was not married but had given birth. Table 2.1 clearly demonstrates the patrilocal nature of Isukha family, expressing the view of marriage which relocates the woman to her new family in the husband’s home and required that she transferred loyally from her father’s family to the new family set-up at the

²⁹³ Malusu. *The Luyia way of Death*, 6.

²⁹⁴ OI. Jacob Luseno, 31/12/2017.

²⁹⁵ OI., Pricilla Indimo, 16/01/2018.

²⁹⁶ OI., Christine Muhatia, 18/01/2018.

husband's home. These marriage taboos governed the way of life of the Isukha people.

Table 2.1: Some Taboos Related to Marriage among the Isukha

To Marry from the clan of mother or grandparents
Marital rape
To stay unmarried
To marry from any family your ancestors had rejected
To commit adultery
To be barrenness or impotence
To abort
For a married man to enter his mother's house
For a husband to be rude to an expectant wife
To have sex during pregnancy-might cause premature birth
For a bridegroom to sleep in the house of mother in law and vice versa
No marriage should take place when people were mourning
To have sex with breastfeeding wife
To have sex with a woman who has just delivered or is about to deliver
For a girl to be married in her father's age group
To have sexual intercourse with uncircumcised boy/man

Source: Participants

2.14 Distribution of Property and Wealth after a Man's Death

Three or four days after a man had died and buried, a meeting (*inyanga yo okweya amasika*) of clan elders, his sons and daughters took place. At the meeting all the property of the deceased including his debts were declared. The number of children especially the married and unmarried sons were declared. Anything that the deceased might have said before he passed on was mentioned. The elders also considered what will was to be used as expenses for the funeral (*amarika*). By customary law a bull was slaughtered for the clan elders who came for the meeting. In addition, a goat for the sons and brother-in-laws (*abakhwe*) was slaughtered. After all the properties of the deceased had been assessed and expenses known, one of the brothers of the deceased was appointed the custodian of the deceased property until after one month when an official day was scheduled by the brothers for the distribution of

property to the rightful heirs. On this day a meeting of clan elders presided by the eldest brother of the deceased took place.²⁹⁷ The *likuru* was normally present when this was done.

When properties were divided, the unmarried sons were the first to be given cattle and goats to enable them pay bridewealth for wives. Those sons who were still young were considered and their share of property was given to their father's brother or to their eldest brother and mother as custodians until they were grown up and were ready to get marry. Daughters were never given any share of their father's property. When distributing property in a polygyny household, the property executor who was usually the brother of the deceased considered the number of cattle that the deceased kept in each house of his wives.²⁹⁸ When the deceased man's property was being distributed among his heirs, the widow was also considered. For instance, she was given one cow for milk. All the food stuffs, chicken and baskets were given to her. She was also given a share of the house furniture.²⁹⁹

The widow automatically obtained a life interest in the piece of land she had been cultivating provided that she continued to live on the land of her husband. On her death the land reverted to her sons. If the widow was inherited or remarried to another man and then moved to his village, then she left all the property she had inherited from her late husband. The property was then divided to her sons or the brothers of the deceased or any close relatives of the late husband.³⁰⁰ If a man died without any male child his property was divided either among his full brothers or if he had no full brothers then his half-brothers or if no half-brothers then his nephews. Maternal

²⁹⁷ Andrerre, The Abaluyia Customary law relating to marriage and Inheritance, p 40.

²⁹⁸ Ibid.,

²⁹⁹ Ibid.,

³⁰⁰ Ibid.,40 see also Political record book for North Kavirondo KNA DC/NN/3/2 21

cousins and deceased friends had no right of claiming a share of the man's property and ignore the claims of his relatives.

2.15 Conclusion

This chapter has discussed the significance of marriage, gender relations, division of labour, rite of passage, courtship, bridewealth exchange, wedding ceremony and taboos related to Isukha marriage. It has been observed that marriage institution was important in the social setting. Marriage was an exchange between two previously unrelated clans. The bride-groom's received the girl while the bride's group obtained a token in return for the woman who was handed over. Since its main function was procreation no marriage was said to have taken place until at least a child had been born out of it. A childless marriage among the Isukha people was very painful and embarrassing situation in life as stated above. Marriage thus binds contracting parties and individuals within them together. It was here that everybody had a role to play depending on gender, age and the activity to be performed.

There was interdependence hence nobody was subordinated in the family. The family head and the kinship members had considerable influence on matters pertaining to bridewealth exchange forcing them to exert pressure on aspects of women's sexuality, especially virginity. This they did to acquire enough bridewealth exchange for their sons to marry. The marriage arrangements involved participation of the community rather than individual. Divorce was rare although there were provisions for it. The next chapter examines the establishment of colonial rule on the Isukha community and its impact on the marriage institution.

CHAPTER THREE

INFLUENCE OF COLONIAL RULE AND MISSIONARY WORK ON

ISUKHA MARRIAGE, 1894-1945

3.1 Introduction

While the previous chapter examined the Isukha marital institution before the establishment of colonial rule this chapter will focus on the establishment of colonial administration and missionaries' activities and the gradual process of change in Isukha land. These processes sucked the Isukha people into global capitalism with its major characteristics of exploitation, subordination, unequal exchange and impoverishment. New forces of colonial rule generally conflicted with and undermined Isukha traditional practices including the institution of marriage. Of particular interest in this chapter will be the contact between colonial economic policies and missionary practices on Isukha marital institution during the 1894- 1945 period. The chapter thus explored the various explanations behind British occupation of Isukha land. Colonialism was a major impetus of change, given that it introduced new mechanisms of change within highly dynamic social and economic system of the Isukha. Consequently, the process of articulation began characterized by subjugation, subordination, exploitation, destruction, restructuring, modification and marginalization of the indigenous economic systems in Isukha.³⁰¹ It is therefore important to provide a synopsis of the early contact between the Isukha and Europeans as examined in the next section.

3.2 Penetration of Colonial Rule among the Isukha People

The journey for early European rule mainly began with the Berlin Conference of 1884-1885 which gave rise to the establishment of the Imperial British East African

³⁰¹ S.M. Omwoyo and A.S. Nyanchoga. "Economic and Social Change in western Kenya: 1895-1920" in *The Eastern African Journal of Historical and Social Science Research* Vol.2. No.2. (2000), 40.

Company (IBEACo). The 1884-1885 Berlin Conference marked European countries scramble for space in Africa. What came to be called Kenya was placed under the British sphere of influence (a British colony). After the Berlin treaty, the foreign office in London accepted an offer in 1887 from Sultan Khalifa bin Said of Zanzibar of the grant of concession to administer his coastal mainland territory.³⁰² As a result, IBEACo was formed that year to develop trade in the far interior and in Buganda Kingdom. The treaty was signed in Zanzibar in 1888 although the company had started to operate from Mombasa during the previous year. It was granted a royal charter in 1889 under the name of the IBEACo.³⁰³ In 1888, the Company set about a gigantic task of tapping the interior for trade, even into the small kingdoms of Uganda.

The company operated mainly between Mombasa and Uganda and passed through Luyia-land (Isukhaland included) which lay along this trade route. The British felt the need to institute proper administration of what came to be known as Uganda. The administration of this country would help to smoothen the wheels of commerce and to subjugate the African ethnic communities along the trade route in order to curb constant attacks on the Company's activities.³⁰⁴ With the establishment of colonial administration in Uganda, Isukha land and much of Luyia land came under the influence of British rule and formed the eastern part of Uganda. As such, between 1894 and 1902 Isukha land existed as part of the Eastern Province of Uganda.³⁰⁵ Thus, the Isukha came under British administration in July 1894 following the declaration of Uganda as the British Protectorate. This declaration brought much of the area east of

³⁰² R.W. Foran, *The Kenya Police* (London: Robert Hale, 1962), 2.

³⁰³ *Ibid.*, 3.

³⁰⁴ *Ibid.*, .

³⁰⁵ R. M. Maxon, *Conflict and Accommodation in western Kenya: the Gusii and the British* (Rutherford: Failegh Dickson University Press, 1989),

Lake Victoria, as far as Naivasha, under the control of British government. Isukha land was far removed from the seat of power in Uganda and was therefore administered loosely. It was not until Mumias was chosen as a station of IBEA Co that Isukha land begun to experience proper British administration.

Towards the end of 1889, the first imperialist, an employee of IBEACo by the name Frederick Jackson, arrived at Elureko accompanied by Ernest Gedge followed by Dr. Carl Peters and later Frederick Lugard.³⁰⁶ Carl Peters, the founder of Germany East Africa Company (GEA Co), arrived at Shikulu in 1890 and proceeded to Elureko which was stationed about 30 kilometers west of Isukha land. Following Lugard were Captain Smith in May 1891, Bishop Tucker in 1892 and Sir Gerald Portal in March 1893.³⁰⁷ Portal was on a government mission expected to recommend the viability of the Eastern province of Uganda to Britain as a colony.³⁰⁸

The Europeans took advantage of the already opened up station at *Itookho* (kwa-Shiundu) or present-day Mumias. The trade from the coast to the interior was therefore instrumental in determining European routes of intrusion and settlement. As Rodney argued, Europeans preferred jurisdictions over areas which were already familiar and also because earlier foreign trade orientation caused some African communities to be more susceptible to colonial political and economic innovation.³⁰⁹ The history of Mumias, so far charted reveals that it was such a familiar centre. The fact that Joseph Thompson used Arab-Swahili caravan men who were already known to the Wanga and who also traversed Isukha land is a significant example of this

³⁰⁶ R.W. Foran, *The Kenya Police* (London: Robert Hale, 1962), 6.

³⁰⁷ J.R. Dealing, *Politics in Wanga, Kenya 1650-1914* (Ph.D. Thesis, North Western University, 1974), 304.

³⁰⁸ M.A. Ogutu, "Agriculture and the Development of Markets in Western Province of Kenya, 1930-1960", In B.A. Ogot (ed), *Hadithi 7, Ecology and History in East Africa* (Nairobi: Kenya Literature Bureau, 1979)

³⁰⁹ W. Rodney "The colonial economy", In A. Boahen (ed.) *UNESCO General History Vol. VII: African under Colonial Domination*, (Paris, UNESCO, 1985), 383.

familiarity. All the way from the coast, Mumias was the next most important centre after Machakos and Fort Hall.³¹⁰

Fort Maxsted (present day Kakamega), which also existed in Isukha land was also another important centre. Generally, the consideration of the familiarity of a centre was uppermost among the functionaries of IBEA Co, a company that was already operating in Buganda. In 1888, the company had secured a charter from the crown and was looking for ways of linking the coast with Uganda.³¹¹ This development had the consequence of establishing Mumias as the initial administration centre for the IBEA Co and later the nucleus around which British colonialism would revolve and bring Isukhaland under colonial rule. But 1894 was the last year Mumias operated as a sovereign station. On June 10th 1894, a protectorate was declared over Uganda and Mumias became part of Eastern province of Uganda.³¹² On July 1st 1895, a similar move was imposed over British East Africa.³¹³ Mumias was then used as a government station through which most parts of Luyialand were administered by the British government. By 1896, Mumias had become the launching pad for the establishment of colonialism in Western region of Kenya including Isukha-land and the encompassing areas occupied by the Nandi and Uasin Gishu Maasai.³¹⁴ Of importance to mention is the year 1902 when the Eastern Province of Uganda was transferred to the East African Protectorate which became the Nyanza Province or the Kavirondo.³¹⁵ This is where the Isukha community was placed under during the

³¹⁰ Stichter, *Migrant Labour in Kenya*. 10-12.

³¹¹ C.W. Hobley, *Kenya: From Chartered Company to Crown Colony* (London: Frank Lass & Co. Ltd, 1970), 79.

³¹² Were, *A History of the Abaluyia of Western Kenya*, 159.

³¹³ *Ibid.*,

³¹⁴ J.R. Dealing., *Politics in Wanga, Kenya 1650-1914* (Ph.D. Thesis, North Western University, 1974), 327.

³¹⁵ J.D. Ainsworth, *Pioneer Kenya Administrator 1864-1946* (London: Macmillan & Co.Ltd, 1955),

colonial epoch. The next section examines the impact of Mumias on the establishment of colonial administration over the Isukha people.

3.2.1 Establishment of Colonial Administration in Isukha land

In period 1895- 1900 Isukha land was little more than a supply route to Uganda.³¹⁶

The British declared a protectorate over Uganda on 10th June 1894. Colonel H. Colville, the Commissioner of Uganda dispatched a company official, Mr. Valet Frederick Spire to establish a station at Mumias, which was roughly 30 kilometers west of Isukha land, in the same year.³¹⁷

In 1895 Mumias became a recognized British administrative centre and it started acquiring a morphology that corresponded to this new reality. Various grass-thatched houses and mud-walled structures were built to house the administrators. It was at this time that the building of the Uganda Railway towards Port Florence (renamed Kisumu) commenced in 1896. During that period Mumias was the headquarters of North Nyanza District. At the same time, the importance of Mumias was not seen in relation of Port Florence because there was no direct connection between the two. But in 1896, the Sclater road built for Ox-Carts reached Mumias from Fort Maxsted (Kakamega)³¹⁸ thereby bringing Kakamega in line with urban development in the region.³¹⁹ In 1901, the railway reached Port Florence (Kisumu), and this witnessed the transfer of the former Eastern Province of Uganda to the British East Africa Protectorate on 1st April, 1902. Since the administrative post for Nyanza province had

³¹⁶ C.R. Murunga., *Western Education among the Wanga of Mumias Division: A case study of the Roman Catholic Mission and the Mumias Boy's Schools,c, 1920 to c.1960* (B.A. Dissertation, Kenyatta University,1994), 10.

³¹⁷ D.P.L. Esese L, *Agriculture and Socio-Economic Change among the Wanga of Mumias Division, 1860-1945*(M.A Thesis Kenyatta University, 1990), 191.

³¹⁸A.T. Matson. *Nandi Resistance to British Rule, 1890-1906* (Nairobi: East African Publishing House, 1972), 206. See also Esese, *Agriculture and Socio-Economic Change among the Wanga of Mumias Division*, 109-193.

³¹⁹ North Kavirondo District Annual Report 1919/20, KNA,DC/NN/1/3.

been moved from Mumias to Kisumu, Mumias remained the district headquarters of the then Elgon district that later became North Kavirondo district and Isukha Location was part of the district.³²⁰

The transfer of the Eastern Province of Uganda to the British East Africa Protectorate was therefore a culmination of the need to consolidate infrastructure within one territory and one administration. The Sclater Road being less significant to the British compared to the railway could not ensure the centrality of Mumias to colonial policy. However, Mumias was retained as a significant centre in North Kavirondo district thereby remaining the most important administrative centre among the Luyia as it housed the early District commissioners (DC) of North Kavirondo District and the attendant British bureaucracy that was necessary for administration of the District.

The centre was indeed an early microcosm of British modernity, a place where British values and norms were inculcated and emulated. The first lessons of obedience, law and order had been initiated from Mumias. With the establishment of Native Authority, the Isukha people came under proper British colonial rule and were subjected to the British state as tax-payers. Each of the Luyia clans formed an administrative location under the jurisdiction of a colonial chief whose main task was to collect government tax and maintain law and order based on customary law. The impact of taxation on Isukha marriage will be discussed in subsequent sections of this study.

Colonial penetration in Isukha area, however proceeded at a slow pace. Although by 1895 the colonialists had arrived at Mumias, it was not until 1905 that the colonial

³²⁰P.A. Memon., "Some Geographical Aspects of the History of Urban Development in Kenya", In B.A. Ogot,(ed) *Hadith 5: Economic and Social History of East Africa*, (Nairobi Kenya Literature Bureau, 1976), 141

strings had strongly tied the Isukha to the general global capitalist system.³²¹ The establishment of colonial rule was easily achieved through the maxim gun. In as much as Nabongo Mumia accepted to befriend the white man, some Luyia communities opted to resist but with little success. This was due to military and technological gap between the Isukha and the British colonizers where the hand- made spears and arrows could not match the mighty gun. Colonialism thus became forcibly entrenched in Isukha land that affected their social, economic and political systems. Colonialism therefore fashioned the entire pre-capitalist institutions to the liking of the metropolises.

In February 1895, Charles William Hobley arrived in Mumias to replace Valet Spire.*footnote He took over the first permanent administrative district in North Kavirondo of which Isukha was part.³²² With the establishment of colonial rule, the whole of western Kenya was designated Nyanza Province. The province was divided into North, Central and South Kavirondo. The Abaluyia found themselves in North Kavorondo with its headquarters at Mumias and later, Kakamega.³²³ Kakamega was in the heartland of the Isukha people. C.W. Hobley was entrusted with the responsibilities of ensuring the swift dispatch of official mail, the security of Government stores and ivory, the collection of duty of both imports and exports and the provision of food for government caravans at accepted prices.³²⁴ However, the need to accomplish the above accelerated hostility and conflict with the Luyia. Hobley had to employ his maxim gun to organize a number of punitive expeditions aimed at bringing under control the resisting groups such as Kager, Samia, Bukusu,

³²¹ Kizito, *Impact of economic activities on the ecology of the Isukha and Idakho areas of western Kenya*,143.

³²² J. Mwenesi, *A Biography of Yohana Amugune 1878-1960*, (B.A Dissertation, University of Nairobi, 1972), 46.

³²³ E.C. Burt., *Towards an Art History of the Baluyia of Western Kenya*. (Ph.D. Dissertation, University of Washington, 1980), 32.

³²⁴ J.M. Lonsdale., *A Political History of Nyanza, 1883-1945*(Ph.D. Thesis, Trinity College Cambridge, 1964), 89.

Banyala, Isukha, Idakho, and the Tiriki.³²⁵ At the same time Hopley, in 1900, had to send expeditions against the Nandi who had raided the IBEA Co. as well as the telegraph and the railway survey parties. In a nutshell, through successive wars, the British had demonstrated their military superiority and conquered the Luyia.

The completion of the railway had to some extent entrenched colonialism in Luyialand, the entire Nyanza Province and the Protectorate of Uganda as African resistance were easily suppressed as transportation of soldiers became easier via the railway. It also intensified trading activities making possible European settlement in the western highlands with the encouragement of Commissioner Charles Eliot. Eliot argued that settler farming would make the Uganda Railway pay for itself.³²⁶ By 1905, Ainsworth had identified potential farming lands in Trans-Nzoia and Kitale. He described this land as a “wonderful” asset in the Kavirondo region.³²⁷ Be that as it may, the creeping colonial capitalist system and the commoditization of production changed the nature of Isukha family and marriage relation through land ownership, livestock keeping and labour promotion that had been preserved for long. This was done through the various land ordinances and labour laws that were instituted. The establishment of colonial administration among the Isukha had a great impact on Isukha marriage as examined in the next section.

3.3 The Impact of Colonial Administration on Marriage among the Isukha up to 1945

Colonialism had great impact on the Isukha people’s way of life, and more so, on their marriage. The colonial administration in Isukhaland acted as an instrument of

³²⁵E.M.Aseka, The colonial economy During and after the Second World War and Political activities in Buluyia”, In *Staff Seminar Paper No.6. KUSP/1/1989/90. History Department* (Kenyatta University, July 1990),

³²⁶J.D. Ainsworth, *Pioneer Kenya Administrator 1864-1946* (London: Macmillian & Co.Ltd,1955)

³²⁷ Ibid.,.

primitive accumulation on the settlers behalf by appropriating African land (for example for building churches and administrative posts), introducing taxation and building transport networks, and finally through imposition and institutionalization of forced labour. British colonialism affected various cultures. In India, for example, Indians were subjected to colonial laws and according to Liddle:

The British in India saw themselves as a force for enlightenment, especially for women. To support their claim, they pointed to the laws liberalizing women's legal position. Between 1772 and 1947 they introduced nine major reforms including the laws forbidding female infanticide, *sati* and child marriage and those raising the age of consent, allowing widow remarriage, and improving women's inheritance rights.³²⁸

Like in India, which was colonized by the British, some of these laws were also introduced in Kenya and they impacted on Isukha marriages as will be examined in the following sub-sections.

3.3.1 The Impact of Colonial Land Tenure System on Isukha Marriage

Land alienation (for building churches, roads, administrative centers and for the settlement of European farmers) and the creation of the North Kavirondo reserve affected the pre-colonial land use pattern. Marginal lands especially river valleys, swampy places and slopes were increasingly used. Unlike in the pre-colonial period, the individual could own land among other clans for cultivation, residence or pasture. This change in land tenure affected the customary practice of promoting proper usage of land and other resources as was the case prior to colonialism. Therefore, it was evident that the colonial policies on land did not concur with the pre-colonial land use as it ushered in the concept of individual ownership of land and gradually abolished communal ownership.

³²⁸ J. Liddle, "Gender and colonization: Women's organization under the RAJ", In *Women's Studies international Forum*, 8(5): (1985), 522.

By 1915, there was no more empty land to be acquired and occupied freely.³²⁹ This was the genesis of land commoditization in Isukha. Isukha people were made to produce for the market. As the demand for cereals increased, there was no room for shifting cultivation as African peasant farmers tilled their land throughout the year. The development of individual land ownership determined the extent and magnitude of social and economic impact that affected the daily life of the household particularly the position of the wife as discussed in other sections of the study. White settlement was to be the backbone of Kenyan economy and the Kenyan Africans were to be discouraged from developing their own areas. African labour was sought after and the strategy to achieve this was through taxation. Taxation of Africans compelled them to seek paid work. Another strategy was land alienation in order to compel Africans to seek paid work.³³⁰ Salaries paid to African farm workers were meagre and as a result, many of Africans had to continue selling their labour. Their diminishing rural farmlands were left to the women to till and feed the children. For this reason, it has been observed that the institution of marriage subsidized European capitalism. Capitalism thrived through maximizing production and minimizing cost of production.³³¹ Production was maximized by paying low wages to African male labour. The wages were inadequate to sustain families. So marriage became the avenue through which women would be left beside to produce and sustain their families while their husbands worked for wages which they used to pay taxes. By taking care of the old and rearing children, married women ensured steady supply of labour in future.

³²⁹ Kizito, *Impact of economic activities on the ecology of the Isukha and Idakho areas of western Kenya*, 148.

³³⁰ R. M. Maxon, "The establishment of the colonial economy", In W.R.Ochieng' and R.M. Maxon (eds) *An economic history of Kenya* (Nairobi: East African Educational Publishers. 1992), 64.

³³¹ W. Rodney, "How Europe Underdeveloped Africa"(London, Dar- Es- Salaam: Bogle-L'Ouverture Publication & Tanzania Publishing House, 1973)

The articulation of capitalist mode of production with Africa's pre-capitalist modes of production produced two effects namely peasantization and proletarianization.³³² According to Maxon, peasantization "involved the transformation of African households (marriage set-ups or marriage institutions) into peasant commodity producers".³³³ By peasants, Maxon means "households that had relatively stable access to cultivable land and utilized family labour." Such peasants produced commodities sufficient for their subsistence and reproduction. Peasantization was occasioned by various factors which included enlargement of market opportunities and establishment of the transport network, encouragement of European trading activities dealing in imports and exports and the settlement of Asia traders.³³⁴

Taxation and forced labour were thus potent instruments that the colonial government wielded. In 1901, a tax of two rupees was imposed to raise revenue thereby making people work to raise the tax. These measures destroyed the traditional family lineages and kinship ties. The imposition of hut tax in 1902 also provided a strong stimulus for African household to undertake increased commodity production for sale. On the other hand, African men left their homes to seek employment for wages in urban areas and settler farms.³³⁵ As such, some households became net exporters of labour. Such families or households saw no need to marry more than one wife. It should be noted that peasantization promoted certain marriage practices among the Isukha which predated colonization. More specifically, women who were considered highly marriageable were those who were good at providing farm labour. Hard-working Isukha women continued to be in high demand as colonial pressure came to bear on

³³² R. M. Maxon, "The establishment of the colonial economy", In W.R.Ochieng' and R.M. Maxon (eds) In *An economic history of Kenya* (Nairobi: East African Educational Publishers. 1992),64.

³³³ Ibid.,

³³⁴ Ibid.,

³³⁵ Ibid,66.

Isukha people to produce surplus commodities for subsistence and for sale. This was especially called for considering that the demand for polygamy was on the decline owing to shrinking land sizes.

As already discussed, one of the reasons why Isukha men practiced polygyny was because the wives helped men to secure more land as each wife secured her own farmland. But as time progressed, hard working women were sought for marriage. According to Maxon; “articulation involved extracting surplus product from and /or forcing labour into capitalist or quasi-capitalist formation, hereby partially transforming them and making their self-reproduction increasingly impossible”.³³⁶ These two processes were reflected through, and affected, the institution of Isukha such unmarried men could not stay at home with their wives hence many opted to leave their wives at home to till family rural farms.

Gender roles also changed as married women took on the roles performed by their absentee husbands.³³⁷ Likewise, the elders who used to decide on who land ownership were subordinated and accommodated in the colonial economic context. The role of the chief and elders was transferred to the District Commissioner (DC) who knew very little about the traditional, lineages and kinship norms related to land issues. Most of the DC’s resolutions on land cases often caused problems. Sons or relatives of the same kinship could conflict over land boundaries. The elders had no control over resources, accessibility and utility of land and livestock. Instead the chiefs had to work hard in collection of taxes, recruitment of labour force and forced people to attend catechumenal classes. Their traditional roles as pertains land tenure and marriage issues were eroded. The system was further watered down with the

³³⁶ Ibid,64.

³³⁷ R.MA. Van Zwanenberg and A. King. *An Economic History of Kenya and Uganda 1800-1970* (Nairobi: East African Publishing House,1975), 64.

introduction of Native Tribunal Courts after World War I (WWI). The Native and Tribunal Courts took over the role of the elders in dispensing with legal and juridical matters. Most of the members of the tribunal courts were “collaborators” or friendly to the colonial administration. Their decisions always favoured the interests of the colonial master. According to Esese, the displacement of the *Liguru* as the supreme land authorities and their replacement by colonial appointed chiefs and headmen was part of the subordination process where pre-colonial structures were preserved but modified to serve the new capitalist system.³³⁸ After the inter-war period, other changes like land title deeds and demarcation of land were effected to avoid conflicts or skirmishes over boundaries between Isukha and Idakho communities. This ushered in individual land ownership by 1930.³³⁹

Wartime experiences of WWI strongly influenced the settlers’ conception of proper organization of African population for the supply of cheap labour. The techniques of mobilization which had proved so successful in wartime were applied in peacetime to provide adequate cheap labour for settlers.³⁴⁰ As a result the colonial administration resorted to far more complete, systematic and fully coordinated measures with each strengthening and complimenting one another to produce adequate labour supply. Taking up his appointment as the post-war governor in January 1919, Edward Northey showed extreme favouritism for the settler’s mode of production right from the start and was bent on ensuring that the state helped in supplying African workers for the settler estates through the issuance of a circular to administrative officers as

³³⁸ Esese, *Agriculture and Socio-Economic Change among the Wanga of Mumias Division,* 206.

³³⁹ Kizito, *Impact of economic activities on the ecology of the Isukha and Idakho areas of western Kenya* C150.

³⁴⁰ R.D. Wolff, *Britain and Kenya: The Economics of Colonialism* (Nairobi; Transafrica Publishers, 1974), 123

from October 23, 1919.³⁴¹ The government liberally defined services for which compulsory labour was legal. They included public services and private contractors working for the state, which under the circumstance could mean everybody.³⁴² Furthermore he stressed that the colonial administrators, together with chiefs and headmen had to exercise every possible lawful influence to induce able-bodied male “native” to go into labour fields.³⁴³ The colonial state was to directly favour settlers through provision of labour by what amounted to coercion by African and British administrative officials.

The chiefs and the headmen in African reserves were pressured to use forced labour for public works. The Northey circulars had specifically instructed the British officials that headmen and chiefs were to be repeatedly reminded that it was part of their duty to advice and encourage all unemployed men to go out and work.³⁴⁴ Originally, communal labour was supposed to be undertaken voluntarily by people to build and improve services in their community. But, as with everything else under the colonial capitalism, African institutions, such as marriage institution, were distorted in order to serve wider colonial objectives. They were emptied of their social and cultural meanings and remolded into vehicles of naked extortion and exploitation by the colonial state. Communal labour was compulsory for everybody, including men who had passed marriage age, women and children. The Secretary of State did not have to give approval for such conditions. A schedule was drawn up illustrating what was allowed. It was after this that the Native Affairs Department advocated the use of

³⁴¹ T. Zeleza, “The Colonial Labour system in Kenya” In Ochieng’ W.R. and Maxon R.M. (eds), In *An Economic History of Kenya* (Nairobi: East Africa Educational Publishers Ltd.1992), 171-220.

³⁴² Ibid.,

³⁴³ East African Standard November 1, 1919.

³⁴⁴ Wolff, *Britain and Kenya: The Economics of Colonialism*, 124.

forced communal labour. It was defined as labour which was compulsory but used on public works within the reserves.³⁴⁵

Thus, the establishment of colonial rule in Kenya altered the precolonial land tenure system of the Isukha people and this impacted on Isukha marriage. It has been observed that:

No consideration of land issues in the region can ignore the historical legacy of colonialism and the profound and complex changes which that introduced within indigenous societies. Previously small-scale, pre-capitalist farming communities and polities were drawn into new, capitalist relations production on terms that were heavily skewed in favour of the metropolitan powers and European settlers, with hugely skewed in favour of the metropolitan powers and European settlers, with hugely disruptive impacts on pre-existing social organization. Marriage, family, land, wealth, tradition even where the outer form of these institutions and categories appeared to display remarkable continuity with the pre-colonial era over time, the old underpinnings were fundamentally reshaped, even removed.³⁴⁶

Colonialism in Isukhaland changed the meaning of land from what it had been under the pre-capitalist economy of the region. It was the basis of life and was used for various purposes and functions, within the institution of marriage, under pre-capitalist order. Within the marriage institution, land was the basis for growing crops, running stocks, hunting, access to water, gathering wild fruits, fuel, building materials and exploiting medicinal plants among others things. Under colonial order, land was transformed into a commodity which would be bought and sold on the basis of willing buyer-willing seller.

Walker observed that land, in the pre-capitalist period, was abundant. As such the constraints on human well-being lay not in a shortage of land but in the amount of

³⁴⁵Van Zwanenberg and King. *An Economic History of Kenya and Uganda 1800-1970*,70

³⁴⁶ C. Walker, "Land Reforms in Southern and Eastern Africa: Key issues for strengthening women's access to and rights in land", In Report on a desktop study commissioned by the food and Agriculture Organization (FAO) (FAO Sub-regional office for southern and Eastern Africa, Harare, Zimbabwe (2002), 8.

labour and the technology to work it, as well as the vagaries of environment and weather.³⁴⁷ Among the Isukha, as elsewhere, the issue was about the accumulation of people rather than of things as this was the basis of wealth and power. This contributed in part to the fame of polygamy as these was assurance to acquisition of more children. This order of things ensured that marriage lasted for a long time and divorce rate was low. Within this system, Guy argues that women had a significant degree of economic independence and social status so long as they were obedient to the terms of the marriage contract as he stated:

On marriage (women) were given access to productive land, which they worked themselves. They were in control of the process of agricultural production and retained for their own use a substantial proportion of the product of that land and of their labour. Work was heavy but it took place within a community which provided substantial security. The value attached to fertility gave the possessors of that fertility social standing and social integrity.³⁴⁸

However, as these societies became transformed into market-dominated economies, so land began to acquire new meanings, and the social relationships (marriage included) that had mediated men and women's access to that land and their relationships to each other, within the homestead and the larger group, were subjected to multiple pressures and far-reaching processes of change. Following this, as Guy notes, the accumulation of things rather than of people became the primary motor driving the economy. Homesteads were now drawn inexorably into a monetary economy in which cash, to buy goods and pay taxes, became critical for survival. One consequence, in relation to customary land tenure systems and traditional institutions, is that the complex pattern of rights and responsibilities that had informed marriage and household relations of production was disassembled and rearranged, and the

³⁴⁷Ibid.,.

³⁴⁸J. Guy. "Gender oppression in southern African's pre-capitalist societies" In *Women and Gender in Southern Africa to 1945*. (eds.) C .Walker & D. Philip, (Cape Town, London: James Currey, 1990), 46.

rights that men continued to claim to land, to women's labours, to authority were exercised in increasingly individualized contexts. This is a crucial point to keep in mind when considering the role of customary systems of law, land tenure and traditional institutions such as marriages within land reform their continued value and contributing needs to be measured in relation to current conditions and needs, rather than some ideal (which is usually static) of social relations in the past.

3.3.2 Introduction of Hut and Poll Tax and its Impact on Isukha Marriage

Before Isukha people experienced the effect of land tenure changes, they experienced the impact of hut tax. Taxation was charged on men depending on the number of wives one had. As already observed, Isukha men were polygamy on the advent of colonialism. This period also witnessed many changes. For example, almost all able-bodied men became liable for labour recruitment. As such, this was difficult time for most women especially married women in Isukha who took over the responsibilities of men. In many instances women had to be away from home, either working in their own farms or in minor communal labour projects. Many women did not even have time to take care of their children. Equally, older children who could assist in taking care of the younger ones got occupied as well.

In 1930 the senior medical officer complained of the rising numbers of reported cases of children who were either burning or getting lost.³⁴⁹ The colonial administration attempted in many circumstances to "cover its face." That was why the Provincial Commissioner (PC) of Nyanza could not admit any form of female labour in the province as had been envisaged by Women Workers Protection Rules.³⁵⁰ In 1931 the PC of Nyanza acknowledged that: "the question of communal labour is a difficult one

³⁴⁹ Compulsory Labour, 1931-1932, KNA, PC/NZA,3/13/28.

³⁵⁰ Crop Production 1931, KNA, PC/NZA/3/20/17/2.

and it must be admitted that abuses sometimes occur and they would be no less likely to occur if the labour was paid for natives given a little authority are often apt to be bullies.”³⁵¹This was the reality in Isukha. It was abuse of women and children as there were insufficient men to do the work.³⁵² To the colonial administration, communal labour was to promote economic production, trade, transportation and mobility of labour and to limit “idleness” on the part of Africans. Forced labour and forced recruitment became extremely sensitive areas of policy-making and policy implementation in Kenya.

Having failed to maintain a consistent labour supply, the government made the next attempt by passing the Registration of Native Ordinance in 1920. The introduction of “Pass system” (*kipande*) represented an attempt to systematize the labour control system. This is because once a worker was registered he could not be deregistered. The *kipande* was designed as an instrument to be used to keep track of labour supply. It facilitated the enforcement of labour contracts in that it enabled penal sanctions to be returned to their former employers. Tracing of runaway employees was possible because local chiefs helped in tracing such deserters. The *kipande* also restricted workers; freedom to leave their workplace and change employers. Finally, the *kipande* system led to standardization of low wages because it made it virtually impossible for a worker to bargain with a new employer for a wage that was higher and unrelated to his former wage as recorded on his *kipande*.³⁵³

The impact of the *kipande* system on Isukha marriage was heavily felt because Isukha men who had migrated to work away from home took too long before coming back.

³⁵¹ Compulsory Labour 1931-1932, KNA, PC/NZA, 3/13/28.

³⁵² OI., Jedida Ahebirwa Musava, 12/01/2018.

³⁵³ P.T. Zeleza., *Dependent Capitalism and the Making of the Kenyan Working Class during the colonial period* Ph.D. Thesis, Dalhousie University, 1982), 52.

This is bearing in mind that *kipande* ensured and enforced prolonged periods of employment. Those who ran away would be easily traced, punished and sent back to their employers. Even when called upon by their wives to attend to most pressing problems back at home, most Isukha men were unable to return to their rural homes. Many are cases where Isukha men were alerted to their land being taken away but they could not go home. It's worth noting that while some women persevered, others ran away with other men. Labour laws also brought to the fore others forms of polygamy. As men stayed away from their wives for a long time, they decided to marry women whom they met in their new places of work. As such, while such men were "polygamous" in theory, they were not responsible to all their wives in practice. Another dimension of the impact of absentee husbands (migrant male labourers) was in the sphere of emergence and spread of venereal diseases. Absentee male migrants who worked away from their rural homes engaged in prostitution as the only way through which they could satisfy their sexual desires and appetites. So, apart from encouraging adulterous relations, migrant labour laws also promoted the spread of venereal diseases both within and outside marriage arrangements.

Resident labour or squatter labour was another system of labour in colonial Kenya. Because the Africans were managing to make payments in cash, in 1918, the Resident Native Ordinance required that future payments be made in labour and not cash. During this period, there was increased growth in urban wage labour employment due to push factors rather than pull factors. The wages were low and living conditions were also generally poor. Men and husbands migrated as they left their women and wives to subsidize the colonial capital accumulation. The colonial government was, however, determined to force Africans to fully participate in the development of the colonial economy. Imposition of taxes was a method used to disengage Africans from

their economic production. Taxation served two purposes: it encouraged wage employment and stimulated peasant commodity production but it also delimited peasant accumulation.³⁵⁴

Taxes were introduced in 1901 but it was not until 1910 that they were paid in monetary rather than kind.³⁵⁵ By in 1902, the hut tax had been introduced to areas that were under proper administration.³⁵⁶ It was later extended to other regions as colonial administration became properly established. It was, however, only after the First World War that they began to be increased sharply and to be collected efficiently.³⁵⁷ The hut tax was nevertheless limiting in the collection of revenue because only married men were required to pay as owners of dwellings. To rectify this status in tax collection, a poll tax was introduced in 1903. It was payable by all male adults of over sixteen years. The tax targeted young men who had not yet married and were, therefore, not taxable under the hut tax. Probably this was done after realizing that men were shying away from marrying in order to avoid paying hut tax. Moreover, the colonial administration may have realized that men were shying away from marrying many wives as a way to avoiding paying more taxes as each wife was entitled to her own hut. The new tax requirement prescribed alternatives to cash payments: either payment in kind or labour on public works at the rate of one month's labour for each three rupees due. Most of the time the value of payment in kind exceeded the cash tax due while one month's labour for a private employer returned more than three rupees.³⁵⁸ Taxation of non-married Isukha men had an impact on their appetite for

³⁵⁴Ibid, 50.

³⁵⁵ Ibid,.

³⁵⁶ M.R. Dilley., *British Policy in Kenya Colony* (New York:Nelson (1962), 239.

³⁵⁷ R.L. Tignor, *The colonial transformation of Kenya: The Kamba, Kikuyu and Maasai from 1900-1939* (Princeton: Princeton University Press, 1976),

³⁵⁸S.O. Okuro, *The impact of colonial socio-economic policies and practices of female-headed households in Kenya: The case of Kombewa Division, Kisumu District 1894-1963.*(M.A Thesis Kenyatta university,2002), 100.

marriage. This is because young unmarried Isukha men began experiencing hard life and many of them were scared to engage in marriage as life would become even hardest. And for those who married, few of them would dare enter into polygamous marriage.

As most population pyramids in a developing country shows, young people must have been more.³⁵⁹ The rate of tax increase and not taxation was the major issue for Africans. If the rates remained low, it would have been possible to raise it from their production. However, rates continued to be raised and more taxpayers enlisted as the government sustained pacification of Africans. Raising taxes pushed more married men into seeking wage labour and leaving their wives to undertake multiple roles on their behalf. By 1913, it was officially acknowledged that taxation was the best way to force Africans to wage labour as noted by the then Governor: “we consider that taxation is the only possible method of compelling the native to leave his reserve for the purpose of seeking work. Only in this way can the cost of living be increased for the native, and it is on this that the supply of labour and the price of labour depend.”³⁶⁰ Refusal to pay taxes in any form was punishable by confiscation of an African “hut”, other property and imprisonment for unspecified number of days. By 1919 the rate for almost all Africans was five rupees. In 1920 the maximum was again raised this time to ten rupees equivalent to 12 shillings while fixed penalty of two months labour for not payment.³⁶¹ Having been made mandatory, tax became a sure way of forcing Africans into wage labour.

³⁵⁹M.W. Musalia. *Gender relations and food crop production: A case of Kiambu District Kenya, 1920-1985*. Ph.D. Thesis Kenyatta University. Retrieved from www.ir-library.ku.ac.ke/pdf. Assessed on 15-10-2016 pg 86

³⁶⁰ Wolff, *Britain and Kenya: The Economics of Colonialism*, 98.

³⁶¹ *Ibid*,117.

The colonial taxes thus, rose drastically after WWI and provided the largest proportion of internal revenue in Kenya. This in a way increased the burden of taxation on Africans, hence reducing their purchasing power. In the Labour Commission Report of 1927 it was observed that:

The total money earning of a typical African living in a reserve varied from 90 to 110 shillings per annum. The average direct tax payable by the head of such a family for all its members amounted to about 28 shillings with a direct tax bill in the neighbourhood of 30% of earning and indirect taxes on imported goods averaging 20%, it is safe that African labourers only very rarely had anything left of their earnings after outlays for taxes and minimal living expenses.³⁶²

However, since previously married men worked for highly specific purposes and only for a short period of time, their behavior remained that of community impressed into the service of the industry. Their attachment was to their rural villages and was expressed in terms of remittances sent back to their wives, families and kinsmen. They did not bring their wives and womenfolk to the labour camps which were largely reserved for married and unmarried men. However, during this period, migrant labour became more and more institutionalized as rural areas' principal mode of involvement in the money economy, interaction between villages and town correspondingly increased and married and unmarried migrants stayed for even longer periods in the colonial plantations. These occasionally made some of the married labourers to invite their wives to live with them. The condition was coupled with the worst drought and disease epidemic while wage labour for Europeans remained the chief and almost the sole source of earning money. In 1929 it was identified that very old women, the blind and the lame and the lepers were included in the hut and poll registration. Defaulters were punished by being put in tax camps.³⁶³ In Nyanza, Isukha included, the PC was forced to consider some provision for widows'

³⁶² Local Native Council General 1927, KNA, PC/NZA/3/33/8/25

³⁶³ North Kavirondo District Local Native Council Estimates, 1930, KNA, PC/NZA/3/33/8/9.

exemption. In 1932 he listed the following as grounds for exempting widows from tax payment. For example, if a man ‘inherits’ a widow after she has passed child bearing age the man, should not be called upon to pay tax. If a widow is young and capable of bearing children her inheritor should pay tax on her behalf. The last conditions considered those widows now old and were inherited when of child bearing age, the inheritor should pay tax.³⁶⁴ There were other people who asked for tax exemption as they lacked cattle, which they could sell to raise money for taxes. Several huts were confiscated and none was supposed to reside in them, some destroyed and others were burnt to ashes as defaulters got themselves jailed.³⁶⁵ This definitely had an impact on an old-age Isukha practice of wife inheritance.

Migrant men equally had difficulties when paying taxes. In 1934 wages and employment were greatly cut down but taxes remained the same. Cattle which were the African source of capital also, had decreased greatly not only in quality but also in price. In this poor state of affairs caused by depression, tax defaulters found themselves facing jail terms. Imprisonment impacted a great deal on both married and unmarried men. As for married men, their wives were left to fend for themselves and their dependents. On the other hand, imprisonment delayed the marriage age for unmarried men. Criminal cases for native hut and poll tax offences recorded that in the year 1931, 1932 and 1938, individuals convicted for not paying taxes were 463, 298 and 306 respectively.³⁶⁶ Some men even refused to go back to their homes whenever they had a lot of debts to clear. In 1937 the PC of Nyanza gave a breakdown of men and women liable to taxation in the Province on the request of

³⁶⁴ War Widows and taxation 1930-1940, KNA, PC/NZA/2/19/12.

³⁶⁵ Finance hut and poll tax collections 1937-43, KNA, PC/NZA/3/10/167.

³⁶⁶ North Kavirondo District Annual Report 1931, KNA/DC/NN/1/12, North Kavirondo District Annual Report 1932, KNA/DC/NN/1/13, North Kavirondo Annual Report 1938, KNA/DC/NN/1/20

Hon. Colonial Secretary. The figure below contains the main features of his report concerning direct taxation schedule in Nyanza province:

Table 3.1 Report concerning direct taxation schedule in Nyanza Province

	Old Method	Proposed Method
For 1 single woman or widow	Shillings 12/=	5/=
For 1 single man	Shillings 12/=	10/=
For a man with one wife	Shillings 12/=	15/=
For a man with two wives	“ 24/=	20/=
For a man with three wives	“ 36/=	25/=
For a man with four wives and so forth	“ 43/=	30/=

Source: KNA, PC/NZA/3/10/167, Finance hut and poll tax collections 1937-43

It can be concluded, from Table 3.1 the proposed tax revisions were aimed at discouraging polygamy and encouraging monogamy. The proposals also discouraged bachelorhood. Cases requiring exemption would be far fewer than they were under the present method. DC' meetings in Nyanza had, on two occasions, asked for the change. Unless you go round in the field you don't see the hardship.³⁶⁷

According to the PC the modification of hut and poll tax was based on the belief that the monogamous family was the best economic unit. It denied the contention that a man with two wives was twice as well off as a man with one wife or a man with three wives three times as well off. It also denied the argument that a bachelor was as well off as a married man. Among the natives who left the reserve to work for non-native employers return showed that there were at least as many married as unmarried. When the married man returned home he found his home, stock and land (*shamba*) ready for him, the single man did not. From the schedule, several observations could be

³⁶⁷ Finance hut and poll tax collections 1937-43, KNA, PC/NZA/3/10/167. (report written by revenue officer to the PC Nyanza)

made. To be granted exemption, the widow avoided “inheritance.” Additionally, independent women who were liable for taxation were registered. These independent women comprised those women with marriage problems and were staying with their relatives or in their natal home or runaway women. The schedule indicated that while it was the responsibility of men to pay taxes, the 1930s witnessed taxes levied on women. Taxation was extended to women because, by 1938 the Isukha economy was on the downward trend³⁶⁸ There was limited trade, money was scarce owing to the low prices of primary products, a reduction in wages and lack of work. The purchasing power of the Africans remained at very low level compared with more prosperous previous years.

As labour and taxation remained major aspects of the colonial administration in Isukha, other antecedent factors also got into the interplay. Though socio-economic in nature, they also touched on health status of families. The end of the WWI witnessed the demobilization of men to the reserves. Available colonial documents after the war point to the wide spread of diseases, key amongst them were yaws and syphilis in North Nyanza.³⁶⁹ In fact these two diseases were predominant after the war in Kakamega either due to returning soldiers or returning labourers. Oral data indicated that these diseases were common among migrant labourers in Isukha.³⁷⁰ Return of both soldiers and labourers to their rural home also introduced new uncustomary practices which they had adopted from other people wherever they worked. One of the participant stated that some of the men returned with promiscuous sexual customs that was contrary to the Isukha customs relating to sex. The returnees, upon return, organized dances through which they practiced promiscuity and spread sexually

³⁶⁸ Ibid.,

³⁶⁹ Sanitation monthly Report North Kavirondo 1937-1940, KNA, PC/NZA/2/14/29.

³⁷⁰ OI., Lena Khakhuya, 25/12/2017

transmitted diseases.³⁷¹ They had adopted the practice of sharing women because there was short supply of women whenever they went to work. Access to the few women was, in most cases, only possible through prostitution.

Married migrant labourers who indulged into prostitution also indulged in adultery contrary to Isukha customs. Thus, colonialism was accompanied by several repercussions to marriages. Migrant men upon their return infected not only married women but also unmarried young girls with different types of diseases. The notable among the Isukha was syphilis. As there was no adequate form of treatment for women and girls, several of them suffered secretly and even became barren. These diseases weakened many women and men, such that the health status among the Isukha deteriorated remarkably during the same period.³⁷²

Using land, labour and tax policies the government was able to restructure Isukha economic organization subsequently transforming family organization. The responses to these changes affected marital stability among the Isukha. Participants claimed that under normal conditions, the need to pay taxes was not the most important factor influencing men to seek employment. The reasons given included; desire to have many wives, a desire for various consumer goods (particularly clothes), and a curiosity to see new places and relief from ennui of rural life.³⁷³ However, in famine years, wage employment became a necessity, not just for taxes but sometimes for subsistence as well.

Finally, one cannot fully state that the choice was entirely a free one because the wishes of the authority had a profound influence on the African economic decisions

³⁷¹Natives in townships 1931-44, KNA, DC/KMG/1/1/148.

³⁷² Ibid.,.

³⁷³ OI., Andrew Mulima Shirandula, 31/12/2017

and the wish of the authority was still that the Africans should go to work. Most of those who joined wage labour in the 1920s were unmarried but many got married before the end of the period. More than half of those who left for work during this period stayed for a period of between 15-20 years. Of the remainder many worked and completed contracts and then returned to their homes to rest or never to go back to work or only for a brief rest. But whether the labour was long term or not the impact was bound to be striking during this period.

3.4 The Impact of Urbanization and Monetization of the Economy on Isukha Marriage

Government services and commercial activities were mainly centered in urban centres. The urban centre which played a role in changing the Isukha culture relating to marriage was Kakamega Township. Kakamega gained prominence after Mumias was found to be an unsuitable government station from health and sanitation point of view because of outbreaks of Bubonic plague. As a result, the government station at Mumias was transferred to Kakamega in the heartland of Isukha people.³⁷⁴ Kakamega as already noted was started as a fort by IBEA Co. It was here that the caravan of the British trading company made a stop before reaching Mumias. Fort Maxsted, which existed in Kakamega town, was in Isukha land. The transfer of the government station from Mumias to Kakamega in 1909 had a profound impact on the social life of the Isukha people. Firstly, some Indians moved from Mumias to Kakamega because of the security which was offered by the colonial administration. So Kakamega became a trading centre. Indians availed western goods of all kinds to Isukha men and women. But, the presence of Indians, wherever they were was a stimulus of agricultural

³⁷⁴ In 1894, Mumias was the headquarters of North Nyanza District and in 1901 it was gazetted a township. But in 1920 the district headquarters was shifted to Kakamega from Mumias. From then onwards the role of Mumias was reduced to that of a trading centre. (See Murunga, 1997:5)

production because most of them traded in farm products. As a result, the number of Indian-owned shops increased in Kakamega town. The shops sold among other items ‘cloth, wire, blankets, knives, umbrellas, cups, helmet, second hand clothing, beads and pipes’.³⁷⁵ According to the PC, John Ainsworth:

“There is an increasing demand for shirts, Kanzu and Khaki clothing, and also folding chairs and most strange to relate, safety pins are somewhat in demand as an ornament. Among the most wealthy and important elders, Arabs Joho find a limited sale. The Kavirondo are known generally as a naked race, it is however, surprising what a large number have begun to clothe themselves even within the last year.”³⁷⁶

This attitude was to continue in relation to missionary education in Kakamega with some administrators associating dressing to missionary education, urbanization and progress. It is evident that the items exchanged in the shops were mainly imported ones. The demand for these items seemed to grow gradually and drastically.³⁷⁷

The demand for imported goods by the Isukha led to two things. One Isukha men increased their agricultural production the surplus of which they would sell in order to buy the imported goods. To do this, they needed to put more land under farming. This had an impact on Isukha marriage because men either married more women to supply the much needed labour or a man would simply marry a hard-working wife who would guarantee higher agricultural production. This was to affect the next generation of men. -In other words, while in the past, men married more women as a source of pride, subsequent generations changed their attitude towards polygamy as money increasingly became a status changer. So, in some instances, the demand for money with which to buy imported goods led to a reduction in the value for polygamy.

³⁷⁵ P.A. Memon., “Some Geographical Aspects of the History of Urban Development in Kenya”, In *Hadithi 5: Economic and Social History of East Africa*, B.A.Ogot (ed.) (Nairobi Kenya Literature Bureau Memon, 1976), 150.

³⁷⁶ North Kavirondo District Annual Report, 1923, KNA, PC/NZA,1/4.

³⁷⁷ Ibid.,.

Taxation and trade increasingly led to adoption, by Isukha men, of money and imported goods as a source of pride.

All men aged over sixteen years paid poll tax, which carried a three-month sentence for defaulters. The initial rate of three rupees kept on being raised as time went by in order to push more Africans out of their homes to seek paid work.³⁷⁸ This is notwithstanding the fact that initially payments in kind had been accepted. By insisting on money, the monetization of economy went hand in glove with the commoditization of production.³⁷⁹ Tax was to be paid in monetary form. Imported goods were also to be bought by use of money.³⁸⁰ The need for money drove young Isukha men to search for paid work while at the same time enabling them to buy imported goods. Taxation reduced men's appetite for polygamy because the more wives one had, the more hut tax he would have to pay. Isukha culture required that every wife be housed separately. As elders put more land under farming to cultivate surplus food crops, there was increasing scarcity of land to be given to younger generation of Isukha men.

The outmigration of young men from Isukha land created a scarcity of men against an increasing supply of women. As time went by, and as a colonial measure to further monetarize the economy, the colonial administration encouraged that bridewealth be paid in monetary form. This, further stimulated trade in Isukha land and with this emerged class differentiation. A new class of Africans emerged in Isukha land so that while the colonial administration did entertain polygyny, as this was in conformity with Isukha customary law, the ability of men to pay bridewealth in monetary terms

³⁷⁸ Van Zwaneberg. *Colonial Capitalism and Labour in Kenya*, 77.

³⁷⁹G.R. Murunga., *Urban development and socio-cultural heritage: the case of Mumias Town in western Kenya*, Paper presented during the 1997 Kenyatta University Cultural week seminar. 12th-16th May 1997

³⁸⁰ Esese, *Agriculture and Socio-economic change among the Wanga of Mumias Division*, 203.

differed from one man to the next. Even though the colonial administration did seem to encourage polygyny by encouraging people to live according to their customs, they discouraged the practice indirectly through laws and policies. Monetary wealth became a defining feature of polygyny marriage.

Monetization of the economy went hand in glove with the monetization of culture and politics. While the precolonial Isukha depended on livestock as a form of exchange in marriage relations, political power which the colonial chiefs were granted through English laws and the economic power which they gathered by virtue of their wages and corrupt dealings enabled some of them to even snatch other people's wives and land. Murunga observed that the overriding interest of the colonial government was not in the growing of trade based on the logic of merchant-capital. This trade was important only in transforming the local tastes and needs to integrate the local needs and tastes into the production patterns of foreign capital. The trade did not therefore contribute much in terms of development of the local economy. Rather the said items were merely circulated on a global scale and this did not add new products on the local market or economy.³⁸¹

The colonial administration made sure that the wages paid to Isukha men who went out to work was not enough to sustain them and their families (cheap labour). As such, even the working men in Isukha land did not earn enough to enable them marry many wives or provide enough subsistence to the one or so that they married. This was deliberately encouraged in order to maintain a steady supply of labour. Kakamega Township, as a trading center, was important in encouraging agricultural surplus

³⁸¹ G.R. Murunga., "Urban development and socio-cultural heritage: the case of Mumias Town in western Kenya", Paper presented during the 1997 Kenyatta University Cultural week seminar. 12th-16th May 1997.

production and availing imported goods. Its importance increased with the discovery of gold as examined in the next section.

3.5 Gold Discovery in Kakamega and its Impact on Isukha Marriage

Kakamega was soon to attract government attention in the 1930s when gold was discovered at Rostermann.³⁸² This was the period of great depression, and Kakamega survived the problems generated by the depression due to gold mining activities. Hitherto, Kakamega station had begun attracting Indians and Arab-swahili from Mumias. The shops in the town were owned mainly by Indians and Goans who transformed their pre-occupations from government workers to private businessmen. The station therefore acquired a new morphology. In 1928, it was reported that: “the progress made in the conversion of the station composed of wattle and daub *bandas* more or less obscured by long grass and bush, into a well-kept township of modern houses, has been considerable.”³⁸³

By the end of the year, the building programme in Kakamega was complete with five houses, an administration store and a hospital. Four other houses were rapidly approaching completion and a water scheme was in course of construction.³⁸⁴ It is this establishment of a European station plus the discovery of gold in the 1930s that boosted the significance of Kakamega. The first European shop in the township was opened in 1932. In 1933 their numbers had increased to warrant a European chamber of commerce. Kakamega thus enjoyed great importance, and before gold mining prospects diminished in 1936 the impact of this on Kakamega was considerable.³⁸⁵

The negative impact of gold mining on Isukha people lies in the fact that much of the

³⁸² Aseka., *A Political economy of Buluyia, 1900-1964*, , 320.

³⁸³ Kakamega Township, KNA, DC/NN 3/4/2.

³⁸⁴ Ibid.,.

³⁸⁵ P.A. Memon., “Some Geographical Aspects of the History of Urban Development in Kenya”, In B.A.Ogot (ed.) *Hadithi 5: Economic and Social History of East Africa*, (Nairobi Kenya Literature Bureau, 1976),150.

land was alienated for gold mining. However, some short-lived prosperity derived from gold mining benefitted Isukha married and unmarried men as most of them secured employment on goldfields.

Apart from land alienation for goldmines, land was also alienated for schools, mission stations, public works like roads and in 1930s. Wagner reported that;

a total of 65000 acres of native lands has been required for mining purpose, a fact which especially during the first few years after the discovery of gold-fields caused considerable anxiety among the native population.³⁸⁶

It was this land issue that played a dominant role in the unfolding patterns of African political consciousness in North Kavirondo. The discovery of gold in the district in 1931 and the subsequent miniature gold rush stimulated the formation of the North Kavirondo Central Association, also known as the Abaluyia Central Association. The alienation of Kakamega land for gold prospecting changed the hitherto pre-capitalist land tenure system completely. Anxiety among family members that they would be evicted to the overcrowded reserves increased. Some of the gold-fields were initially used as pasture land and this meant usufructuary land rights in such places were no more. Many people dashed to the mines to seek-wage labour to earn some money for the family up-keep and to pay taxes. Alienation of land among the Isukha, meant that agricultural land shrunk and subsequently agricultural production declined. By 1934 most of the cereal or food for sale at Kakamega market were brought by Kabras, Tsotso, Marama and Tachoni.³⁸⁷

It appears that the Isukha concentrated more on mining at the expense of subsistence farming. As energetic labour joined the mining companies, family or household

³⁸⁶ Wagner, *The Bantu of North Kavirondo*, ,10.

³⁸⁷ Kizito, *Impact of economic activities on the ecology of the Isukha and Idakho areas of western Kenya* 159.

labour was weakened and thus the families were unable to produce enough food for themselves. That is why the little earnings of the people from mines went to purchase food for the families from the Kabras and Bustosto people at Kakamega market. Another hazard caused by mining was the prevalence of malaria disease. Due to digging holes and stagnant pools of water, the breeding of mosquitoes increased. The colonial Kakamega officer reported that:

Malaria is on the increase. It is impossible with the present staff to exercise adequate control against malaria in the extensive gold fields areas. It is not even possible to control mosquitoes breeding properly in and around the Kakamega Township.³⁸⁸

Mining also created conditions for the breeding tsetse flies that affected both people and livestock. A number of people died due to collapsing mines or due to diseases related to mining activities. Contagious diseases like scurvy, diarrhea, syphilis and asthma were rampant.³⁸⁹ Mining in this area also led to flourishing business in Kakamega. Food was brought from all over Luyia to be sold at Kakamega. The Indians benefited quite a lot as they sold commodities ranging from boxes, super cigarettes and the likes. By 1936, Kakamega was bustling with life and it was that which led to the expansion of the town in the colonial period. Although PC Montgomery argued that gold mining increased native wealth due to employment, at the end of the activity the Isukha remained in a state of poverty and alienation mainly because the little money earned from gold mines was channeled into domestic purchase of food and personal subsistence and not for investment.³⁹⁰ Instead, the

³⁸⁸Sanitation Kakamega 1925-1928, KNA, PC/NZA/3/9/4.

³⁸⁹ Kizito, *Impact of economic activities on the ecology of the Isukha and Idakho areas of western Kenya* 160.

³⁹⁰ G. Wash and H.R. Montgomery, *Colony and Protectorate of Kenya: On Native Taxation* (Nairobi: Government Printer, 1936).

mining companies grew richer and richer and the profits were repatriated back to the metropolises.³⁹¹

Even though the gold mining prospects diminished in 1936, it was still a major business towards the 1940s. This was a business which attracted young men in search of work and money. But even though they got work and money in gold mines, most of them perished due to occasional accidents which erupted from time to time. In the senior inspector of mines, Mr. F.C. Cabris, wrote to the medical officer in charge of Kakamega, Dr.P.D. Connolly, in November 1935 stating that: "I sincerely hope you will not be offended by me constantly asking you questions regarding mining accidents which have recently occurred in the district."³⁹² Accidents led to premature death of Isukha men and the widowing of Isukha women. This presupposes the increased incidents of widowhood and wife inheritance (remarriage) among the Isukha in the wake of gold discoveries.

However, gold mining in Isukha minimized migration of male labour to far off places. It kept men within range but it also offered young men the money required to marry and maintain wives. It is worth noting that appetite for polygamous marriages diminished in the face of diminishing economic prosperity that marked the gold mining season among the Isukha people. When gold mining prospects diminished in Isukha, men once again had to migrate to far off areas in search of paid work. Since these men, especially married men took long to return home, many wives ran away from their homes. Generally migrant labour created in its wake the problem of runaway wives.

³⁹¹ Ibid.,

³⁹² Annual Report North Nyanza 1935, KNA DC/NN/1/17.

3.6 Run-away Wives and Impact of Migrant Labour on the Institution of Marriage among the Isukha

When labour problem was acute in 1919 Cranworth stated that “.... As time goes by the native will get to appreciate luxuries, such as better clothes, food, gramophones etc. and then it would seem that the labour supply will be more elastic.”³⁹³ Mr. Ainsworth, the once PC of Nyanza Province, whose views on labour were not very popular but whose services to the protectorate during the war could not be forgotten, was a strong supporter of the view that it was desirable to introduce the Africans to the luxuries of civilization. He held that once the delights of cheap oleographs in the huts and the raucous screams of a gramophone playing the latest topical songs were known “no self- respecting ‘*bibi*’³⁹⁴ but will demand the same of her wage earner.”³⁹⁵ And when the women demanded, what was there for the down trodden sex but to comply? “There were only two channels whereby the natives could meet this demand, theft and work.”³⁹⁶ Many men chose work. This led to the development of certain concepts in the inter-war period.

Going to the work place at Kakamega gold field and other towns like Eldoret, Mombasa and Nairobi began to be regarded as superior activities and was quite attractive and by 1930s³⁹⁷ it was developing as part of Isukha culture so that young men were frequently asked *usamulanga/uyinzila hena* (where do you work) as part of the introduction. It was very respectable to respond by stating the area of employment and rather embarrassing to be a mere *engo* (just at home). In fact it was beginning to

³⁹³ M.A. J. Ndeda, *The impact of male labour migration on rural women; A case study of Siaya District C. 1894-1963.*” (Ph.D. Thesis Kenyatta University, 1991), 234.

³⁹⁴ Ibid., Bibi Kiswahili word for wife

³⁹⁵ Ibid, 235.

³⁹⁶ Ibid.,

³⁹⁷ Labour employment of servants mines labour 1933-47, KNA, DC/KMG/1/9/8.

affect marriage arrangements in that part of the bridewealth was now paid in cash and the person with ready cash was mostly respected.

It was also becoming respectable for a woman to contract marriage with a man who worked as a wage labourer, however, if a woman was unlucky as to be married with a man who was just at home she had to persuade him to go and seek wage employment. These concepts were given high value irrespective of where, a person worked, how much he earned or whether all he had was borrowed. Borrowing became common among the Isukha because they always wanted to create a different impression when they went home. It is only later that many women began to discriminate between farm workers and labourers.³⁹⁸ Isukha people were beginning to attach value to a system without realizing its exploitative nature.

There is evidence that more people were leaving for work with the consent of wives if they were married and relatives if they were not. Married women valued the whole idea of going to work because it was prestigious and also the source of items they could not hitherto afford. During research, most female participants responded that women were happy to be married to labour migrants or when their husbands decided to migrate. These women also acquired a new status of respect. This was particularly obvious either when they returned from the occasional shopping visits to Kakamega town or when they received remittances in cash or kind (*Shikapu* basket with assortment of goods) were sent. But in spite of this value to the whole migrant labour system, many women were disappointed particularly when their expectations did not materialize. They were promised remittances that were either not forthcoming or irregular. The migrants who had only left as “target workers” had found wage work attractive and were beginning to make longer stays in the work places. Some of the

³⁹⁸ OI., Peter Lubelela, 02/01/2018

workers came back home only occasionally. What this boils down to is that the whole system was not devoid of nasty effects.

As early as 1927, the Labour Commission Report stated that; “it was realized that repeated absence of male adults even for a short period was detrimental to family life and so recommended that whole families should be encouraged to become permanently resident in the alienated areas where satisfactory conditions should be provided for them.”³⁹⁹ It was evident that Africans were becoming detached from their localities and wives. Many of the wives travelled to the husband’s working places but the frequency of travel was conditioned by the requirements of the agricultural cycle, as well as the number and ages of children, financial considerations and whether or not their husbands wanted them to visit. The younger wives visited more frequently. Desire to become pregnant again was one other thing that made wives visit husbands frequently and stay for longer periods away from their matrimonial homes. As responsibilities increased the visits became less frequent. The contact between husbands and wives was also maintained by visits to the rural areas by husbands and also by letter or messages sent through intermediaries who might be travelling to the area.

Some women only visited husbands because they were forced to. For example, one of the participant “Sara” stated that she never wanted to go to the work place of her husband because she felt bored. She enjoyed home chores so she nagged her husband until he let her to go back to her matrimonial home. She allowed the husband to marry another wife who could stay with him in town.⁴⁰⁰ Esther did not go to her husband’s place of work at all because it was; “wasting time at either at the place of work or in

³⁹⁹ KNA, Report of the Labour Commission of 1927, (Government Press, Nairobi: 1927), 57.

⁴⁰⁰ OI., Sara Shitambatsi 27/12/2017.

rented houses.⁴⁰¹ But Lena's relationship with her husband was not good starting from 1933 to 1956 when she made the first and last visit but only to confess her sins to her husband because she had accepted Jesus as her Saviour."⁴⁰² There was also fear that other women would scorn at them because they had no grain in the granaries.⁴⁰³

Although women would have their husbands go to earn cash, the situation was hardly free of anxiety and worry for wives. They worried that husbands would not be reliable in sending money but use it on either beer or would marry and spend it all on other women. In addition, the women were fearful that children might not know their fathers and would lack the discipline and control of their fathers, although of course, other male relatives were available to discipline them. Young wives had more problems. They were trying to find their way in a new marriage and here they were left in the care of aging parents or brother-in-law and other co-wives. When women became lonely or unable to cope they established closer links with their natal homes. The young wife became increasingly worried particularly if she did not have children because it was through them that one established her position in the marriage.

Women also faced the problem of multiple roles. Economically women were not only involved as agricultural producers but also as makers of various handicrafts such as pottery and baskets. Some of the handicrafts were made for home consumptions while others were made for exchange purposes. Where there were cattle, it became the responsibility of women to tend them. Women also undertook their normal chores of housekeeping and caring for children. Although non-productive, these concerns were essential to the wellbeing of the family and could be considered economic work. Duties such as cooking, fetching water, collecting firewood could be considered non-

⁴⁰¹ OI., Esther Busolo Bulinda 9/01/2018

⁴⁰² OI., Lena Khakhuya, 25/12/2017

⁴⁰³ OI., Christine Muhatia, 18/01/2018, and Sara Shitambatsi 27/12/2017

productive because no tangible value accrued from the labour expended. Women were sometimes harassed by tax collectors who took chicken and even grain.⁴⁰⁴ There was also the fear of thieves who stole cattle and sometimes grains in the granaries as well as wild animals which came occasionally and ate goats and sheep in their sleeping places.

During the 1934 and 1937 famine, the women became extremely anxious, particularly if they had many mouths to feed.⁴⁰⁵ Their anxiety also increased during the rains when some of the grass thatched houses leaked profusely. Apart from these fears, due to long absence of most migrants, women became heads of households. They assumed authority from their male kins, not as a defiance of male authority or a remaking of gender relations, but because they had to. It is evident that families witnessed extreme hardships in surviving in the Isukha area especially in the rural areas in the absence of males and sometimes for long periods. Many women accepted their position and settled in their marital homes despite male absence even though there was a small group that could not cope who fled their marital homes.

A major effect of the absence of husbands was the issue of “runaway” wives.⁴⁰⁶ This was an issue of major concern particularly in the 1930s. In 1939 PC stated that the practice of “runaway” wives was on the increase and seemed to be undermining the social life of the Luyia.⁴⁰⁷ Most of the run-away wives did so because of loneliness. Some husbands did not communicate with their wives at all and took long before going back to their homes in Isukhaland on leave. Moreover, the woman was left with the relatives of the husband who were sometimes harsh. Women were also likely to

⁴⁰⁴ Hut and Poll Tax Collection 1937-43. KNA,PC/NZA/3/10/167.

⁴⁰⁵ OI., Peter Lubelela,02/01/2018.

⁴⁰⁶ Women who left marital homes with other men or simply left to return to their natal homes.

⁴⁰⁷ Hut and Poll Tax Collection 1932-46, KNA,PC/NZA/3/10/170.

have been attracted by the well calculated moves of the returnee migrant and sometimes by the attraction to the place of work of returnee migrants. The experience of the labour migrant was new. Migrant labourers acquired contact with the wider world as a result of this. Most migrant labourers no longer looked with respect at the old rules for guidance. The migrant returned to the village with a new outlook, an attitude of skepticism and respect for elders went down. This created disruptive moral standards and family life. There were disputes over long absence and the laxer morals of the returned workers.

The young migrants who returned home briefly were not only eloping with young girls but also with young lonely wives of their fellow migrants. For example, some of the young migrants went to the extent of eloping with young wives of those who did not migrate. Numerous complaints were made at the PC's office by husbands of the women, that their wives, after a very short residence in the settled areas, proved unfaithful and that due to the distance of Nyanza the husbands were robbed of the means of redress. The offenders were mostly from Nairobi. In certain cases, they seduced and made off with women or other peoples' wives. The Thika DC felt that the moral outlook of the women from Nyanza was notoriously Catholic. Consequently, "any out-of- work Don Juan from Nairobi found them easy prey."⁴⁰⁸ But it is likely that the acclaimed husbands had in fact eloped with these women in the first instances. During the depression the situation grew worse. There was an unusual amount of young-able bodied men living in the rural areas. One would have expected the outcome of this to be a great increase in the production of crops, a marked improvement in the methods of planting and harvesting and storing due to the experience learnt on European farms. However, the most noticeable feature was the

⁴⁰⁸ (Letter PC Nyeri to PC Nyanza, 15.6.1934, Marriage, divorces and succession: African general correspondence KNA,PC/NZA/4/11/1.

number of complaints because these young men spent their time irresponsibly. Worse still many married women were forsaking the husbands and going off with these young men, usually impecunious who had no fear of the consequences.

Another major development was the growth of organization and individualization. A man and his wife or wives began to be viewed as a single unit. The traditional lineage and neighborhood work groups, although still functioning, were beginning to lose importance. Ties and obligations of kinship and neighborhood were beginning to be irksome to the men who could earn money and aspired to a new way and standard of living. Not only were the effects of migration on the family extensive in terms of the numbers affected but there were also indications of long-term effects influencing the family's life for many years. For example, a man who spent approximately 40% of his working life away from home (about 20 years) was absent in the most critical years of marriage and during years when children were growing up. This meant that family members lived apart for much of the time and this eventually led to the erosion of family relationships.

Effects of long separation must have been substantial and long lasting. In certain instances, women established relations with other men that led to birth of illegitimate children within the migrant's household. These women survived in their marriages only because the Isukha community kept such issues secret. Since it was an anathema to mention such, it was extremely hard during research to obtain specific examples of women who got such children. These are problems which could not be solved by remittances. Separation at families definitely led to undesirable associations and yet the migrant system was almost the only viable economic choice the African male could make.

3.7 The Missionary Penetration and the Isukha Response to Marriage

Unlike among the Wanga of Mumias, the Isukha marriages were not transformed by Arab-Swahili traders because Islam was mostly concentrated among the Wanga, away from Isukha. Isukha land was useful in terms of helping Arabs get merchandise. Isukhaland was thickly forested, the remnant of which today is Kakamega forest. This thickly forested land of the Isukha was beaming with elephants. However, there came other visitors in Isukha land who would have an impact on their marriage. These were the early Christian missionaries. The Establishment of Christian missions in the area of study date back to 1894 when the Church Missionary Society (CMS) established a station at Nasuti in Busoga.⁴⁰⁹

After the establishment of imperial control and the completion of the railway from Mombasa to Uganda, mission activity increased. This was because communication with the outside world was possible, and official protection was available.⁴¹⁰ The American Friends African Mission (FAM), also known as the Quakers, opened their first station at Kaimosi in 1902.⁴¹¹ The Roman Catholic, Mill Hill Mission (MHM) expanded from Uganda and founded their first station at Kisumu in 1903; from here they spread to Mumias (1904), Ojola (1904), and Kakamega (1906).⁴¹² Their expansion into western Kenya was prompted by the need to minister to their Ganda converts employed as porters on the railway or in the port at Kisumu. Indeed, by 1904 about 500 Baganda were living at Kisumu, and most of them were Christians with the

⁴⁰⁹E.A. Barker, *A short History of Nyanza*. (Nairobi Kampala, Dares Salaam: East African Literature Bureau, 1950), 25.

⁴¹⁰ A. Wipper., *Rural Rebels: A study of two protest movements in Kenya* (London: Oxford University press, 1997), 162.

⁴¹¹H.M. Amatsimbi., (2009). *The Friends church and Economic Transformation Among the Luyia of Western Kenya, 1902-1988*(D.Phil Thesis., University of Nairobi, 2009), 36.

⁴¹² H. Burgman., *The way the Catholic church started in western Kenya* (London: Mission Book Service, 1990),4-5.

rudiments of literacy.⁴¹³ The South African Compounds and Interior Mission later called the American Church of God (COG) established themselves at Kima in Bunyore in 1905 while CMS established their station at Vihiga in the same year. In 1906, the CMS moved to Maseno.⁴¹⁴

The initial impetus for the early Christian penetration of Western Kenya, then, was provided by the need to counteract the Muslim presence. In the case of Isukha, however, such motivation did not exist because the Isukha had little contact with Muslims. The Christian missions in the area included mainly MHM of the Roman Catholics and FAM. The establishment of Christianity in Isukhaland was couched within the broad process of Christian missionary expansion in Buluyia. The inception of Lirhanda station in 1906, among the Isukha, arose out of the fear that the MHM of the Roman Catholic would outmaneuver the FAM and seal them off from the Luyia populations located to the north of Kaimosi.⁴¹⁵ The FAM missionaries then wrote to the America Friends Board of Foreign Mission, arguing that the Lirhanda station would open the door to the north, an area the Catholics were keen to occupy. Further, FAM missionaries wrote to the government requesting for land to set up a station among the Isukha. Consequently, in July 1906, the government allocated the Friends church 52.14 acres at a total price of Shs. 6/-, to establish a station at Lirhanda.⁴¹⁶ However, just two months after the Friends occupied Lirhanda, the MHM order of the Roman Catholic also laid claim to a site at Mukumu among the Idakho, about three

⁴¹³ J.M. Lonsdale, *A Political History of Nyanza, 1883-1945* (Ph.D. Thesis, Trinity College Cambridge, 1964), 193.

⁴¹⁴ Baker, *A Short History of Nyanza*, 25-26.

⁴¹⁵ H. M. Amatsimbi. *The Friends church and Economic Transformation Among the Luyia of Western Kenya, 1902-1988* (D.Phil Thesis., University of Nairobi, 2009), 71.

⁴¹⁶North Kavirondo District Annual Reports, 1923, KNA, DC/NN/1/4.

kilometers from Lirhanda, on the grounds that it was “better to start both stations at the same time, than give the Friends a year’s advantage.”⁴¹⁷

With the demarcation of spheres of influence among the Protestants, conflict between the Friends and Catholics quickly emerged. The Lirhanda FAM station had been established about three kilometers from the Catholic at Mukumu. When Lirhanda Friends station began establishing out-schools, it soon came into conflict with headmen like Uambili, Majanja and Shimanyole, who did not share chief Ichivini’s support for the Friends Missionaries.⁴¹⁸ Consequently, in April 1913 Edgar Hole was ordered by the provincial administration to close all the Friends out-schools in Isukha. Although the schools were re-opened a few months later, this friction persisted and was a major factor in limiting the influence of the Friends in the Isukha area.⁴¹⁹

With the inception of FAM in Isukha there were at least three significant cultural conflicts. First, the gospel message whose core teaching was based on Jesus Christ was in conflict with local beliefs and practices. Second, was the attitude which the missionaries had towards African traditional values and beliefs. Third was the impact of these attitudes on the African converts and others.⁴²⁰ The FAM attacked some of the African institutions, such as marriage system and wife inheritance, it took a very firm stand on polygyny and adoption of monogamy became one of the acid tests for church membership. However, these were some of the African institutions the Europeans did not understand. In a letter to the Chief Secretary, on the issue of marriages contracted in the “native reserves” in accordance with tribal laws and customs, the PC of Nyanza stated as follows:

⁴¹⁷ Ibid.,

⁴¹⁸ OI., David Kwasira, 8/01/2018.

⁴¹⁹ Nyanza Province Annual Report, 3/31/1913, KNA, PC/NZA/1/8.

⁴²⁰ Amatsimbi, *The Friends church and Economic Transformation Among the Luyia of Western Kenya*, 65-67.

Amongst all the tribes polygamy is the rule. *Mahari* (Bridewealth) is in all cases the basis of contract. The mahari practically represents payment for the woman in her transfer from her father or brother to the man who takes away from the service of such father.... The girl is practically a free agent provided the prospective husband is prepared to pay mahari demanded, but the tribal custom frequently prohibits marriage by girls to men of another distinct tribe.⁴²¹

Bridewealth was one of the most misunderstood aspects of African marriage customs. It involved giving to the bride's parent's gifts in form of cattle, goats and beer. It was after this that the Africans regarded marriage completed. It also gave surety and stability to the marriage. This cultural activity shocked the missionaries a great deal. To the missionaries and other colonialists, the marriage process, particularly the exchange of bridewealth was like purchasing a wife for cash. They assumed that the Isukha considered a man's wife an indication of his wealth. Equally, they thought that the fathers value their daughters for the bridewealth for which they will one-day fetch.⁴²² This practice was extremely affected by the introduction of cash economy. For the missionaries, the Isukha bridewealth system was a mere mercantile transaction and resolved to discourage the practice. However, as observed by Andere, the missionaries in Isukha failed to recognize that:

Marriage among the Isukha was a social affair. It was an arrangement involving not only the bride and the groom, but also both families of the bride and the bridegroom. The elders and the women from both families were fully involved in discussing marriage arrangements. There was always a transfer of wealth in the form of bridewealth from the parents of the bridegroom to the family of the bride. The bridewealth was given to different members of the family. For example, some a heifer was given to the mother of the girl, a heifer for the girl's maternal uncle a bull to be slaughtered for the elders of the clan and two heads of cattle to two of his brothers. Bridewealth acted as a guarantee that marriage would last. If divorce became inevitable then the wife's parents would return the bridewealth to the parents of the husband.⁴²³

⁴²¹North Kavirondo District Annual Report, 31/3/1918KNA, DC/NN/1/1.

⁴²² F.B. Webourn. *East African Christians* (London: Oxford University Press, 1965), 120.

⁴²³Political records book for North Kavirondo, KNA DC/NN/3/2/21

Both the colonial government and the missionaries had no hesitation in attacking the African marriage system. To their disgust, the African marriage system did not resemble Section 33 of the East African Marriage Ordinance of 1902. This Ordinance allowed for a “civilized” form of marriage under monogamous conditions between individuals married according to the native law and customs.⁴²⁴ While the Isukha marriage involved families of both the bride and the bridegroom who ensured that the couple stayed together and honour their marriage contract, the Christian marriage emphasizes wide latitude of freedom of individual action.⁴²⁵ Divorce in the Isukha society was something almost unheard of, since it was not a matter of individual decision but a clan affair. A woman could not be dismissed by her husband without the consent of his family.⁴²⁶

Among the Isukha, a man could marry as many wives as he could afford to maintain. Polygyny was considered an “economic investment” because the wife was seen as a potential child bearing member of the community, a matter of prestige and a status symbol. The practice of polygyny offended the very strict western Christian views about monogamy and was ranked high on the list of native customs to be deprecated. All efforts were made to eradicate it. FAM played a leading role in efforts to eradicate the practice in areas occupied by the Africans, they demanded:

Although the few converts discarded customary marriage contracts in favour of Christian marriages, some of them soon lapsed into polygamy and married other wives. The economic significance of women in labour provision and their social importance in procreation remained a major contributory factor to this trend.⁴²⁷

The missionaries however failed to see the profound aspect of the Isukha polygamous family relationships. As a consequence, they demanded; the registration of the first

⁴²⁴ Marriage Ordinance 1902 and matters under 1924-1926, KNA PC/NZA/3/28/1/1

⁴²⁵ Ibid.,

⁴²⁶ Political records book for North Kavirondo, KNA DC/NN/3/2/21

⁴²⁷ Native Marriages 1924-1926, KNA PC/NZA/3/28/4/1

marriage not only to teach the indigenous communities that administration did not recognize polygyny contracts as valid according Protectorate Laws, but also to mean the protection of the first wife in any of the Protectorate Courts, as dissolution of such marriage could only be obtained by a man in a legal divorce.⁴²⁸ The P.C Nyanza further explained that: “as matter stands at present I believe a marriage contracted in the reserves in accordance with the native law and custom is not marriage according to the law of East Africa Protectorate, and cannot be made such unless there is a legislation to allow its validity.”⁴²⁹ Table 3.2 below shows the churches that were licensed for the celebration of marriage in North Kavirondo.

Table 3.2: Selected Churches licensed for the celebration of marriage in North Kavirondo 1902-1926

Township, District	Church	Denomination	Date of Licence
Mumias	St. Joseph’s Mission Church	Roman Catholic	10/08/1906
Kakamega	Mill Hill Mission Church	Roman Catholic	1/01/1909
Kaimosi	Chapel	Friends Africa Industrial Mission	15/05/1909
Butere Kavirondo	North Church	Church Mission Society	02/01/1918
Butere Kavirondo	North Chapel	Church Mission Society	06/08/1918
Mumias	St. Peter’s Church	Roman Catholic	01/08/1919
Kakamega	Church of Sacred Heart	Roman Catholic	01/08/1919
Eregi	St. Austin’s Church	Roman Catholic	01/08/1919
Maragoli Kavirondo	North Place of public Worship	Friends Africa Mission	03/06/1923
Bunyore Kavirondo	North Chapel	African Institute of Church of God	30/03/1925

Adopted From: KNA, PC/NZA/3/28/1/1 Marriage Ordinance 1902 and Matter Under

⁴²⁸ Marriage Ordinance 1902 and matter under, KNA PC/NZA/3/28/1/1.

⁴²⁹ Ibid.,

The impact that Catholic and FAM missionaries had on Isukha family system was alarming. It showed that the missionaries had not given the family system much thought. Wives in polygyny marriages were sent away by husbands who wanted to become Christians, but how about their children who were forced to leave with them? Most of these wives who had no alternative after being sent away by their husbands easily joined the African independent churches which did not discriminate against them. Some wives were sent back to their husbands after the husband had received baptism. In other cases some men became polygamists even after baptism.⁴³⁰

In Isukha some form of mobility to town had been noticed among these women. This practice resulted into several cases of bridewealth return. Section 13 of East African Ordinance together with the African Marriage Ordinance put the practice of polygyny in a precarious position.⁴³¹ It required that, “any native who failed to register his marriage with the provision of this ordinance will not be liable to court assistance should any case be preferred. The marriage certificate expressed that the union was legalized, as expressed by one of the participant below.

COLONY AND PROTECTORATE OF KENYA

76222 Certificate of Marriage (Native Registry)

Marriage solemnized at Nalora in the District of N. V. Kavirondo
in the Province of Nyanza

When Married	Name and Residence	Age	Condition	Rank or Profession	Residence at the time of Marriage	Father's Name and Residence	Rank or Profession of Father
Sept. 1917 Aug. 1917	[Redacted]	21	Barbarian	Peasant	Vipkaywa Kahomeya Shonderon	[Redacted]	[Redacted]
	[Redacted]	18	Spinster	Peasant	Kahomeya after baptism by [Redacted]	[Redacted]	[Redacted]

Married in the presence of Zerinda M. Uera Chapel

This Marriage was solemnized between us, [Redacted] in the presence of us, [Redacted]

Source: Oral Interview

⁴³⁰ Oral Interview Elizabeth Wendo, 03/01/2018.

⁴³¹ Kavirondo Marriages and Divorces 1935, KNA, PC/NZA/2/9/21,

The certificate is an example of marriage certificate offered by the church to their converts. But if certain flexibility born of experience was evidence on the question of dowry⁴³² and mixed marriages, no such tolerance was extended to practice that the missionaries called “inheritance of wives.”⁴³³ This was where a widow was to be taken as “a wife” of another male member of a husband’s family, often his brother’s death. Andreere observed that:

The other type of marriage involved the widower or the widow. In the case of a widow, she would automatically be inherited by the younger brother or cousin of the deceased husband. This was a socially approved system of family organization in which a bereaved wife was taken care of and in which the children continued to be cared for by someone closer to them in terms of family relationship.⁴³⁴

To the missionaries, the marriage institution, instead of offering social and economic support to widows, was a suggestion that women were in the same category as material possession. As already discussed in chapter two, this custom ensured that widows and their children had their right to a secure home. This was a point of tension which had to be solved if Africa was to come to terms with Christian West.⁴³⁵ The view of the colonial administration was captured when the PC of Nyanza responded that:

Any native woman married in accordance to the Native Christian Marriage and Divorce Ordinance, whether before or after the commencement of this ordinance, shall be deemed to have attained her majority on widowhood and shall not be bound to cohabit with the brother or any other person or to be at the disposal of such brother or other relative or other person, but she shall have the same right to support for herself and her children of such marriage from such brother or other relative as she would have had if she had not been married as aforesaid.⁴³⁶

⁴³² The British called *bridewealth exchange dowry* because of their first contact with Indians before East Africa

⁴³³ R.W. Strayer. *The making of mission communities in East Africa* (London: Heinemann, 1978), 80.

⁴³⁴ Political records book for North Kavirondo, KNA DC/NN/3/2/21

⁴³⁵ Webourn *East African Christians* (London: Oxford University Press, 1965), 122.

⁴³⁶ Kavirondo marriage and divorces, 1935, KNA, PC/NZA/2/9/21.

This was reinforced by the Native Christian Marriage Ordinance of 1904, relevant only to marriages of natives who professed Christian religion.⁴³⁷ When it came to the practice of “widow inheritance”, the ordinance depicted a total Christian view. It contented that the practice not only viewed widows as movable property but also represented such marriage as a mean by which a Christian woman and her children could pass into heathenism and thus be lost to the mission. Polygamy, wife inheritance and bridewealth exchange served a purpose as far as Isukha marriage was concerned. The missionary attempts to eradicate them resulted in the disintegration of traditional Isukha marriage pattern.

3.8 Marriage Relations, The Missionary Activities and Colonial Administration in Isukha 1919-1945

After the First World War the missionaries and the colonial administration renewed their relations under the Alliance of Protestant Mission which declared that:

The settler can help the missionary. As a fellow European, he can make friends with him. As one concerned in the development of the country, he can show an interest in the work of the greatest factors in development, Christian education..... He can act a father and not merely as a critic of a Christian boy who has passed beyond the care of the mission and are now in his employment...He can, by example if not by word help young convert to keep straight.⁴³⁸

The two “partners at convenience” illustrated how far they could go to help each other, these relations, however, could not be realized as missionaries discovered that the lifestyles of settlers was incompatible with that of missionary work. Hasting noted that:

The degree of social identification between mission and the administration or mission and white settler society greatly varied.

⁴³⁷ Ibid.,

⁴³⁸ S.O. Okuro, *The impact of colonial socio-economic policies and practices of female-headed households in Kenya: The case of Kombewa Division, Kisumu District 1894-1963*. cited the policy of the Alliance: Paragraph 58 in J.W Arther Papers, GEN. 764/3, Edinburgh University Library, 119)

Many missionaries held themselves firmly aloof, never joined the local white club and might hardly have been considered sufficiently respectable to be offered a place on the veranda for a sundowner.⁴³⁹

While missionaries considered their work as beneficial to the settlers, because mission trained their labourers, the settlers often criticized the mission for not producing faithful servants and for lobbying British public opinion on defense of “native” interests.⁴⁴⁰ The major concern of missionaries in Nyanza varied during this period. This made it possible for the missionaries in Nyanza, notwithstanding their different lifestyles to utilize their ambiguous relation, to attack the colonial administration on matters concerning forced communal labour and taxation. The man who spearheaded this was none other than W.E.Owen of the CMS Nyanza. Owen lived in African “reserves” himself. He succeeded in keeping the whole forced communal labour issue alive in the British politics. In an attempt to put a stop to what he saw as abuses of African labour, taxation and land, Owen wrote constantly to the local officials later to the British press and finally to the Labour government of 1930.⁴⁴¹ Old men, women and children, according to Owen were widely used in forced labour. His complaints about abuses reawakened the sensitivities among the informed British public. The “increasing pressure” which missionaries were against the coercive method upon women and children.

Ainsworth had encouraged the use of women and children as labour in situations in which their work place was “contiguous to reserves.” Ainsworth suggested that “there was nothing so civil if women and children were willing to work and could readily go

⁴³⁹ A. Hastings., *African Christianity: An easy in Interpretation* (New York: Macmillan Publishing Co.Inc., 1976), 20.

⁴⁴⁰ R.M. Githige, “The mission state relationship in colonial Kenya: A summary” In *The Journal of Religion In Africa*, 13, 2,(1982), 115.

⁴⁴¹ Ibid.,

back to reserves.”⁴⁴² Owen however, asserted that women and children were made to work against their will. Owen shared with persons like A.S Cripps and Oldham the view that “colonialism should as far as possible be benevolent and that it should have as its primary task the development of natives”.⁴⁴³ It was at this stage that the relations between the mission and the colonial state in Kenya seem to have moved from ambivalence, cooperation, to conflict and these phases overlapped.⁴⁴⁴

The missionary activities were not limited to Owen. Before the end of the First World War, they had unleashed attacks on several African institutions, such as bridewealth exchange, polygyny and widow “inheritance”. This time, some of the impacts of these attacks were realized in Isukha on a larger scale. These institutions were further weakened by the colonial administration considering payment of taxes and forced communal labour. The case of bridewealth exchange as had been explained was very problematic to the missionaries. To them bridewealth made marriage a mere mercantile transaction and in 1907 the mission resolved to discourage the practice among baptized Christians as far as possible. In this effort, however they were not very successful for the Christians continued to give and receive bridewealth, given the important symbolic role placed on it by the people of Isukha and other Luyia communities.

Immediately after the WWI, problems arose in terms of bridewealth exchange. This was due to economic stresses suffered by the people of Isukha when it came to using their cattle to pay taxes. After the war taxes were in most cases paid in cash as most people in Isukha had reduced stock. A number of migrant labour who had gone to

⁴⁴² See Ainsworth in, Van Zwanenberg and King, *An Economic History of Kenya and Uganda*, 125-143.

⁴⁴³ R.M. Githige, “The mission state relationship in colonial Kenya: A summary” In the *Journal of Religion In Africa*, 13,2,(1982), 119.

⁴⁴⁴ Ibid.,

work with hope of raising bridewealth were disappointed as they realized that their wages could not adequately sustain their needs, leave alone the needs of their families back at home. The exchange of bridewealth involving cattle became a problem as the “big men” refused to relent on the rates. Some kept on confining their daughters until some exchange took place.

By 1930 this mounting pressure reached the Local Native Council (LNC) in North Nyanza. A debate ensued on what came to be called bridewealth stabilization or “reduction of dowry”. The minutes of the Luyia Council, the mouthpiece of the Luyia community on matters affecting them, was also very particular on this. It decided that five heads of cattle were a sufficient “dowry” but the bridegroom was also to provide one bull for slaughter at the marriage feast.⁴⁴⁵ Another issue that came up for discussion in the LNC was concerning marriage of premature girls. These were girls who had not reached fifteen years of age but would often be married to old men. It was difficult to come up with a conclusive explanation about the origin of the practice. In a letter to the DC Kakamega The office of the PC referring to this practice noted that:

This practice had become common among the Kavirondo for the avaricious parents to sell or marry off their very young and immature daughters in marriage. I would be glad if the District Commissioners would discuss with their Local Native Councils the advisability of passing a by-law making it an offense for a man to marry his daughter until she has reached the age of 14 or 15. It would be a great thing too if the marriage price could be stabilized and would probably prevent an enormous amount of litigation. I am advised that one cannot make it an offense to pay a large price for a wife but it might be possible to achieve the same result by the various councils of elders refusing to allow a man to recover more than a certain minimum of stock, no matter what he had paid.⁴⁴⁶

⁴⁴⁵ North Kavirondo District Local Native Council Expenditure Estimates, 1930, KNA,PC/NZA/3/33/8/9.

⁴⁴⁶ Native Marriages 1926-1928 KNA, PC/NZA/3/28/4/1

Why would parents give their daughters as young as fourteen for marriage? It seems that, the remarkable fall on bridewealth exchange had caused a lot of panic to many parents such that giving away a daughter for marriage at any exchange value could suffice. This notwithstanding, moral values had collapsed considerably in Isukha. The issue of banning all forms of western European dances wherein the participants had bodily contact throughout the dance also arose. This was on suspicious that they were responsible for the rising immorality. They were suggested to be harmful to the local “natives” because they resulted in promiscuous sexual intercourse, loss of bridewealth, lowering standards, unwanted children, murder, seduction, adultery, among other things. ⁴⁴⁷In these dances girls could elope with no bridewealth exchange. This may have influenced many girls and parents to admire entry into marriage even at a limited bridewealth exchange.

Capitalist penetration into Isukha during this period was also remarkable. Its results could not be avoided. Bridewealth totally collapsed. It was not what was traditionally accepted. Bridewealth started serving capital. Before the onslaught of capitalism, the bridegrooms’ families, and in this way tangible relationships between different kinship groups, were established. Cattle were exchanged for women, though before the penetration of capitalism neither was regarded as merchandise. They had a use value but not an exchange value, because cattle were not traditionally offered for sale in the market. Cattle in Isukha provided people with meat and milk. Cattle in marriage legitimized children and guaranteed marriage stability. The return of bridewealth in many cases posed difficulties to many families. Bridewealth was generally transferred soon after it had been received for marriage of junior members of the woman’s kinship. But if no man intended to marry at the time, the cattle were divided among

⁴⁴⁷Political Records book for North Kavirondo, KNA, DC/NN/3/2/21

the elder relatives in kinship who may transfer them for marriage of the juniors. Thus, parents put pressure on their daughters to stay with their husband unless it was quite clear that the husband had grossly transgressed the limits of their authority and therefore lost the right to claim their cattle.

The entrenchment of capitalism in Isukha brought about the most important changes which occurred in the bridewealth system. The money used basically to acquire almost everything acquainted the people with new forms of property and totally transformed pre-capitalist societies. The transformation of bridewealth system into commercial transaction is a natural consequence of these changes. Cattle payment began to be replaced partially by cash payments. Whereas in the past women were exchanged for cattle which had use-value, with capitalist entrenchment, women were exchanged for money, a medium of exchange which had occurred whenever marriage payment had been used for purpose other than obtaining wives in exchange for sisters or daughters.⁴⁴⁸

Cattle used for marriage purposes were kin's properties and intended for the perpetuation of the kin. This time, the big men were unfortunate. They lost relevance as cattle ceased to be the most important factor in marriage "transaction". The few lucky men who could use their earnings to buy cattle, further, realized that they could also negotiate for the girl with the parents not the kin elders or elope with the girl. This meant a total loss of bridewealth. Taxation, cattle diseases, and the difficulty in eating daily needs reduced people's livestock and so hastened the replacement of bridewealth exchange in cattle with money. This did not mean that cattle were not used at all in marriage negotiations but the number of cattle exchanged greatly

⁴⁴⁸ Okuro, *The impact of colonial socio-economic policies and practices of female-headed households in Kenya*: ,127.

reduced.⁴⁴⁹ By implication, therefore, some unscrupulous fathers or parents could give out young daughters in marriage after receiving little tokens in form of money in order to cut other kin members from the bridewealth negotiations and use this for tax obligations among other pressing needs. This kind of negotiation affected many marriages as many girls started complaining that they were being forced to marry against their wish and to men they did not love.⁴⁵⁰ This was something the missionaries had previously spoken against with a hope of abolishing. Earlier in Feb 1927 the LNC had resolved without much success that “it is an offense for anyone to allow his daughter to be married until she is fifteen years of age. The punishment in Baraza for such an offence to be a fine of Shs 150 with three months rigorous imprisonment in default.”⁴⁵¹ As the problem escalated the Chief Native Commissioner, G.V.Maxwell asked to be briefed on the whole issue of bridewealth stabilization which was debated in the LNCs. In his report, the senior Commissioner of Nyanza reported that:

Even young men are in favour of decreased marriage price and I am given to understand that the high price prevents many young men from getting married leading to a lot of immorality. In the same period, the position of widows who the PC of Nyanza had linked to be of European morality became problematic. This was especially concerning the widows who had refused to conform to traditional customs. In July 1927 the senior commissioner made his position clear as pertains to Christian widows. He stated that “the position in regard to Christian widows in my opinion is that they are in a position to marry whom they please under the East African Marriage Ordinance”.⁴⁵²

The PC on May 4th 1915 had reinforced the proposal by passing a resolution that:

A widow can go to another man and be married on the payment of the usual marriage price..... as time goes on such cases as you report will undoubtedly become more common, and it is very

⁴⁴⁹ OI., Joseph Mahero, 27/12/2018.

⁴⁵⁰ OI., Dinah Shilazi, 06/01/2018

⁴⁵¹ Establishment of Trade centres, 1928, KNAPC/NZA/3/33/8/25)

⁴⁵² Ibid.,

possible that an increasing number of women who are married to the more civilized class of the natives may, on becoming widows, object to conforming to native law and customs and will want to follow their own wishes..... it is, therefore, evident that the elders themselves should be instructed (educated) to the extent of their endeavouring to provide the local remedy i.e. be prepared to allow that the native law on this point shall be reconsidered and a rule be made that widows may when they so wish be allowed to re-marry without there being any question of the possibility of prevention on the part of the head of her late husband's family provided the marriage price is forthcoming.⁴⁵³

These seemed to have freed the widows a great deal from traditional obligations that required the elders to get for them suitors. This freedom culminated in their mobility to townships, particularly Kakamega in the Isukha case in search for jobs and trading opportunities. To make things even more difficult in Isukha, officials turned their attention to Kakamega gold mining which required labour. In 1933 the principal labour inspector noted:

All the labourers employed on the gold fields at present are natives of North Kavirondo District, as the local administration does not authorize the employment of labour from any other reserve. The natives are mostly of the Kakamega (Isukha and Idakho), Tiriki, Maragoli and Watsotso tribes.⁴⁵⁴

The economic depression of the 1930s worsened the issue of bridewealth. Payment of bridewealth even became very complicated. It surfaced very strongly in the 1930s during LNC meetings in Marenyo. Under the title "stabilization of marriage price", it was suggested that bridewealth should be fixed in all locations at five heads of cattle, one bull and one goat.⁴⁵⁵ It was supported by the argument that "several young men were unable to obtain wives as a result of lack of cows and there was a tendency to

⁴⁵³ Political records book for North Kavirondo, KNA DC/NN/3/2.

⁴⁵⁴ Labour employment of servant mines labour 1933-47, KNA, DC/KMG/1/9/8.

⁴⁵⁵ Correspondences 1930, KNA, PC/NZA/4/1/1/1.

run away with girls to farms in the coast. The girls are in favour of the reduction of “*Mahari*” (bridewealth).⁴⁵⁶ On bridewealth stabilization, the report noted:

Young men certainly complain that they cannot collect enough property to obtain a wife, but that is no new complaint. It is true that rich old men collect wives and like to collect young ones. It is also true, however, that, if a rich old man can now afford ten head of cattle per wife he would afford (and would collect) thirty three if the price were reduced to three head and the position of the young men would be worse rather than better.⁴⁵⁷

The fact that girls were in favour of a reduction of bridewealth gives a very problematic suggestion. It seems that the big men were holding on them against their wish. Either they wanted to join the trail of labour migrants or they wanted to get married. The former proposition looked attractive because famine had strongly hit the localities without much remedy from the colonial administration. Coupled with the need to assist in acquiring money to pay taxes, the search for wage labour seemed attractive.

Among the Isukha women who had been forced into marriages without their consent felt cheated. They started rejecting these marriages by running away. The issue of run-away wives thus became much prevalent during this period. While every woman had her own reasons for refusing marriage during this period, several explanations can be put forward to explain the situation. Some fathers could force their daughters from marriages under the contention that not enough bridewealth had been given. Even more pressing on the part of the women was the demand to be “clothed”. A tussle only was not important as a husband who could not provide clothes for a woman risked the woman running away. In the 1930s, men felt they lost control over women

⁴⁵⁶Local Native Council General 1927, KNA PC/NZA/3/33/8/25.

⁴⁵⁷General Native Policy 1944, KNA, PC/NZA/3/1/1.

in dresses and the elders felt they lost young men who were now in shirts and trousers.⁴⁵⁸

The colonial administration had introduced taxation, forced communal labour, and male labour conscription. All social and economic security system had collapsed, exposing men and women to any eventuality. Women had learnt a lesson from men. The women particularly those referred to as “independent women” started seeking for wages to feed their children or ran away from not only commitments of tax but also traditional obligation. According to one of the participants, “it was the position of women that was changing. This was due to their encounter with new novelties.

According to the participant:

The position of women was changing. They were no-longer porters; the bridegroom now had to buy her cloths instead of presenting her with marriage tail. On stabilization of bridewealth she observed that it cut both ways if the elders received fewer cattle for *mahari*; they had to assist their sons with fewer animals.⁴⁵⁹

The participant explained this phenomenon in terms of the difficulty arising from advancement of education and communication which had brought about partial breakdown of traditional customs. She said that women were not easily forced to cohabit with men they disliked. This was however the case of the seducer who was able to pay bridewealth and who enticed away-married women. She even blamed the colonial government for it lacked any drastic measure to deal with the problem.

Between 1930 and 1935 the question of bridewealth stabilization reached the church. Previously, bridewealth exchange was one of the most emotional issues between the Luyia communities and the incoming Christian missionaries. The policy was to convert the local people. This meant making frontal attacks on the beliefs, the

⁴⁵⁸OI., Joseph Lubelela, 02/01/2018

⁴⁵⁹OI., Lena Khakhuya, 25/12/2017

customs, the apprehensions of life and the world, and by implication on the social structures and bases of “primitive” society. However, when it came to bridewealth the Christian missionaries did not seem to be very successful for converts continued to receive bridewealth in Isukha. When the issue of bridewealth came up in the meeting of the LNC, the missionary representative had no hesitation but to blame it on failure in instituting voluntary registration of marriages and advocacy of compulsory registration of marriages.⁴⁶⁰

Archdeacon Owen in 1936 also considered registration of marriages on the same ground. He said that “the chief purpose of compulsory registration was that no marriage should be compelled if the girl refused and although at first she might not have the courage to do so when she could soon gain it”.⁴⁶¹ While the DC of North Nyanza argued that registration of marriage be made compulsory and would be beneficial to the district within the colonial administration docket would ultimately cause the whole bridewealth system to break.⁴⁶² The committee of Native Marriage and Divorce that met in Nairobi recommended that in all marriage transaction the cash value of stock should be fixed by law. Approximate value as follows:

Cow	120/= to 150/=
Heifer	100/=
Bull	50/= to 60/=
Bullock	120/= to 130/=
Sheep	10/= to 15/=
Goat	15/= to 20/=

Source: KNA, PC/NZA/3/28/4/1 NATIVE MARRIAGES

⁴⁶⁰North Kavirondo District Local Native Council Estimates 1930KNA, PC/NZA/3/33/8/9.

⁴⁶¹Correspondences 1938,KNA,PC/NZA/2/1/104.

⁴⁶²Kavirondo Marriages and Divorces 1935, (KNA, PC/NZA/2/9/21).

Nevertheless, the impact of Christianity during this period was not that remarkable, considering the number of celebrated marriages. The total numbers of Christian celebrated marriages at Roman Catholic and FAM all within the vicinity of Isukha were shocking. The Nyanza Province annual report of 1934 to 1938 indicated that a total of about 4539 Christian marriages were celebrated. In 1936 the Nyanza PC tabled the missionary suggestion of compulsory registration of marriage to the colonial secretary. In support of compulsory registration of marriages, the PC recommended that:

Now with the increasing emancipation of men and women, tribal authority has broken down their sanction of parents and fathers. Native tribunals find at every turn that they are unable to enforce the old law and there are limits to the extent to which government is willing to support them. In consequence girls too complain when they are forced to marry against their will; lovers begin to set up house together without exchanging bridewealth, the wives begin to desert from the husbands whom they never chose or of whom they are tired of. We are dealing with a stage where family group system is decaying while a fully individualized system has not yet come into being....a compulsory marriage register is recommended principally to prevent forced marriages but also because it will be valuable as a record.⁴⁶³

It should however be noted that the issue of whether to adopt a voluntary or compulsory marriage registration still remained unresolved almost throughout the colonial period. As one participant reported in support of the PC's recommendations detailing the extent to which social transformation had taken place on the whole process of marriages in Isukha. He noted:

There were no cases of forced marriage to my knowledge nowadays. In the past the customs was for an arrangement to be made between the father of the bride and the bridegroom to be. It was then possible for the father of the girl to enforce the marriage. This does not happen today. What happens is that an arrangement is first made between the man and the girl. They meet at dances and take a fancy to each other. They then go to the father of the girl and the matter of

⁴⁶³ Marriages 1935, KNA,PC/NZA/2/9/21.

the bride price is settled and preliminary payment made. After this the father of the girl can force her to keep her promise to the man of her choice.⁴⁶⁴

With regard to social transformation, the number of women referred to as “independent” increased tremendously as the WWII approached.⁴⁶⁵

Due to various reasons the women had started drifting in large numbers into the emerging townships, such as Kakamega whose growth was explained in terms of mining and African development. But towards 1938, the PCs were forced to review and come up with some recommendations on how the issue would be passed and operationalized to “native” girls and women entering Municipalities and Townships. They observed that the DCs had envisaged the necessity and the urgency of control. They recognized and appreciated those responsible “natives”, parents and elders in the “reserves” who were perturbed by the situation and would welcome control. The PCs without hesitation endorsed the recommendation of the sub-committee of the DC’ meeting of 22nd March, 1938, Minute No. 20, and recommended that the Native Pass Laws be amended as proposed namely:

That no female native whose lawful guardian is normally resident in the native reserve shall, except within the boundaries of such native reserve, or municipality or township, travel or be transported by any motor vehicle as defined under the Traffic Ordinance No.26 of 1928, unless she shall be in a possession of a pass duly authorizing her to do so, endorsed by such guardian and issued by a district officer, or other duly authorized agent stating the points between which such pass is valid and the period of such validity. Any such female so travelling and any person so transporting any such female shall on conviction be liable to a penalty on default.⁴⁶⁶

Men including clan elders and family heads, could not raise bridewealth for their sons nor were sons able to raise adequate cattle for the same. They tried successfully to enter individualized negotiation as girls became difficult to tame using traditional

⁴⁶⁴ OI., Joseph Mahero, 27/12/2018.

⁴⁶⁵ Native Taxation 1938, KNA, PC/NZA/3/10/153.

⁴⁶⁶ Correspondences 1938, KNA, PC/NZA/2/1/104

obligations and customs. Capitalist goods and luxuries in towns had lured many girls and women either within the localities or in townships. Women could only enter into marriage to men who could offer them these luxuries. The tribal authority was under transformation. The colonial administration on the other side drove able men out of the localities. It should be observed that starvation, forced labour, famine and taxation became the only words to describe localities of Isukha during this period. To the men, time was ripe for putting something in place to control women's mobility. The standard of living in Isukha dropped women and young men who were not seriously or part of family production unit became increasingly vulnerable. Many who lost their sources of livelihood were forced by circumstances into the urban areas to seek for cash to fend for themselves.

3.9 Conclusion

The overall impact of the establishment of colonial rule among the Isukha was that it created incentives which discouraged polygyny, especially among the generation which was born after the establishment of colonial rule. In particular, changes in land tenure systems increasingly led to diminishing household land holdings. This practice of using women to secure additional land died gradually. In addition, the introduction of hut tax placed a lot of demands on young men to migrate from their homes. The wages which they earned were insufficient to enable them bring up children, let alone pay bridewealth for numerous wives. The introduction of monetary economy also led to the gradual decline of livestock as a currency with which to pay bridewealth.

Livestock also became a commodity which was to be sold. The conversion of Isukha into Christianity gradually led to Christian marriage preference. Many men shifted from polygamy. The overall impact was the individualization of decision making

concerning marriage matters. Marriage, prior to the establishment of colonial rule among the Isukha was a communal affair. Fathers assisted their sons to pay bridewealth, aunts assisted their nephews to find a bride. This changed when the church started playing a role.

Evident also in the chapter was the extent to which socio-economic and cultural structures collapsed. The collapse witnessed new structures emerging to control family and marriage relationships, especially to those women who were responding to stresses caused by the colonial administration in the “native” area of Isukha. The colonial administration, through its mechanisms such as taxation, communal labour, male labour migration, poor wages, saw rampant collapse of marriages, bridewealth system and morality transformed the traditional Isukha culture and economy. Bridewealth exchange also witnessed a downward trend. The 1911 annual report estimated the number of cattle to be exchanged was barely seven.⁴⁶⁷ Kinship heads, fathers, or guardians got shocked during 1916 as they noticed that bridewealth exchange no longer depended on them.⁴⁶⁸ Bridewealth exchange no longer depended on collective arrangement of the clan but on individual arrangements. The experience of widows was equally not favourable as their belongings were not spared during taxation so long as they had hut.⁴⁶⁹

The situation became even worse towards the end of 1919 as huts belonging to widows were demolished by tax collectors.⁴⁷⁰ It also saw the *Isimba* (hut in which big boys slept) being pulled down. The fate of the Isukha marital institution changed only with the coming of the Whiteman and the subsequent imposition of alien rule over

⁴⁶⁷ Nyanza Province Annual Report 31/3/1911, KNA, PC/NZA/1/6.

⁴⁶⁸ Political records book for North Kavirondo, KNA DC/NN/3/2.

⁴⁶⁹ Ethnology Tribes North Kavirondo District 1913-1915, KNA, PC/NZA/3/31/8/1.

⁴⁷⁰ Political records book for North Kavirondo, KNA DC/NN/3/2.

them. This led to the breakup of integral economic and social systems and the introduction of difficult and highly exploitative work. It also occasioned break ups in marriages as women could no longer hold these heavy burdens. This issue forms the next chapter which will discuss in details and evaluate the extent to which the colonial policies and practices impacted on Isukha marriage during the post-war years. It will also discuss the extent to which European commercialization or capitalist economy attracted African labour through encouragement or coercion. The influence of missionaries through western education also made some women from Isukha to disregard conforming to Isukha marriage customs. As will be seen in the next chapter, this demands affected African families, particularly married ones.

CHAPTER FOUR
ISUKHA MARRIAGE DURING THE DECOLONIZATION PERIOD,
1945-1963

4.1 Introduction

The Second World War ended in 1945 but its socio-economic and political impact was felt many years thereafter. The absence of men in their rural areas and the economic fortunes in terms of pensions paid to ex-WWII servicemen and sale of farm produce reshaped marriage tests of the Isukha people. In addition there was increasing pressure on the colonial government to improve the living conditions of the African population to curtail increasing dissent against the colonial establishment. Indeed, the colonial government responded positively and introduced policies which were aimed at improving the living conditions of Africans in various parts of the colony. The Swynnerton Plan of 1954 and the accompanying land consolidation schemes did lead to or hasten the process of class formation, which had already begun among the Africans. By individualizing and titling land ownership, many men sold their land holdings and left many households landless while at the same time, enriching those who bought and amassed land. Class created differences in the thought processes.

Studies have indicated that people prefer to marry from among their class. Apart from class divisions, there were also increasing social divisions among the Isukha during this period, for example Christians and non-Christians which also impacted on marriage tastes and choices. The decolonization witnessed the loss of Isukha identity as a homogenous community. The Isukha increasingly became highly differentiated and heterogenous. What determined and shaped Isukha marriage in pre-colonial period had been watered down. Still in the social and economic arena was social differentiation occasioned by attainment of western education. While western

education had been introduced many years earlier, it was during the decolonization era that girls' education was given prominence. In addition, post primary schooling was also expanded. This served to create both social and economic division in Isukha society. Educated individuals were able to land lucrative jobs which gave them an economic boost. By focusing on social and economic policies which the colonial government introduced and implemented in the decolonization period and the accompanying socio-economic divisions which emerged in Isukha land, this chapter examined changing marriage patterns among the Isukha during decolonization period.

4.2 Luyia Migrant Labour in the Post-War Years

During the post-war years the number of employed Africans increased considerably among the Luyia. Migration mostly involved those with minimum or no education, and those with little or no land. This trend, characteristic of semi-proletarian conditions, had been stimulated by a practical consideration of economic necessity. Later, it would be greatly accelerated by the manpower demands of the Second World War.⁴⁷¹

With the start of the WWII, the demand for manpower, both in the armed forces and in those sectors of the economy deemed most crucial to the war effort, rapidly rose. A labour census taken at the end of 1944 thus showed that about 48.89 percent or 46,952 Luyia males were employed as wage earners.⁴⁷² Considering that North Kavirondo supplied very few squatters, it is apparent that the district supplied more labour in proportion to population than any other district in the colony, much more, for example, than the Luo, their nearest competitors.⁴⁷³ In spite of the labour out-flow

⁴⁷¹ R. Maxon, *Going separate ways: Agrarian Transformation in Kenya, 1930-1950* (London: Associated University Press, 2003), 204.

⁴⁷² Registrar of Natives to Labour Commissioner, for January 22nd 1945, KNA, PC/NZA/3/13/15.

⁴⁷³ Annual Report North Nyanza 1935, KNA, DC/NN1/17

Luyia still had a larger reservoir of labour due to their tendency to return periodically to their localities; their dislike for permanent jobs, their inherent family links and property and their apparent disregard for a career and incentive.

The increasing urge to seek work outside their home areas after the war intensified labour migration among the Luyia. Various factors impelled the Africans to take up employment outside home, viz: pressure of land scarcity. The urge towards a higher standard of living, preference for industrial employment, a craving for advantages or at least the trapping of western civilization, need to pay taxes or bridewealth and the desire to purchase trade goods.

Few people, however, left Isukha areas with an intention of cutting themselves off permanently from the community. It was reported by one of the participant that “some of these people went out and stayed out for ever. The money earned was spent on harlots, alcohol and other undesirables. These people never worked properly but only became spiv”.⁴⁷⁴ *Kenya Weekly News* reported that most African men were target workers and when the target had been reached they spent the rest of the time in the “reserves” where most of the work was done by women.⁴⁷⁵ But it’s important to note that the workers’ wants or needs were not discontinuous and limited as such. They needed money for a lot of felt needs and that is why many worked in cycles. Secondly, while this hypothesis could hold water for a number of individuals it could not be true of the whole community. At any rate, a minority of men established themselves with their families at some places of employment and remained there working for ten to fifteen years or even twenty years. These formed just a fraction of

⁴⁷⁴ OI., Joseph Shikundi Mbalilwa, 30/12/2017.

⁴⁷⁵ Ndeda, *The impact of male migration on Rural women: A case study of Siaya District c.1894-1963* (PhD. Thesis, Kenyatta University, 1993), 224 cited *Kenya Weekly News*.

the total labour force and were usually the skilled or semi-skilled workmen.⁴⁷⁶ But even among these the majority had the intention of eventually returning to their rural homes.

But whether a worker was a target or long stay migrant, in the final analysis, it was the employer of labour who benefited in that he escaped the liability associated with the requirements of the greater part of the African population such as adequate health facilities, schooling, old age pension among others. In addition, the fact that the worker had an alternative means of support for his family was a constant factor in keeping the wages low. As noted in chapter three, the Isukha wife and family were seldom dependent on such aid, since the Isukha village economy (which remained largely intact) postulated the possession of a field which went far to produce the subsistence for the family. In normal circumstances the wage earner left home for a number of months feeling confident that his dependants would maintain themselves comfortably without assistance from him. Moreover, the growing individualism and growing independence of men due to wages earned caused a depreciation of the significance of women.

In the 1950 it was reported that African women worked harder than men and this could be seen any day by observing women carrying heavy loads while husbands walked in front of them with nothing but a walking stick.⁴⁷⁷ All the jobs too, at home, were done by the women. "I have paid "dowry" and the wife must work" was a typical answer of the men. This was clearly a colonial development because most men had to work to earn money to buy cattle to marry wives. "Buying a wife" was a

⁴⁷⁶ Long stay migrants were usually composed of house servants, categories of soldiers, rail workers and civil servants. Even the individuals who were target workers only came back to rest and then go back to work either to the same employer or a different one. Or in certain cases they did not go back home but simply kept changing jobs.

⁴⁷⁷ KNA KJD/3/14/12 Land General 1945-1965.

common statement amongst the colonialists. This was obvious in the words of David Kwasira concerning his estranged wife Rebecca who he insisted remained his property for as long as the “bridewealth” of six heads of cattle had not been recovered.⁴⁷⁸ Moreover, while he was not giving Rebecca any material support during this time, he insisted that Rebecca (his wife) could not be given a job at the hospital in Mukumu.⁴⁷⁹ The Isukha elders of the time felt that this was an unfair deal and that it was necessary for the African men to shoulder their responsibilities and give their wives a square deal if progress was to be attained.⁴⁸⁰

Peter Lubelela, an informant, stressed the importance of cooperation amongst the Isukha in the 1950s.⁴⁸¹ He felt that the early Isukha society practiced cooperation with their wives and consequently worked, walked and visited social places together with them. It was necessary for the Isukha man of 1950 to adopt this for a strongly built household. Women needed the support of the husbands in order to develop, particularly the first wives, who were considered too old by husbands.⁴⁸² In the 1950s men regarded their wives as personal property and never bothered to share with them issues discussed in *barazas*. The feeling that in Isukha “what is a mere woman capable of doing?” had lowered the morale of many women and weakened the female-male relations in the household. Women shouldered burdens of running households and feeding families and probably their ability to lead well and excel in other areas of life would have been enhanced by the help and recognition of husbands.

A belief held by most expatriate employers in the colonial era was that African labour was lower in productivity and saw the sole cause of this low productivity of African

⁴⁷⁸ OI., David Kwasira, 03/01/2018.

⁴⁷⁹ Ibid.,.

⁴⁸⁰ OI., Peter Lubelela, 02/01/2018.

⁴⁸¹ Ibid.,.

⁴⁸² Ibid.,.

labour as its migratory nature. The tendency for a worker to live in the work place while maintaining land in the rural areas was not commendable on the ground that a man who attempt to retain a foothold in both cannot be efficient in either. Stabilization of labour was, therefore becoming a necessity. This was also being dictated by a growing recognition of social evils (over-crowding, malnutrition, prostitution, venereal diseases and juvenile delinquency) which resulted from the employment in urban areas. M.E.R. St. A.Davies wrote:

Native policy in Nairobi should encourage the better type of native worker and provide accommodation for him and his family in town. Fewer natives, better fed, properly housed constituting with their families a permanent and controlled native population should be our aim.⁴⁸³

Following the passage of the colonial Development and Welfare Act in 1945, a dispatch was circulated from London charging governments with the imperative duty to raise the living standards amongst the Africans, on humanitarian, political and economic reasons. As such, the Kenya government's major post-war policy was the improvement of African wages. As early as 1946 it was recognized that there was need for the "development of an independent wage worker without subsidy from the land unit."⁴⁸⁴ The land unit was already faced by over-population and deterioration of soil fertility in the extreme. The first step towards stability was the general adoption of a living wage standard for an African divorced from his land unit. As a first step in raising wages Kenya passed a Minimum Wage Ordinance in 1946. Initially it applied to Nairobi, then Mombasa and Kisumu and later to all towns.⁴⁸⁵ The Ordinance laid down the minimum wages of thirty one shillings (Nairobi) or forty shillings

⁴⁸³ A.M.Champion, *Native Welfare in Kenya*(Nairobi: Government Printer, September, 1947)

⁴⁸⁴Ndeda, *The impact of male migration on Rural women.*, 228.

⁴⁸⁵A. Armsden, *International Firms and Labour in Kenya 1945-70* (London: Frankass, 1971),13.

(Mombasa) inclusive of house allowance.⁴⁸⁶ But still this minimum wage did not adequately cater for the family, not even a bachelor. All who got this minimum wage in Nairobi spent the greatest part of it on food and other basic requirements. Almost nothing was spent on luxuries. However, the enactment of the Minimum Wage Ordinance of 1946 marked a turning point in the history of wage fixing in Kenya.

In April 1951 a new wages board was instituted under the Regulations of Wages and Board Condition of Employment Ordinance No.1 of 1951, to study the adequacy of wages. The Board found that practically all the income of the Africans employed came from employment and that there was little subsidy from their localities; the workers tended to spend their earnings as they were received; they did not save anything and were forced to borrow in emergencies. Majority of the workers in the survey had families commitments of one kind or another and each usually sent home three or four shillings every month and was visited by relations he had to support. Much of the money was spent on food yet a large proportion of workers had little or nothing to eat for the last two or three days of the month.⁴⁸⁷ It was concluded that the wages could not provide adequately for the physiological and sociological needs of the workers taking into account the need of the wife and children, and that the African received inadequate return for his labour.

It is, however, by virtue of the Carpenter Report of 1954 that Africans won the battle for a higher minimum wage scale. In this report the above factors were reiterated: the African wage was definitely inadequate. The report also emphasized the fact that essential prerequisite for the creation of an effective and stable labour force was the

⁴⁸⁶ Ibid.,

⁴⁸⁷ Ndeda , *The impact of male migration on Rural women*, 229 a.

severing of its ties with the rural community.⁴⁸⁸ It was also reported that many urban African workers lived with their families, at least for some portion of the year. The conditions under which the Africans lived were deplorable. Unless the husband's wage was supplemented by other income, relatively few of them could have enough to eat or even a room in which to sleep. So for the great majority of the urban African labour force, married life was only obtainable at the sacrifice of health and decency. A family wage was therefore a must: this family wage referred to an income needed by an individual household if it was to attain a defined minimum level of health and decency.⁴⁸⁹ The Carpenter Report calculated the family minimum wage based on a family unit consisting of a man, wife, and two children (in the age groups of 4-6 years and 7-9 years, respectively), almost two and a half times the "bachelor" minimum wage. Table 4.1 below indicates calculation and comparison of the basic minimum wages of individual households.

Table 4.1: Comparison of basic minimum wage for various household units, based on Nairobi prices, December 1953

Item	Cost			
	Single Man	Man with wife	Man, wife and two children (aged 4-6 years and 7-9 years respectively)	'Average family' of man, wife and three children
	Shs.cts	Shs.cts	Shs.cts	Shs.cts
Food	36:78	62:53	102:98	114:02
Clothing	5:34	10:68	14:26	16:02
Fuel and lightening	5:86	8:16	8:16	8:16
Cleaning materials	2:52	3:78	5:04	5:04
Basic minimum wage	69:33	115:53	175:92	192:99

Source: The Carpenter Report, 1954

⁴⁸⁸ The East African Royal Commission Report of 1953-1955 endorsed this policy as an effective way of raising the productivity and standard of living of the African.

⁴⁸⁹ Carpenter Report of 1954 (Report of Committee on African Wages Part I, II, III, 15th February 1954)

This statutory minimum wage was also supposed to apply to the rural areas, agricultural workers, and an appreciable number in sawmilling, quarrying and also mining. But this new family wage was not without problems. Whereas the report had calculated the minimum cash needs of an average family at shillings one hundred and ninety two and ninety nine cents, the family wage was put at one hundred and seventy two and fifty cents. The values of the human need factor were reduced by shillings twenty and forty nine cents. The family wage was still inadequate with a family of more than two children. The report rejected the inclusion of the earning capacity of the women fold in assessing what constituted a reasonable or fair wage for the urban African male worker. It was necessary to accept the wife's capacity to earn. It can be said that this minimum wage just provided a safety net to prevent the legal employment of a worker at a wage sufficient to secure him the means to live at a minimum standard.

The provision of family housing was the chief concern of the Carpenter Committee. In the final report it was stated that the minimum socially desirable standard of housing was not to be less than a two roomed house flat. This was not going to be possible for quite a while, so the standard of housing had to be at the absolute minimum compatible with health and decency room of area equivalent to four bed spaces (160 Square foot) with a cooking alcove separate water closet and a piped water supply. However, this did not solve any problem as a wife and husband lived and slept in one room with children plus the lodger. This prohibited many wives from visiting and staying for long periods with their husbands. The woman who was the wife of the worker raised many problems if she was with her husband at his place of work. The most obvious problem was housing followed by medical care and in some

cases, feeding and social problems. These problems varied in degree according to the locality where the husband was employed.⁴⁹⁰

In spite, of these oppressive conditions Isukha women visited their husbands at places of work after a few months or years after the husband acquired suitable accommodation. Sometimes the women found the village atmosphere so oppressive that they individually joined their husbands despite the disapproval or lack of encouragement by the latter. A woman whose husband was away was much more restricted because everyone tried to keep an eye on her, usually reporting on her faults to her husband (very common amongst women interviewed in Isukha). The women complained about their mothers-in law, brothers-in-law and other relatives, watching and supervising them. Women therefore, insisted or visited husbands partly because they could not face life alone in the villages and partly because they hoped to combine household duties with other business. Among the women who followed their husbands were those who constantly moved back and forth between their husband's work place and rural home. Their commitments as agricultural producers and mothers were perceived as situated in the villages but their duties as wives required that they periodically visited their migrant husbands in towns and other places of work.

Being in town or other places of work also served as a break from rural agricultural work and domestic chores. The majority of the women interviewed came to visit the husbands once or twice a year, each trip lasting about a month. The visit always coincided with the times when planting, weeding and harvesting had been completed. In certain cases it could only be during the school holidays. On each visit women took back money to pay school fees for children, to hire labour and to buy certain needed items. Women who had been shuttling for some time usually brought food such as

⁴⁹⁰Letter from Bamako to the Labour Commissioner 7th July, 1954.

flour for the urban family as well as what could sell like groundnuts. In some cases, women just got tired of shuttling, and gave up visiting the husbands. The reasons given for stopping varied from “I had no money”, “he sent no money” to “children were not well” and “I was not feeling well”.⁴⁹¹ In such cases the men made periodic visits to the rural areas.

Another issue which was exacerbated by labour migration in this period was that of “runaway wives”. This issue of run-away wives escalated in the decolonization period, so much so that, it could not be ignored by the colonial administration because very frequently they were the ones asked to recall husbands to go back home to sort out their family affairs. Some women left their marital homes because their husbands never gave them the option to visit while at the same time, they never made arrangements for leave. The wife of Chibukosia Luagania left because her husband who had been employed by K.E.Chambers, never responded to several requests to return home to build her a house. He sent no money for subsistence to the wife and this made his rural Chief to ask for his repatriation.⁴⁹² In certain cases the women survived in dilapidated and almost collapsing huts. Some women particularly the elderly women became desperately destitute. Running away was not determined by the number of years a woman had been in that marriage but it was easier for a younger woman with no children or fewer children to run away.

While the work place of the husband did not necessarily determine who would run away it was also obvious that migrant who went to Tanganyika, Uganda and Mombasa tended to lose their wives. Some of these men never returned as they married women in their new areas of settlement. Migration of male labourers

⁴⁹¹ OI., Monica Mkatili, 04/01/2018.

⁴⁹² African Affairs- Ikolomani Division, 1958-59, KNA, DC/KMG/1/1/159 Letter written to District Commissioner North Nyanza 18th June 1958.

contributed a great deal towards inter-ethnic marriages. The practice in pre-colonial period was that the Isukha married from among themselves as a way of reinforcing clan identities and boundaries. The establishment of the colonial rule may have helped ease clan tensions and wars (as law and order was applied on large scale rather than at the clan level). Large scale law and order encouraged people to move about without fear. The Native Authority ordinance for example discouraged people, especially men from carrying weapons (spears) as they walk about. In addition, the introduction of hut and poll tax expelled men to go out of their homes in search of employment. Most of them were young men who were not married or were not accompanied by their wives or families. This culminated in inter-ethnic marriages.

Even in countries such as United States of America, inter-racial marriages is a recent phenomenon which is serving the function of blurring inter-racial tensions. According to Qian and Lichter: “Indeed, marriage between people of different racial/ethnic backgrounds means that barriers to social interaction and intimacy have broken down and that marital partners by definition accept each other as social equals.”⁴⁹³ However, inter-ethnic marriages in Isukha were constituted by an Isukha man and a non-Isukha wife and not vice versa. This was because, in most cases, it was the men who left their rural homes to search for paid work. Women were not encouraged to leave their homes unless accompanied by their fathers or husbands. In this way, most Isukha women got married to Isukha men. Inter-ethnic marriages between Isukha men and non-Isukha women was a rarity. Men went out to work and got money with which they went to their homes to marry. Even in the 1950s, Isukha men still depended on their parents or relatives support to find a bride. The general notion then was that

⁴⁹³ Q.Zhenchao and D. T. Lichter. “Social boundaries and marital assimilation: interpreting trends in racial and ethnic intermarriages” In *American Sociological* (2007) Review pp. 68.

detribalized women did not make good wives. Detribalized women were those who lived in urban areas or who had advanced in education.

Sometimes due to parental pressure, some women fled their marital homes. Thomas Lubembe who was employed by Kenya Regiment at Nakuru had sent his wife to his home Isukha location in June 1958. He later on learnt from his relatives that his wife instead of going to his home went to her stepfather. His wife had been encouraged by her relatives to marry another person.⁴⁹⁴ Chief reported complaints where women reported of their husband not assisting them. Senior Chief Jememiah Segero of Isukha location reported to the DC of North Nyanza of a complaint made by Pelisi Kinagu who reported that her husband Andrea Asigada employed in a company in Eldoret had not rendered any financial assistance to her and their four sons.⁴⁹⁵

While it is true that women were running away because they could not cope with the general deprivation in the rural areas one cannot however, wholly blame the husbands and relatives; the colonial government was partly responsible. The procedure of getting leave (normal or emergency) was too long. An employer had to write to the employee's local DC who contacted the chief and so the process went. By the time it was over three to six months had elapsed, and if it was a case of death, the dead had been buried. Likewise if it was a case of sickness the sick had either recovered or died.⁴⁹⁶ A classic case was one in which Alex Khayimba had asked for leave so that he could give proper medical attention to his wife and children who were sick, but again the whole bureaucracy had to be followed so that by the time he got his leave, his family had already recovered and his wife was left with deep seated feelings of

⁴⁹⁴ Ibid., A letter from Kenya Regiment to the District Commissioner North Nyanza 4th October 1958.

⁴⁹⁵ African Affairs- Ikolomani Division 1958-59, KNA, DC/KMG/1/1/159.

⁴⁹⁶ See the number of letters written to the District Commissioner North Nyanza African Affairs and miscellaneous affairs in Isukha location 1960-1965 KNA, DC/KMG/2/1/165.

neglect.⁴⁹⁷ Such feelings could eventually lead to running away. To the colonial government the African was not honest and that created the need for such bureaucracy.

It would be appropriate here to mention something about the remittances, made by migrants to rural homes. The remittances can be viewed as a major contribution of the colonial economy to the rural homes of the African labourers. But the usefulness of remittances can only be delineated by looking at the way in which they were used and their importance for those in the rural areas. But this study shows that while remittances were useful in certain ways to individual households, these people did not depend on remittances. More commonly, some migrants remitted money while others did not. The frequency and the amount of remittances varied considerably from one individual to another as did the uses to which they were put. Most of the remittances were for food and other consumption expenses of the extended family and education. Remittances were irregular bearing in mind the postal system and the fact that the individual male migrants did not own post boxes and therefore one address was used over long distances. It is unlikely that a man could send money to his wife or mother on a monthly basis (this was possible only during the war). Moreover, many migrants and their relatives did not know how to read or write so sending money or a letter by post was a risk. Most migrants depended on relatives or friends who were travelling home. While most of those sent with remittances were honest, there were cases of dishonest people who did not submit the money to the wife or mother of the migrant.

During the research a number of male participants stated that needs of women left at home were few, since most of their provisions came from the farm. This meant that

⁴⁹⁷ Ibid.,.

such men sent very little money to their wives over very long period of time or just when the wife stated a need.⁴⁹⁸ The husband of Dinah sent money after long periods of time, so she had to work hard on the farm and get involved in trade for survival.⁴⁹⁹ Some migrants felt that the society in which they left their wives was favourable with fewer problems. The wife had the aid of relatives whenever she needed it. It was not unusual, therefore, to find that a man sent some money to their mother than their wife. Some women confessed that their husbands sent no money at all; they would only be given money when the husbands came back home on leave. However, in spite of the irregularity, remittances, if they came at all, were used in farm production (e.g. the hiring of extra labour to help in the farm or hiring of a plough to break the soil). The irregularity of the remittances was also caused by the nature of husbands, who migrated. Some of them spent more or all the wages on the luxuries in their working places and sometimes on the temporary wives they married at work.

But whatever their usefulness, they only served as linkages between the migrants and their rural homes, lack of which led to broken families. At least a few of the women interviewed used remittances to hire labour although not all their fields were worked by hired labour. Some women used the money to buy small animals like goats and sheep or sometimes calves. Remittances (financial and foods) were significant and prestigious to those who received them and were the talk of the villages by women who did not. In the post-war years wages and remittances was inadequate to meet the needs of a workers family, thus the work done by women in the farms also supported migrant labourers needs of the wife and children.

⁴⁹⁸ OI., Peris Kavukha, 06/01/2018.

⁴⁹⁹ OI., Dinah Shilazi, 06/01/2018.

4.3 The Collapse of Bridewealth Payment and its Impact on Isukha

In chapter two the centrality of bridewealth payment in Isukha was discussed. The substantial rights of the women in pre-colonial Africa to control the means of production and own the products of their labour indicated the power and central position of the bridewealth system. The powerful position of women in Isukha was attributed to the rich complex kinship organization based on bridewealth. It was bridewealth payment which legitimized the marriage and secured kinship membership of the offspring's. Bridewealth was not just a means of exchange but a symbolic of gifts between families. It was not a means of accumulating cash to pay taxes or any other financial obligations.

Bridewealth had a stabilizing function as far as marriage was concerned. When the man had handed over the cattle to his father-in-law, his wife had no right to leave him. If, after sometime, she wanted a divorce, the man had a traditional right to claim back from her parents the bridewealth payment. Her parents will of course try to avoid this because returning the heads of cattle in most cases meant a great decrease in their wealth and ability to acquire many sisters-in-law. At this point in time, it must be acknowledged that marriageable daughters constituted a good source of income to kin members at marriage age. However, a transformation on this practice occurred in the decolonization period. The onslaught of capitalism in Isukha and its continuous warping of the traditional society had a considerable impact on marriage institution. The payment of bridewealth was the first to be shaken. In Isukha, it all started by the introduction of monetary system which transformed bridewealth into a commercial transaction.

After the Second World War cattle exchange was to a great extent replaced by cash payment. This development made bridewealth payment excellently suited to

accumulation. It suited those working in towns and could enable the recipients to acquire other commodities. But the new bridewealth arrangements undermined the position of fathers, elder men and kinship heads. After the war, therefore, a totally new system of bridewealth payment was in operation in Isukha as items acquired during bridewealth were used for purposes other than payment of sisters or daughters. Bridewealth thus collapsed as commercialization occurred. This transformation made marriage institution to be bleak as adultery escalated. The European and African leaders put several suggestions forward on how to deal with the issue of adultery. One such suggestion wanted to treat adultery as a penal code offence in the case of males. The suitable penalty was the option of a fine or imprisonment in default of payment,⁵⁰⁰ this in itself was a clear indication that adultery had caused unforgettable social harm in the African society. It had to be fought whatever the cost. The Native tribunals and Town tribunals co-operated on the matter.

Considering the wilderness to which the migrant men were going to before they were recruited in the Kings African Rifles (KAR,) they tried as much as they could to marry before leaving home or came back to do so during holidays. The parents shared this opinion. It was in this situation that most migrant men contracted hasty marriages before they left.⁵⁰¹ These men found it easy to enter such marriage since they either earned higher salaries or were in a stable income from their military duties and thus could pledge in cases where minimum bridewealth could not be paid in full. While away some of these marriages were often plagued with problems. When these men left, for instance, many of the new brides experienced a great deal of personal

⁵⁰⁰African men, 1945, KNA, PC/NZA/3/15/88.

⁵⁰¹ Okuro, *The impact of colonial socio-economic policies and practices of female-headed households in Kenya*, 191.

freedom while some of them were too impatient for companionship to wait for their husband's return.

Some women claimed to have heard rumours that their newly acquired husbands had died in the military duties. As such they were lured by other men into casual sexual relationships. Predictably, this clandestine relationship strained their marriages when their husbands returned from war thus, a decade and a half after the war there were increased cases in the Native Court.⁵⁰² To many Europeans and Africans, the focus was on the rising or uncontrolled bridewealth amidst rising cost of living. In 1946 the colonialist and the missionaries were of the opinion that the bridewealth system in general was undesirable payment in particular, they claimed that high bridewealth obtaining was deplorable in as much as it made it difficult for young men to marry at a reasonable early age. Circumstances like these were conducive to adultery and seduction of girls. While issues of bridewealth stabilization were not new at this point in time, the high cost of living particularly considering the unaffordable prices of cattle, a commodity used to bridewealth payment, made it difficult for unmarried young men to get brides.⁵⁰³ While the colonial administration had several reasons for destroying the institution of bridewealth payment within the African community, in Isukha it was the local situation that necessitated the question of bridewealth reduction. That was why the DC of North Nyanza District moved in very fast to advise the PC in 1946 that "bridewealth system is actually a social cement of African

⁵⁰²See the number of cases reported and tried in North Kavirondo Tribunal 1946-59, a majority of these cases were customary. Native tribal laws and customs and dowries 1955-58, KNA, DC/KMG/1/1/152.

⁵⁰³Native Land Tenure 1946, KNA, PC/NZA/3/15/85.

life,”⁵⁰⁴ meaning that any attempt to destroy, modify, reform or otherwise to suit modern times could affect family in a manner not seen before.

On one hand the DC had to lawfully protect the women from what he considered their molestation and maintained that no woman could be forced or compelled to live with a husband she had no love for. According to the DC, the best that could be done was to advise the man to sue for return of bridewealth. Yet, the DC had to listen to the Christian missionaries who wanted to defend their faith and the rights and freedom of married and registered Christians. The missionaries were of the opinion of settling marriages in which registration was duly done apart from referring the cases to the LNCs. The missionaries felt competent enough to handle marital cases as in any case, they did not consider marriage as a purely civil matter. The DC further found himself in more confusion as he realized that he had to protect the interest of “native” custom, particularly the wishes of the kinship heads that depended on the custom as a source of wealth. That is why it was very difficult for the LNCs to agree on the modality of reducing bridewealth.⁵⁰⁵ The denominator was the law governing the colony. It was clear that should customary law come into conflict with the laws of the colony, the latter superseded the former. Arguably, it seemed that the application of Native Christian Marriage and Divorce Ordinance of 1931 made women legal subjects in adultery courts. They could assert themselves more than before when it came to rejecting marriages.

One of the informants, explained how the high prices of cattle hindered many from getting married. This was due to unfixed prices of what should be real cost of

⁵⁰⁴Hut and Poll tax, 1932-1946, KNA, PC/NZA/3/10/170.

⁵⁰⁵ Marriage returns 1925-1929, KNA, PC/NZA/3/28/6.

marriage.⁵⁰⁶ People were not equal under the globe because some had enough riches but some did not. Those who had wealth could help their children to get married, but others could not afford.⁵⁰⁷ In Isukha, in the 1950s, several reports indicated an increase in what the DC of North Nyanza referred to as molestation of women in the localities referring to runaway wives who were arrested without a warrant or other authority, and girls who were unwilling to proceed to their chosen husbands, except by use of force.⁵⁰⁸ This molestation could not be avoided, because bridewealth return, considering hard economic situation, was beset with difficulties. Equally, men were away attempting to assert their authority on women and girls. Little did they know that women were running away because they could not cope with the general deprivation in rural areas.

In Isukha a bad phenomenon came up in which daughters were made expensive by their parents. While traditionally a man had to exchange three to six cows some father-in-law demanded more than what was traditionally acceptable. The case of Joel Ashikhoya (husband) to Ruth Lyonah illustrated this. He attached an expensive price on her wife who had been married to Joel as from 1954. Joel had paid six cows in terms of money, but still had to pay five cows at the cost of 130 shilling per cow.⁵⁰⁹ When this case was put before the DC of North Nyanza he acknowledged that he could do nothing as there was no fixed number of heads of cattle to be paid as “dowry” for a wife. This was also a time when a father-in-law could settle old marriage problems in cases where the man had not paid adequate bridewealth. In such a case the girl’s father could refuse her travelling to go and visit the husband in town and even could marry her off to another man of his choice who could pay adequate

⁵⁰⁶ OI., Dinah Shilazi, 06/01/2018.

⁵⁰⁷ Ibid.,

⁵⁰⁸ Law and Order Offences policy 1945-1961, KNA, DC/KMGA/1/60/60.

⁵⁰⁹ African Affairs, marital affairs complaints 1959-60, KNA, DC/KMG/2/1/170.

bridewealth. In Isukha, for example Lukongo Abwanga who was employed in Mombasa wanted to get his wife to stay with him and to his surprise, the DC informed him that his father-in-law had decline releasing her daughter because he had not finished paying the agreed bridewealth of 8 cows. At the same time Lukongo Abwanga was rejected by his wife Sesilia Bukasi for not paying bridewealth.⁵¹⁰ Consequently, women who did not accept such arrangements deserted their marriages.

Bridewealth was not the only thing straining marriages in Isukha. With the adoption of western forms of clothing, quarrels over quality and amount of clothing provided to co-wives had become one of the principal items of conflicts within homesteads. Men equally felt that they had lost control over women's dressing and the elders thought they had lost control over young men in shirts and trousers. Evaluating the grounds for divorce among the Isukha modern Isukha woman demanded European type of dresses and schooling for her children. They also expect modern foods such as sugar, tea, bread and other modern wares, such as tables, chairs, cups, knives, cooking pots of iron and so on.

The end of the Second World War also witnessed the expansion of the widows in Isukha as the localities remained the hunting ground for KAR and labour recruiters. Male recruits were transported to other parts of the world where they were exposed to foreign diseases from which they often died. This war itself had remarkable casualties. The burden of tax payment discouraged many men from taking care of widows. This meant that many widows lost social status and economic security. With the breakdown of traditional welfare system of taking care of widows, most widows had nowhere to turn to as their incomes disappeared and their control over their

⁵¹⁰Native tribal laws and customs and dowries 1955-1958, KNA, DC/KMG/1/1/152.

children and their place in a wider society became ambiguous.⁵¹¹ With lack of adequate compensation for these widows, it is evident that many faced considerable difficulties. These difficulties included raising children, generating income, and other domestic labour. For the first time daughters among the Maragoli rather than sons provided a valuable source of income for their widowed mothers and equally to fathers in terms of bridewealth.⁵¹²

In Isukha the situation was a little bit different. Bridewealth itself was not forthcoming as fathers and kinship heads forged an alliance, either to tactfully acquire it or delay their daughters into going for marriages. The widows in such cases looked for alternative means of survival. Such initiatives included petty trade within the emerging markets such as Khayega, Lubao and Kakamega town. The trade was basically in foodstuff and local brew. Some widows migrated to towns, such as Kakamega, Eldoret, Nairobi and even Mombasa to visit relatives never to be seen back again.⁵¹³ But widows who had some training, exploited their potentials for wage labour in the towns and Mission centres. For some it was in the towns where they could get other men to take care of them. Kakamega town was one of the known areas where widows or “just spoilt women” occupied, either selling local brews, trading or as claimed by members prostituting.⁵¹⁴

The changing social and economic environment in Isukha was not in any way favourable to different categories of women. It gave women an opportunity to think for themselves in new way. Tension of forced marriages, dwindling bridewealth payment and the extended male absences forced women to make very difficult

⁵¹¹ K. Mutongi, “Worries of the Heart: Widowed Mothers, Daughters and Masculinities in Maragoli, Western Kenya, 1940-1960” In *Journal of African History*, 40. (London: Cambridge University Press, 1999), 68.

⁵¹² Ibid, 69.

⁵¹³ OI., Rebecca Mtumbuza, 07/01/2018.

⁵¹⁴ OI., Peris Kavukha, 06/01/2018.

decisions. Equally the training of women enlarged their perception about themselves and about the environment in which they lived. Isukha women thus thought of their sexuality outside the context of kinship authority. The impact of Kakamega town and Mumias town was being felt in Isukha. The development of Kakamega was guarded under European cultural ideas about how men and women could live and work together. Kinship heads and fathers remained to answer one and the most important question that “could women make independence choices of their sexual behavior?”

4.4 Isukha Marriage Disputes during the Decolonization Period

Elopement became a common feature in the decolonization period. Eloped couples in Isukha often stole off to Nairobi, Mombasa, Thika, Nakuru, Eldoret and Kakamega town, but these were temporary moves: they always intended to return and set up proper marriages. While women’s families hardly endorsed elopement, neither did they always condemn such unions out of hand. Often, parents’ first step was to trace the couple and assess the size of the young man’s herd. If he could offer a reasonable bridewealth a father might acquiesce to a marriage.⁵¹⁵ As Mayer points out, elopement “was ranked as ‘normal’ youthful behavior.”⁵¹⁶

Elders of Isukha also thought elopement was less serious than adultery and abduction. Two former elders stated that parents’ first duty was to determine if the daughter had willingly gone with the man. If she had, bridewealth negotiations was opened; if she had not, then a court case was filed.⁵¹⁷ Elopement did not always lead to marriage. Some parents disliked their daughter’s chosen man or his family, or had another

⁵¹⁵ OI., Andrew Mulima Shirandula, 31/12/2017.

⁵¹⁶ L. B.. Shadle, *Girls cases: Marriage and colonialism in Gusii land, Kenya 1890-1970*

Ports mouth: Heinemann, 2006), 134.

⁵¹⁷ OI., Thomas Shikundi, 30/12/2017 and Joseph Mbalilwa, 30/12/2017.

potential groom in mind.⁵¹⁸ More often the decisive factor was the youth's lack of cattle. It was the relative poverty of young men and their inability to follow normal marriage procedures that gave impetus to so many elopements. This was one of the commonest results of exclusively high bridewealth rates. For a father's acceptance to his daughter's elopement was more the exception than the rule. Having hunted an eloped daughter, a father (often with other male relatives) dragged her home, and violence employed in most cases.⁵¹⁹ Parents also forced eloped daughters into marriages with more well-off men. In a case, where Makobe Mikadi wrote a letter to the DC of North Nyanza complaining about parents forcing their daughters to be married to wealthy men.⁵²⁰ A woman might then surrender, settling down with the new man. Marriage with an undesirable man was in the long run preferable to an informal union with a more desirable mate.

Despite the requirements that during bridewealth negotiation the bride assent to her marriage, certainly some were intimidated into keeping their objections to themselves. Once bridewealth had been completed leaving a husband was an even more daunting prospect. Such was the case of Peris Kavukha who ran away and siblings convinced her to return since the bridewealth had already been used on her brother's marriage.⁵²¹ Their unions having been cleaved, some women wept bitterly and surrendered to apparently irresistible parental wishes. But not all did so, the case of Anna and Buleti Shijahi is among the most wrenching of such stories.

Buleti and Anna met at a market place in Khayega in 1952. She came to love him, and after a month she agreed to elope. She based her fateful decision on the certainty that her parents would have

⁵¹⁸ OI. Paul Mulima, 31/12/2017.

⁵¹⁹ OI., Christine Muhatia 18/01/2018, \.

⁵²⁰ Native tribal laws and customs and dowries, 1955-58, KNA,DC/KMG/1/1/152 See letter 13th December 1956.

⁵²¹ OI., Peris Kavukha 06/01/2018.

rejected Buleti, for he had no cattle. Her parents reacted as expected. They instead struck a bargain with Marko Lukano. Anna's parents set off to Buleti with *askaris* lent them by sub-chief. Outnumbered, Buleti could do nothing but stand to the side and quietly watch his would-be wife caned and dragged off by representatives of the state, operating far outside the boundaries of the law though they were. Yet Anna and Buleti were deeply committed couple who loved one another, she later escaped and returned to him. Again she was violently dragged off; again she returned. Escape and recapture: the cycle continued over several years, eventually producing three children. Anna family availed themselves to *liguru* but the case was dismissed. At one point Marko Lukano came to her home to collect Anna who swung a *panga* machete at Buleti, cutting his hand raised in defense. But Buleti was the one who gave in, admitting the futility of continuing their fight. Anna surrendered to her fate. She finally married Lukano and stayed with him until his death.⁵²²

By the mid-1950s a marriage dispute could play out in any number of ways depending on the character of the men and women involved. Some women quickly succeeded in breaking undesirable marriages. A minority of husbands had no patience for dealing with runaway women, preferring to wipe their hands of the whole affair. This was the case, especially in the early stages of the marriage as it might have appeared that the woman would cause more trouble than she was worth. One man preferred simply to sue her wife Filomena Imbuhira who ran off and “married” Francis Ng’ombe.⁵²³ He put it bluntly: “my wife left me for another man therefore I want my cattle.”⁵²⁴ Some parents and “husbands” quickly resolved their disputes by returning all the cattle and all goats before the *likuru* and elders.

Acquiescing to a woman's demands was not always without its complications. One man received six head of cattle for his sister. She ran off, but rather than challenging her, her brother replaced her with another sister. When she too deserted the “husband,” the brother refused to fight, instead admitting the necessity of returning the bridewealth. The conflict then developed into the question as to how many cattle

⁵²² OI., Joseph S.C. Makatiani, 21/01/2018.

⁵²³ Native tribal laws and customs and dowries 1955-58, KNA, DC/KMG/1/1/152.

⁵²⁴ Ibid.,

had been exchanged over the course of the two marriages and how many had been returned, a debate the “husband” took to the elders.⁵²⁵ Such cases were especially common if the cattle had already been used. When his sister left her husband one man willingly refunded all the bridewealth except a bull calf which he had sold in order to pay his poll tax. If tension had for decades existed between man and woman over marriage, high bridewealth forced them into increasingly heated battles. Fathers and brothers, desperate for bridewealth, often put women’s wishes second to considerations of cattle.⁵²⁶ Among the Isukha there were cases for lending cattle for marriage for example Jilolo Imbajira was reported to have borrowed cattle for marriage purpose.⁵²⁷ Once the bridewealth had been expended, not only parents and siblings, but also friends also pressured a woman to accept an undesirable marriage.

Inter-clan dance competitions which arose in the early 1940s attracted many young men and women. While young people cheered, flattered and identified potential lovers or spouses, abductors identified potential victims.⁵²⁸ The most beautiful and the best dancers were at heightened risk as they left for their homes. Other abductors quietly lingered near a woman’s home timing her daily schedule to determine when best to strike. Trips to relatives and to *posho* (grinding) mills could prove dangerous. Market days could be the most perilous for young women. At times, unmarried women did not dare attend market without an escort of strong male relatives. Once at the abductor’s safe haven, escape proved a formidable task. Abductors withdrew to their homes where rescuers would be sure to look. Many abductors stole off to the places where migrant men worked on the tea plantations and urban towns. Often, abducted women found themselves dragged from place to place as their captors sought

⁵²⁵ OI., Timona Burinda Khamalia, 09/01/2018.

⁵²⁶ Ibid.,

⁵²⁷ Administration, African Affairs Miscellaneous Affairs 1958-59, KNA, DC/KMG/1/1/159.

⁵²⁸ OI., Joseph Mahero, 27/01/2017.

permission and enraged relatives. Monica Mkatili was grabbed by four men as she went home from church, she was kept for thirteen days at four different homesteads before being rescued. The immediate reaction of abducted women was escape and rescue. A trip to the latrine, could furnish an opening for women to escape.⁵²⁹ But tracing an abducted woman could be both difficult and dangerous as some abductors fought off relatives.⁵³⁰

The power of chiefs, sub-chiefs, headmen and other “indirect rulers” could prove essential to men hunting down “their” women. This was one of the most important differences between colonial and pre-colonial marriage disputes. With no overarching authority in the pre-colonial days fathers and husbands had little chances of tracking down a woman who had run to an enemy clan. With the establishment of colonialism, men could travel between clans in relative safety and draw on representatives of the state for assistance. Administrators encouraged litigants to avail themselves to a sub-chief before going to the chief. The status of the sub-chief was at best contradictory. The administration saw in the chief a resuscitation of “indigenous authorities,” although Isukha people recall sub-chiefs as strictly a colonial-era invention. People continued to seek the guidance of their *liguru*.

Chiefs, in contrast served over large geographical areas. Chiefs also held regular *barazas* to issue orders and hear minor disputes, including marriage disputes as well as bridewealth and child custody cases. On such administrators insisted that chiefs could accept only as much food and drink as they could consume on the spot and took larger gifts and bribes. *Liguru* could only intervene after fathers and husbands had made enough efforts to recover their eloped daughter and runaway wives. Sub-chiefs

⁵²⁹ OI., Monica Mkatili, 04/01/2018.

⁵³⁰ Ibid.,

required evidence even at risk of complaints' lives. Without evidence from the sub-chief or other witnesses, the Chief determined that the accused had no case to answer and acquitted him. As in cases of runaway women, men came to state representatives for assistance in rescuing abducted women. Sub-chiefs would be called on for help, and when this happened they would either go themselves or lend their police (*askaris*) to her deliverers. Unlike adultery and elopement cases *liguru* thought abduction to be a serious crime.

4.5 Land and Food Production during the Emergency Period

By early 1950s, the government had abandoned the idea of communal ownership and farming and advocated individual titles as the best solution to African agriculture. In effect, the government supported the wealthy landowners who wanted individual land title deeds.⁵³¹ The permission to grow the high priced cash crops, particularly Arabica coffee, given in 1951 did not bring to an end the controversy between agricultural officers and Africans. Arabica coffee planting was initially restricted to farmers with plots of at least seven acres. But due to protests from African better farmers the minimum acreage was reduced to four acres in 1954.⁵³² But four acres was still a large acreage mainly among the peasant farmers with smaller land holdings.⁵³³

The mid-1950s witnessed many protests against colonial agricultural policies. *Dini Ya Musambwa* movement provide the best and most significant example in western Kenya to protest against a variety of grievances, both real and imaginary. Behind its formation were religious, social and economic grievances which wanted an African

⁵³¹MMusalia, *Gender relations and food crop production: a case of Kiambu District Kenya, 1920-1985*

⁵³² Amatsimbi, *The Friends church and Economic Transformation among the Luyia of Western Kenya*, 254.

⁵³³ Minutes of Veterinary, Agriculture and Natural Resources Committee, 7/4/55, KNA,CS/1/14/97.

government and social justice based on their own traditions.⁵³⁴ These protest together with the emergence of the Mau Mau, made the government become more responsive to the Luyia's agricultural needs. For instance, in light of the disturbances caused by *Dini ya Musambwa*, the provincial administration applied more efforts towards African agriculture, as a means of "improving the colonial state's position."⁵³⁵ Subsequently, the colonial government renewed systematic efforts to develop African agriculture.

These efforts were given a major boost, through the five million pound made available by the Swynnerton plan of 1954.⁵³⁶ The plan drawn up by the Deputy Director of agriculture, R.J.M Swynnerton, took advantage of the availability of colonial development and welfare funds. It represented an abandonment of the earlier efforts to constrain the development of African commodity production of coffee, tea among other crops. Along with the land consolidation and registration campaigns, the plan was to provide the essential elements of African agricultural development. It sought to consolidate and enclose land holdings, establish individual land tenure systems, provide capital and services, encourage extended production of cash crops and improve livestock to enable farmers derive income from their land holdings beyond subsistence. Indeed, Swynnerton had argued that as a result of the plan "able, energetic or rich Africans will be able to acquire more land and bad or poor farmers less, creating a landed and a landless class."⁵³⁷

⁵³⁴ G.S. Were, "Essay on African Religion in Western Kenya" (East African Literature Bureau: Nairobi, 1977), 30-39.

⁵³⁵ Nyanza Province Senior Agricultural Officer to North Nyanza Agricultural Officer 1/7/1949, KNA,DAO/HD/KMG/4/1.

⁵³⁶ For details, see *Kenya Colony and Protectorate, A plan to intensify the development of African agriculture in Kenya*, (Nairobi: Government Printer, 1954), p.10.

⁵³⁷ *Ibid.*,

The intention here was to create a stable African landholding class, with access to capital and income to be derived from the growth of cash crops hitherto preserved for white farmers. Consequently, the plan aimed at creating a new class, a rural based middle class that would undermine African peasant opposition that had been manifested by the *Dini ya Musambwa* and Mau Mau.⁵³⁸ The long term and greatest gain that the colonial government could expect from the participation of Africans in running their own agricultural industries, would be a politically contented and stable African community. The plan thus completely changed the agricultural geography of Luyialand. It was an absolute turnaround of government's policy on African agriculture, with the aim of making Africans increase their productivity through individual tenure of land in agricultural areas. It also recommended the growth of cash crops by the landowners, which were hitherto preserved for white farmers. The Swynnerton policy on land became the benchmark for all future land policies. Traditional institutions, for example the family and the clan were sidelined completely in settling land disputes with courts taking the final arbitration in land matters.⁵³⁹

Consolidation and registration legalized a European ideology of exclusive rights in Kenya and gave prevalence to household heads who were mostly men. Traditionally, women handled much of the agricultural work. However, the teaching of missionaries and the permission to grow high income cash crops, particularly Arabica coffee in 1951, changed the practice. Many men began to share these agricultural activities which had previously been considered women's work. In addition, many African farms were demarcated and some farmers even had title deeds. Thus, Isukha women's

⁵³⁸ Amatsimbi, *The Friends church and Economic Transformation among the Luyia of Western Kenya*, 255.

⁵³⁹ Musalia, *Gender relations and food crop production: a case of Kiambu District Kenya, 1920-1985*.

usufruct rights previously safeguarded in Isukha land tenure system were marginalized by the new policy.

Women were also disadvantaged because land was to be used as collateral in the acquisition of agricultural credit. Since few women, if any got individual land titles, they could therefore, not secure credit for agricultural improvements. There were, however, incidences where women got land, but these were widows whose cases were clearly known to the local authorities. The Swynnerton plan had as a result, legally established classes of landed and landless persons in Isukha, which effectively interfered with marital relations of production. The effects of Swynnerton Plan were also felt in other agricultural areas in the country. Musalia, writing on the gender relation and food production in Kiambu criticized the Swynnerton plan for bringing changes in land tenure that severely impacted on Kiambu women's ability to produce food. She asserts that:

Consolidation enabled the Kikuyu to grow cash crops like coffee, tea and pyrethrum. The production of these crops stretched the women's labour further. Women's labour which was needed in coffee picking which was done at the same time as the peak of Kikuyu agricultural seasons to grow food crop. Cash crops were grown on land that food crops could have been grown. In addition, women were not able to grow all the types of food crop they would have wished to produce because land was not sufficient since land reserved for food crops were occupied by valued cash crops.⁵⁴⁰

Consolidation and registration of land therefore affected food crop production. Luo women were equally affected by the individual land registration. The registration "effected a hardening of men's land rights into absolute land ownership, to the exclusion of women's and children."⁵⁴¹ Despite being in Kenya for over fifty years, the British still held a Victorian idea of a woman being dependent on a man,

⁵⁴⁰Ibid,182-183.

⁵⁴¹ J. Davidson, "Who owns what? Land Registration and Tension in Gender Relations of Production Kenya."In *Agriculture, Women and Land: The African experience* (ed.) Boulder (London: Westview Press, 1988), 166.

therefore, went ahead to encourage individual land registration and favoured male household heads.

Land consolidation affected men also. The most affected perhaps were the young generation that had previously looked upon their fathers for land inheritance. One informant perceived his sons were “squatters” on his land as recently as 2018. He did not feel obliged to sub-divide his land to the sons in spite of them being jobless and still at home.⁵⁴² What the informant failed to say was whether before his death he could divide the land or not. Such uncertainties caused inter-family feuds. Registration of land also engineered intra-family conflicts as brothers disagreed especially in situations where the sons were looking upon their fathers for land. Although in rare situation conflicts, were also witnessed between spouses. There was a struggle among men and between women with gender and class being the significant axes in the battle to secure land rights. It was not only gender that influenced an individual’s access to land, but also class (educated elite). Though, women had less chances of owning land because of their gender. Consolidation and registration of land on an economic system had encouraged the concentration of land in the hands of men. The converse was an increasing impoverishment of the mass of women of Isukha land. Emphasis on the production of export cash crops also led to increase in rates of land fragmentation among sons which increased shrinkage of land and negatively affected soil fertility. As land sizes shrunk more men left their upcountry homes to search for paid work. Men, who were left at home, took advantage of absentee husbands and started to take away land whose owners were absent. In most cases, it was women who wrote to their absentee husbands to inform them of the happenings backs at home. Land disputes led some women and wives to

⁵⁴²OI., Francis Major, 04/01/2018.

take off, while in some cases, land disputes led to increased widowhood as men fought and killed each other over land.

4.6 The Impact of Western Education on Isukha Marriage

During the war period and thereafter, two distinct social classes emerged among the Isukha as a result of Christian missions and western education. The first class comprised the Christian educated elite who had increasingly attained the status of a middle class or petite bourgeoisie and secondly, the peasants. The educated elite were composed of African colonial officials mostly mission educated. Wielding political and social authority, administrative leaders such as chiefs, members of the African District Councils (ADC), councilors and the educated elite combined their salaries with incomes from extensive holdings of land and/ or commercial enterprises. Such salaries not only provided them with the means to maintain and expand their holdings, but also allowed them to venture into agricultural production for the markets. The educated elite also invested in business and trade, such as butcheries, *posho* mills and shops which further contributed to their general wealth.⁵⁴³ This new social status was reflected in accumulation of capital, the construction of large European style houses, ownership of cars and a demonstrated commitment to progress, through educating their children and taking advantage of the available economic opportunities in their areas.

Class formation was so conspicuous among men than women. However, education came to play a changing role among Isukha women in the post-war period. In the period before 1945, a minority of Isukha women had attended school. After their education, they became school matrons, teacher evangelist and teachers particularly in Farm and catholic mission schools. The success of these female teachers made more

⁵⁴³North Nyanza District LNC Minutes, 10/3/1945, KNA, PC/NZA/3/79.

parents begin to view girls' education as equally important to that of boys. Indeed, educated women attracted a higher bride price. This was because like men, educated women were employed in various sectors where they earned salaries and attained the status of the elite in their own right.⁵⁴⁴

The advancement of girls' education was not equally successful in a number of locations as attitudes were mainly subjective, varying according to the impact of western values in general and economic circumstances, in particular. For example even after the Second World War many Isukha parents were still refusing to send their daughters to school. Wealth was still counted in terms of cattle and land, a woman was valued more for her labour contribution as a cultivator than a teacher, and more often became one of the several wives in a polygamous household. Among the Isukha there was the fear of educated women who did not want to get married. One participant narrated on how songs were composed to ridicule educated women who had attained age of marriage and were still single, he gave an example of a song composed by Daudi Kabaka to ridicule such women that sang like this.

*“Msichana wa sura nzuri, kitu gani kinakufanya usiolewe,
Elimu unayo yakutosha, hata ng'ambo ukaenda ukarudi,
Msichana wa urembo kama wewe, uonyeshe mapenzi kwa vijana,
Ukionyesha majivuno kwa vijana, utazeeka ukiwa nyumbani kwenu.”*⁵⁴⁵

See translation below

“A beautiful lady like you, what is preventing you from getting married
You are well educated and have even gone abroad and come back
Years are lapsing so fast and your beauty is diminishing”

There was also the fear of town women who were referred to as prostitutes. This category of women were accumulating wealth and climbing the social and economic ladder. Consequently, the majority among the women were peasant farmers largely

⁵⁴⁴ OI., Elizabeth Ngaira, 07/01/2018.

⁵⁴⁵ OI., Hezron Ngaira, 04/01/2018.

depending on money sent by their husbands from urban centres for their subsistence.⁵⁴⁶ Consequently, in contrast to the educated elite, the mass of the peasants, given their limited resources and their growing needs had to struggle to simply maintain their standard of living at a minimum subsistence level.⁵⁴⁷ Indeed, land pressure and lack of employment opportunities in cities, towns attracted more migrants towards European settlers' farms. This migrant pattern mostly involved those with minimum or no education, and those with little land. This trend, characteristic of semi-proletarian conditions, has been stimulated by a practical consideration of economic necessity. Later it would be greatly accelerated by the manpower, both in the armed forces and in those sectors of the economy deemed most crucial to the war effort, rapidly rose.

The European looked at most of the aspects of African marriage with disrespect and abhorrence. They failed to understand their significance and social foundation. An example of this was the western types of education whose sole aim was not to produce Africans who would help in promoting their culture. The learned African was expected to be as much westernized as possible in his outlook and mode of production. The by-product of such education system was Africans who had accepted the western view of "good life". Their socialization was such that they viewed African traditional way of life as outdated.⁵⁴⁸ Missionaries introduced western education in Isukha land and this benefitted both men and women. Education changed the Isukha culture in various ways. Educated men mimicked European lifestyles and most of them sought to marry educated women. Educated women also sought to be married by educated men and they disliked being married to polygamous men. So like

⁵⁴⁶ North Nyanza District Annual Report, 1955, KNA, NN/1/37.

⁵⁴⁷ OI., Helen Linakha, 07/01/2018.

⁵⁴⁸ G. Nyambura, *The customary and Christian marriage today* (LLB, University of Nairobi, LLB, 1980), 33.

Christianity, mission western education promoted monogamous marriages. Educated Africans became pilot targets of policy implementation since they were used as microcosms of British modernity from whom other Africans would urbane values and mannerism.

In the long run, therefore, the Isukha traditional education system gave way to colonial system of education inherited from European society. The education of children was passed on from the parents and the community to the teachers and schools where it became more of book learning as an end in itself than an education that prepared the youth for mature life and future career. Whereas under the Isukha set up both boys and girls received preparatory education concerning marriage, sex and family life especially during and after initiation rites, schools during this period gave little and often no such preparatory education and this led to lose of morals among the youth.⁵⁴⁹ Furthermore, educated young men and women who had acquired very little education of what entailed Isukha marriage, had migrated from Isukha in search of work and responsibilities, producing a situation where the elders found themselves under their young peoples' authority. Thus, standards of leadership and authority had reversed so that even in marriage affairs, not a few cases were sent to the young ones; be they Christian evangelist, teachers or administrators. Such a situation greatly challenged and even undermined the role that used to be played by the elders in Isukha marriage.⁵⁵⁰

4.7 The Impact of the Christian Church on Isukha Marriage

It is worth mentioning that most early converts were included even encouraged by missionaries to stay in or around the mission stations while the non-converts remained

⁵⁴⁹ OI., Christine Muhatia, 18/01/2018.

⁵⁵⁰ OI., Pricilla Indimo, 16/01/2018.

in their homestead. This idea of dissociating from one's family or community that was not Christian made one to become an individual within the community and this was something that had never been heard in Isukha land. Isukha people lead a corporate life all through. As a consequence, this individual lost the community guilt conscience and hence adopted new values. Furthermore, in these mission stations it was no longer possible for the members of the extended family to discharge their duty of instructing their pre-initiated and initiated boys and girls on matters of sex, especially what was expected of them in their marital life. As a result, the children grew up completely ignorant of their sexual life.⁵⁵¹

Further, the missionaries set up schools based on western standards. For those who desired to be enrolled, a change of religion was a prerequisite since school and churches were intertwined. In the missionary schools no education was given on African customs governing the obligation of an individual to relatives within and outside immediate family circles. Education on ceremonial rites in which kinship obligation were expressed and observed was ignored. It was demanded that no student should be seen observing or participating in those ceremonies.⁵⁵² Students having been introduced to catechism and having been taught about the evils of their customs, they were made to believe that their own parents and community at large had nothing to offer them because they were pagans and hence their counseling, and teaching on matters of marriage was greatly checked.⁵⁵³ The consequence of this state of affair was that many youths were uprooted from their cultural roots. An Isukha who desired to marry and had gone through a missionary school did not seek advice from his/her members of the extended family for they had been taught to believe that their customs

⁵⁵¹ OI., Edward Konzolo, 16/01/2018.

⁵⁵² OI., ChritineMuhatia, 18/01/2018.

⁵⁵³ OI., Peter Lubelela, 02/01/2018.

were oppressive and tyrannical and that adhering to them was cumbersome, non-Christian, improper and militating against their freedom. Mostly, affected customs included those taboos that had to do with checking the indulgence in sex among the youth and such were termed as sheer superstitions. Such individuals were encouraged to undergo sacramental rites that prepared them for a westernized form of marriage.⁵⁵⁴

As already noted, initiation rites were among the most important valued process in preparation to marriage. But unfortunately, the missionaries made little or no attempt to use them. The acceptance of Christian faith by Isukha was accompanied by a similar acceptance and accommodation of western values. For instance, FAM undertook to circumcise boys, an operation which in no way satisfied the initiation requirements of Isukha culture. Thus, those who converted were under spiritual obligation to avoid initiation rites accompanying Isukha circumcision.⁵⁵⁵ Customarily, during the circumcision rites the members of the extended family and the clan at large played a major role in counseling the initiates on what entailed marital life. Thus, the parents and the community at large, were in a position to influence decisively, the nature and form of marriage through the practice of circumcision. Moreover, circumcision was a prerequisite to marriage in Isukha society and was done to young men who were almost approaching age of marriage. With the teaching of Christianity circumcision was done in hospital at a tender age. It also altered marriage education that used to be given to boys. Boys circumcised in hospital were looked down upon as “lesser” men and missed out on marriage education which accompanied circumcision.

The missionaries initiated the freedom of choice of one marriage partner by another and recognition that the choice was to be based on love, personal attraction and

⁵⁵⁴ Ibid.,.

⁵⁵⁵ OI., Bernard, Mukhaya Khamalinya, 11/01/2018.

Christian commitment. Makobe Mikadi vividly brought this out in a letter written to the DC North Nyanza stating that: “marriage does not mean somebody’s property and action should be taken to parents who force their daughter to the parent’s choice.”⁵⁵⁶ The role of parents and other members of the extended family concerning choice of marriage partner had been seriously eroded in the decolonization period in this choice. Besides, the missionaries emphasized that the consent was for the two people, the spouses to be. The community idea was there, but not much emphasized in terms of being asked about the consent. In the long run the idea of family involvement in the negotiations was systematically discouraged as this was interpreted as a hindrance to the freedom of boys and girls, going against their “God” given right to choose for themselves. In short, the communal aspect of choosing a partner was forced to give way to the individual aspect.

It is also interesting to note that during this period of decolonization, many Isukha men and women had been converted into Christianity and missionaries did not bother with the intricacies of bridewealth in Isukha marriage. They saw in it only what they believed to be a business transaction. They did not hesitate to condemn all the ceremonies that accompanied it such as the feasting and activities that were involved in the Isukha marriage ceremony such as pouring of libation to ancestors among others as unchristian. Consequently, these men were not prepared to regard it as a significant factor for the validity of marriage as was the case in Isukha marriage. Instead, they based the validity of church marriage on the ring, on the vows observed on the wedding day and the documents signed in the presence of the witnesses namely

⁵⁵⁶Native Tribal laws and customs and dowries 1955-58, KNA, DC/KMG/1/1/152.

the best man, the best maid and the priest.⁵⁵⁷ As a result, the approval of the marriage by the parents of both sides and their respective clans was ignored.

It is then not a wonder that in the church marriage vows are promises of a husband to his wife and of the wife to her husband that hence forth they are going to live in harmony helping each other to maintain a stable marriage. Furthermore, those who were already married when the missionaries came and wanted to join the church had to live their marriages solemnized before they were considered for full membership. This was true because the missionaries found the Isukha marriage “wanting” and thus proceeded to standardize it so as to conform to their western view of Christian marriage.

The church brought forth the idea that marriage was a contract between two people, man and a woman. They taught that love could only be shared between two people and that the essence of marriage was to become one flesh with the other partner and that the idea of marrying more than one wife negates these two factors. Thus, they emphasized and even made it compulsory for the converts to enter into monogamous marriages. They also laid emphasis on nuclear family and the fact that the two newly married partners had an equal status in their new home. If a polygamist wished to join a church he could neither be baptized nor be a communicant let alone having his marriage solemnized unless he got rid of all except one wife preferably the first wife. Similarly, a woman who was married to a polygamist could not become a full member of the church. If she wanted to be baptized she had to leave her husband.⁵⁵⁸ In accordance to the new faith a husband was to remain faithful to one wife and had to

⁵⁵⁷ OI., Angelia Lichina, 11/01/2018.

⁵⁵⁸ OI., Sara Shitambatsi, 27/12/2017.

denounce many of his customary values, as outlined in the third chapter, such as the opportunity to have a large family by having more than one wife.

Besides, the missionaries introduced a new change in the Isukha conception of the purpose of marriage. Among the Isukha, procreation of children was the very purpose of a marriage and sexual intercourse was its very essence. The missionaries taught that marriage was an institution with a higher value. That it was a creation from God with the help of whom man could reach eternal salvation. They asserted that procreation was not the only important factor since children were a blessing from God and that companionship, that is, life-long partnership, help and comfort which a husband and a wife ought to have of each other, holds a higher goal in marriage and hence the issue of children was a secondary one. Thus, according to the new values brought about by missionaries a childless marriage could remain happy and valid marriage for as long as there was conjugal love and total commitment to each other.⁵⁵⁹ As noted in chapter two, among the Isukha a childless marriage was a total failure and all ways and means were employed to rectify this predicament. This is because marriage was viewed as the gateway to life, hence infertility and sterility blocked the channel through which the stream of life flowed and the victims were thus plunged into misery.

The missionaries were totally against any form of divorce. This implied that the marriage contract could not be broken at will or with the consent of the contracting parties but only through death of one of the parties. Notwithstanding, they went further and introduced a foreign reason for divorce namely that; if sexual intercourse does not take place soon after marriage, the marriage becomes void and useless. Thus,

⁵⁵⁹J.M.Karanja, *An assessment of the interaction between Kikuyu customary marriage and Roman Catholic Church marriage: The case of Tuthu Parish in Murang'a District* (MA.Thesis, University of Nairobi, 1998), 108. Retrieved from <http://erepository.unobi.ac.ke>.

unlike the case of Isukha marriage, impotence of the husband became an adequate reason on itself to annul a marriage.⁵⁶⁰ According to the church, it was only by sexual intercourse that the marrying couple became one flesh, which was the essence of sacramental marriage. Each partner therefore fulfilled the marital obligation in sexual union.

As already discussed, the missionaries brought about the notion of marriage being a contract between two people and hence the death of one partner meant the end of the marriage. As a result, caring of the widow's sexual and procreation needs especially if she had no children with her husband within the family in which she was married was condemned and ruled out among the converts to the new faith. Furthermore, the widow was not supposed to have more children and if she did so, unless she had remarried in church, she was supposed to stop receiving church sacraments in the case of the Catholic and leadership position within FAM.⁵⁶¹ The missionaries also brought about the idea that one could choose to lead a celibate life either as a sister, brother, Christian lay person or as a priest for the glory of God and the service of the wider community. In whichever way, the missionaries emphasized that single state was a vocation worth equal respect just as marriage was. In Isukha, marriage, as noted in chapter two, was between a mature woman and man. Marriage was a vocation and duty for all normal persons and those who married enjoyed a higher status in Isukha society. Apart from the impact of the church on Isukha marriage, something else was to happen within the administrative sphere in the post-war period which, as time progressed impacted strongly on Isukha marriage. This was referred to as social welfare as discussed in the next section.

⁵⁶⁰ OI., Peter Lubelela, 02/01/2018.

⁵⁶¹ OI., Pastor, Simon Osiango, 07/01/2018.

4.8 Post War Social Welfare Programmes

Towards the end of the war, the Kenya government was increasingly becoming concerned about African life. It was obvious that African life was unsatisfactory and as early as 1942 the Legislative Council passed a resolution urging the government to initiate a programme for native production and welfare policy.⁵⁶² The possible causes of the pathetic situation of the Africans were seen as lack of definite native policy. Agriculture policy, for example, was not well coordinated especially with regard to cash crops and soil conservation, lack of better communication and market facilities; failure to provide ample and uncontaminated water supplies; failure to introduce more sanitary and hygienic conditions of life and better housing; growth of the attitude of *laissez faire* in African administration; inability or lack of success in securing the willing cooperation of Africans; insufficiency and lack of direction in propaganda; disinclination of the part of the majority of Africans towards any improvement in the standard of life and inertia, apathy and indifference of the African.⁵⁶³

A committee was, therefore, appointed to prepare and give a five-year development and welfare programme designed to bring about an improvement in the standard of living of the Africans in their homes. This was to revolve around planned development of natural resources (land, water and forests) of the African areas and balanced development of social services in these areas. This seems to have been influenced by British government's declaration in 1944, concerning the mass education in African colonies.⁵⁶⁴ It required the improvement of the health and living conditions of the people; the improvement of their economic status and the

⁵⁶² Ndeda, , *The impact of male migration on Rural women: A case study of Siaya District*, 263.

⁵⁶³ African Welfare and social services, 1944-1950 KNA, PC/NZA/2/1/169.

⁵⁶⁴ Ndeda, , *The impact of male migration on Rural women:* , 264.

development of political institutions and power until the day when the people could become effectively self-governing. This was a massive task which could only be realized by the united efforts of the Africans. A Bureau of social work was to be created and attached to one of the existing government departments.

The introduction of wage employment had inevitably led to individualism and caused a break down in marriages as women tended to avoid their duties in the communities. The supernatural sanctions which enforced communal moral rules had generally ceased to be effective in areas where European contacts had been pronounced and this had caused the collapse of ethical systems which often had genuine social value. With these it was further acknowledged that in any case moral codes, which served to regulate the conduct of members of small kinship units, were no longer adequate in the case of people living in the larger mixed communities that congregated in the new towns. Furthermore, the growth of these towns and cities especially in the spread of “civilization” inevitably gave rise to new social problems such as destitution, child vagrancy, prostitution, housing shortages and delinquency with which traditional machinery were unequipped to cope with.⁵⁶⁵ Although the historical causes differ widely, Kenya’s social problems were said to be in need of the application of new techniques of social welfare which were worked out in more advanced countries.

Before 1940s social welfare was a vague term and could include anything ranging from community development, aid, social work, social services but in 1940s it referred to satisfactory state health, prosperity, wellbeing of a person or community. The term social welfare and community development were used interchangeably in the 1940s and 1950s and the organization went through a sequence of name changing with community development becoming dominant in the 1950s. Welfare work in the

⁵⁶⁵ African Welfare and social services, 1944-1950 KNA, PC/NZA/2/1/169.

colonial context meant formulation and putting into practice plans that would eventually lead to a higher standard of living. At a meeting of the native welfare committee in 1944, the chief Secretary stated that time had come when a general health policy might be inaugurated. Duties of the government were to provide water supply by arable lands which were abandoned and putting back exhausted soil to a proper economic system of cultivation; and reclaiming the areas hitherto closed due to infestation by tsetse fly.⁵⁶⁶

In 1946 a committee on Social Welfare information and Mass Education out-lined the duties of the welfare office as follows: Promotion of economic prosperity, social contentment, creative power and health; prevention of poverty, social discontent, moral and mental lethargy and ill-health; cure or alleviation of moral delinquency and mental and physical disease and injury; and the rehabilitation of all who are for any cause disabled. Promotion of personal health meant- adequate wages, nutrition, general education, physical exercise and recreation, industrial welfare and hygienic adult education.⁵⁶⁷ In a broader sense welfare was to embrace practically every branch of amenity services which were designed to produce a better civilization. In practice social welfare came to be synonymous with education propaganda. Women were left out in the new colonial policy of “Social Welfare for Africans.” However, the manner in which women were incorporated into social welfare programmes was very much influenced by a shift in the colonial thoughts on gender in the post-war period as discussed in the next section.

⁵⁶⁶Ndeda, *The impact of male migration on Rural women* 265.

⁵⁶⁷Ibid, 265.

4.8.1 Administrative Thought on Gender in the Post-War period

Administrative thoughts about African women in Kenya may have started in the 1930s but it was not until the post-war period that a tremendous shift in policy and practice was witnessed. This was in resonance with what was happening in Britain at the time. In Britain and across the African empire “development” became the new mantra. Many administrators reflected on whether those decidedly “traditional” practices that kept women subordinated (at least in comparison to contemporary Britain) could present a barrier to African’s path towards modernity. Administrators posed questions not recently heard from within their own ranks: Did bridewealth in fact reduce women to the status of slaves? How common was forced marriage and how could it be prevented? Were husbands and fathers deserving of extensive state support? The positions that administrators had so recently and so vehemently defended no longer seemed unassailable. There was a growing sense in colonial circles that preserving the “traditional” sphere no longer served the purpose of European rule. A wave of strikes across Africa and elsewhere in Britain Empire forced colonial officials to reappraise whether they should recognize an emerging working class of women.

How then did the women component find its way into the social welfare initiatives? In the early 1940s the colonialists began to show concern for the African women due to pressure from international community as well as the European women in Kenya. The only body fighting for African women at this time was the East African Women’s League (EAWL). In 1945, Major H. Sharper European woman living in Kenya, expressed his concern that, in a study of the magnitude by Major Orde Brown (1946) that no mention of the African women had been made either by Orde Brown or Mr. Wynn Harris. He stated “one could not expect a sense of responsibility in the African

male until the woman's side was improved."⁵⁶⁸ The colonial government could only salvage the situation of African women since her policies had ignored women. The European male administrators had forgotten that any society depended on their women for progress so did Africa. The inclusion of women into social welfare programs was even made strongly by the Jeanes School, Lower Kabete Handout of November 26, 1951 which stated:

Probably one of the best courses is that of women. One of the reasons Africa is backward is because African women are backward. On the other hand, agriculture is largely in their hands and the upbringing of children entirely so. The future of the land and the coming generation is therefore gloomy unless African women are trained.⁵⁶⁹

As a consequence, on March 22, 1946 a course of training for African social welfare workers was started at the Jeanes schools. Ex-service men were trained first, but there was hope that eventually civilians would be trained. The establishment of community centres followed this where there was none. In these centres, spinning and weaving classes as well as literacy classes were introduced for African women. Also offered was a simple courses on domestic duties under the few in most cases unmarried European ladies. Although the work was sporadic, such was the enthusiasm that the government stepped in to control and assist the movement. The purpose of these was to raise the standard of living of African women by showing them how to become better house wives and mothers and giving them the opportunity of becoming literate, either in their own language or Kiswahili and English language.

At the Jeanes School at Kabete, for example men enrolled in commercial classes, grooming themselves to be the new business elite, as well as in areas such as cooperatives and community development which would allow them to slide into

⁵⁶⁸ *East African Standard*, February 23 1945.

⁵⁶⁹Community Development Handout, 1951-1955, KNA, PC/NZA/3/1/548.

positions eventually left empty by Britons. Education for women was rather different. African women too could take courses at Kabete, but in needlework, cooking and laundry. A handful of administrators felt African women needed education beyond household chores. Elite African men required the companion of educated wives to prevent them from slinking off to beer halls and potentially creating urban disorder. Governor Brooke-Popham wrote that:

Women must receive education not only in cooking and looking after babies but also sufficient to be able to read native books and papers so they shall be able to talk on an equal footing with their menfolk. I believe the African man who takes quite an intelligent interest in European affairs, gets fed up when he goes back to his hut and finds his wife think talk of nothing but maize, manure, and goats. Thereupon he goes off to his counterpart of club... which may become a sort of talking shop and possibly a center of disaffection.⁵⁷⁰

A much broader, world-wide discussion of population and demography helped stimulate administrative interest in African family life. Colonial officials had long been concerned with African's population levels, from 1890s to the 1940s observing that the numbers of their subjects had stagnated or declined (owing to diseases, conquest and the evils of forced labour). After the Second World War demography captured the attention of Britons in new ways, as both African population and British dedication to development increased. While some argued that development would prevent overpopulation, others held the views that, only a precise counting of the African population would permit the effective implementation of modernization programs. In either event, if development were to proceed more thoughts had to be given to the fertility, reproduction and family among African.⁵⁷¹

⁵⁷⁰ Shadle, "Girls cases" *Marriage and colonialism in Gusiiland Kenya 1890-1970*, 142.

⁵⁷¹ Shadle, *Girls cases" Marriage and colonialism in Gusiiland Kenya 1890-1970* (Portsmouth: Heineman, 2006) 187 Cited Lynn M. Thomas, *Regulating reproduction: state intervention into fertility and sexuality in rural Kenya, 1920-70* (Ph.D. dissertation, University of Michigan, 1977) 218-219.

The evolution of African life, in turn called for new policies for African women. Arthur Philips report of 1944 on Kenya Native Tribunals “forecast.... That for better or worse, the emancipation of African women proceed, and with increasing rapidity.”⁵⁷² Philip admitted the necessity of adapting marriage laws “so as to improve the status of the African wife.”⁵⁷³ Chris Minter recalled that he and fellow administrators “deplored (among themselves) the status of African women in certain (respects).”⁵⁷⁴ Many argued that it was the progress of women that would ultimately determine the evolution of African societies. A Provincial Court officer in Nyanza region wrote in 1950, “Progressive development of African society is relative to the increase in the status of African women.”⁵⁷⁵ To encourage colonial welfare and development, the colonial government began investing more time and money in training and educating African women, albeit in areas which reflected European ideas about gendered division of labour.⁵⁷⁶

If some African men were to be molded into a petite bourgeoisie, Robertson pointed out: “then it was suitable that they marry western-style housewives.”⁵⁷⁷ In spite of this thinking, education still remained the preserve of few women for along time. The one area where efforts were channeled for grooming a better class of African wives, by colonial administrators, was through the *Maendeleo Ya Wanawake* (MYW) (Development of women) organization. The roots of *Maendeleo* (Swahili word for development/progress) can be traced to the 1940s when wives of colonial officials, missionaries and settlers began holding workshops for African women.⁵⁷⁸

Development or *Maendeleo* courses sprout under government sponsorship in the late

⁵⁷² Ibid, 188.

⁵⁷³ A. Philips, *Reports on Native Tribunals* (Nairobi: Colony and Protectorate of Kenya, 1944), 297.

⁵⁷⁴ Shadle, “Girls cases” *Marriage and colonialism in Gusiiland Kenya*, 188.

⁵⁷⁵ Ibid,.

⁵⁷⁶ See Philips, *Report on Native Tribunals*, 296.

⁵⁷⁷ Ibid, 188.

⁵⁷⁸ Ibid,

1951 and *maendeleo* clubs and membership expanded rapidly over the next several years: 300 clubs with 37,000 members by the end of 1954.⁵⁷⁹ The courses of instruction, like those at the Jeanes school, mostly involved agricultural information which African women had generally received via their men folk.

As time progressed, colonial administrators recognized how influential training and education could be in expanding women's horizons and enlightening them to the ways of the modern world. The DC North Nyanza, writing about the women institutes from which *Maendeleo* emerged, saw them as concrete steps towards reaching women. "For years, we have somewhat mechanically repeated the phrase 'we must get at the women' he conceded, "But I suppose being men our efforts have mainly stopped there." Women's institutes provided a real opportunity to improve women's lives. The DC continued to state that "if we do get at the women successfully....there is no limit to the rapid improvement of African social life that will take place: health and hygiene, agriculture, education, morals all will be incalculably affected for the good."

⁵⁸⁰ Perhaps of most significance, administrators argued, *Maendeleo* clubs promoted "civilized" behavior.

4.8.2 Social Welfare and their Implication on Isukha Marriage

Post-War social welfare programmes were introduced among Isukha women such that by 1958, there were five operational women's Clubs located at Shinyalu, Luanda, Khayega, Kambiri and Mukhonje.⁵⁸¹ These were referred to as women institutions. In these centres health and hygiene, agriculture, spinning and weaving classes, teaching of crafts as well as literacy classes were introduced. The main audience of the

⁵⁷⁹Ibid,188-189.

⁵⁸⁰ Ibid,189.

⁵⁸¹ Community Development and women institutes 1956-59, KNA, DC/KMG/1/1/178 see annual return of Maendeleo membership 1958 of North Nyanza District.

meetings were women even though some men, especially colonial administrators (chiefs mainly) also attended. The centres were created to help people act and think for themselves. The centers provided opportunities such as adult literacy classes, lectures, discussions and debates, radio, film, reading facilities, writing letters, indoor games, plays, concerts and tea canteen. The spinning and weaving classes were for the purpose of teaching women so as to start their own industries. A home industry needed equipment and for this reason women were encouraged to contribute financially by paying a monthly subscription fee of ten shillings.⁵⁸²

The course took approximately twelve months and, at the end of it, each woman was to receive a complete set of equipment. Fathers and husbands were required to be helpful to their women by providing the monthly installments. Women bought the wool but they could either sell or keep the woven products. If they sold them the money assisted the women to pay their monthly installments. They were also to be taught general hygiene and sewing. It was hoped that, at a later date, trained women would form cooperative societies through which they would purchase equipment and sale their produce.⁵⁸³ Women who trained women who were members of women's clubs were trained at five centres which were operational in North Nyanza district namely: Bukura, Kindinyi, Kakamega, Mumias and Emisuru⁵⁸⁴ The graduates of these training centers transmitted their acquired knowledge to the women institutes, clubs and other similar instructions in the localities of Isukha-land. This change was very important. It was clear that those women were not going to be trained for employment but for their own betterment in the localities. Placement in employment was not by then possible. In the beginning, the number of trained women in homecraft

⁵⁸² Ibid, See letter written to Community Development officer on 2/11/1957.

⁵⁸³ North Nyanza Annual report 1952, KNA, DC/NN/1/34.

⁵⁸⁴ North Nyanza Annual Report 1952, KNA, DC/NN/1/34 See Maendeleo ya Wanawake report

industries in Isukha was tremendously low and many of the women's clubs were in a bad state coupled with poor attendances.⁵⁸⁵ Women wanted to be trained for employment. Equally unique was the comprehensive and elaborate syllabus that was offered in all the training institutes. It was this syllabus that was adopted for use in all Jeanes schools and other institutes so as to meet the needs of local conditions.

Theoretically the syllabus emphasized the use of the hand as opposed to treadle sewing machines.⁵⁸⁶ Initially, the syllabus was divided into six sections. The first section included cooking of the following: soup, meat, poultry, vegetables, fish, eggs, fruits, cereal, bread baking, simple cakes, pastry, beverages, butter and cheese making. Housewifery formed the second section and included aspects like cleaning, furniture, beds and bedding and utensils. The third was needlework. Needlework included aspects such as hand sewing, machine sewing, patchwork, quilting and knitting. The other section was laundry which incorporated washing, pressing and removal of stains, dying, hygiene and child welfare. Agriculture formed the second last section with care of livestock coming last.⁵⁸⁷

It can be deduced at this point that while the colonial government's efforts to improve the status of African women were remarkable, they seem to have failed to answer a very critical question. Training for what? Were there enough positions to absorb all the trained women? How were they going to meet the expectations of the trained women? Faced with this problem, Head of the spinning and weaving centres in Kakamega, Bukura, Mumias, Kindinyi and Emisuru encouraged trained women to return to their homes with the necessary equipment and carry on their work at spare time, either using the finished produce or selling them wherever she could find a

⁵⁸⁵Community Development and Women institutes 1956-59, KNA, DC/KMG/1/1/178.

⁵⁸⁶ Industries 1942-1947, KNA, PC/NZA, 2/17/15.

⁵⁸⁷ Ibid.,.

market.⁵⁸⁸ Most of the women who attended these courses were married. It was the social welfare activities that made many women in Isukha acquire the necessary skills that could help them not only in their homes but also outside. Those who failed to get employed within the emerging institutes and clubs had, either to stay at home or look for jobs elsewhere. Similarly, other institutions initiated by colonialism started impacting on a number of women in Isukha. Small markets centres had developed to big towns. Some of these emerging towns particularly Kakamega started attracting this trained labour force. In fact, time was ripe for women, particularly trained women to start replacing men in domestic employment. This was true, considering the emerging domestic work within the homes settled by the colonial administrators, other Europeans and Asians.

Training of women in homecraft industries impacted on Isukha marriage in a number of ways. Firstly, trained women blamed men for failing to buy them tools for spinning and weaving.⁵⁸⁹ Even if these equipment were bought, the women still complained of too much work and some even requested to have house/home servants to help them with their household duties as they would be busy spinning and weaving. Men, in response, complained of lack of money. In the end, male attitudes towards trained women and wives contributed to women's response towards their training in homecraft industries. Many felt that it was not any useful to undergo such training as they would end up not employed or without the requisite equipment to help them practice their newly acquired skills. What is very clear is that the labour burden of women was not reduced to enable them to attend and participate fully in homecraft training meetings. Perhaps it could be argued that homecraft training sessions failed to

⁵⁸⁸ Ibid.,

⁵⁸⁹ Community Development and women institutions 1956-1958, KNA, DC/KMG/1/1/178.

address themselves to the immediate needs of women; perhaps women would have needed labour saving devices more than homecraft training programmes

In spite of the failures, there, also, some progress especially with regard to African veterans of the World War II who went to the Jeans School with their wives to attend leadership classes. When they returned to the rural communities, they wanted to keep in touch with each other through organized clubs assisted by the colonial administration.⁵⁹⁰ By early 1950s the administration had decided that it must do something for African women. By 1951 the Commissioner for Community Development acknowledged that the development of clubs, women institutes and other organizations for promotion of home craft training among African women was growing rapidly and this necessitated coordinating such bodies at the district, provincial and at the colony level.⁵⁹¹

In the same year, suggestions arose for the formation of societies for African women on a colony wide basis and on uniform lines. They were to be run on the line of English women's institutes but would work in towns as well as in the countryside. These institutes were to be based on ideals of truth, tolerance and fellowship with the aims of developing and improving conditions of Africans by bringing women together, encouraging neighbourliness and cooperation. This was to be achieved largely through informal and practical education. Membership of these institutes was to be confined to women and girls over sixteen years and without distinction of religious beliefs.⁵⁹² With the assistance of female students at Jeanes school and (those who went to the training institutes in Kakamega, Mumias, Bukura, Emisuru and Kidinyi) groups of African women students and members of groups in the localities, it

⁵⁹⁰Ndeda, *The impact of male migration on Rural women: A case study of Siaya District* 266.

⁵⁹¹Industries 1942-1947, KNA, PC/NZA, 2/17/15.

⁵⁹² Ibid.,.

was decided that women's institutes be formalized and the movement be called MYW (Women's Development). They were to be a replica of women's institutes in England.⁵⁹³ What then were the practical aims of MYW? Article for MYW 1952 explained:

A lot of people do not understand the reason why we are trying to build the MYW. Some think the object is to teach women to sew or to weave or to obtain cheap materials. These are not the main reasons however. What we are trying to do is to raise the living standards of Africans. But what do we mean by standard of living? Surely it is clear that we want Africans to live better. Living better means living in a better and cleaner house and village so that you are not likely to get ill; cooking for in a better way so that it is more nourishing for your children, your husband and yourself, looking after your family in a proper way when they get sick, so that they recover quickly. Planting the right crops in the right way so that they benefit your family, not only with money, but with good food; looking after your cattle properly so that they produce as much milk as possible for your family, and seeing that their manure is put back into the land to produce better crops next year.⁵⁹⁴

Realizing a few women and girls had been to school, the same report observed that:

Now we have found that, African women are very ignorant about these things. They do not often understand the importance of cleanliness and how dirt brings sickness. They do not realize that some food build up the body and others just make the stomach swell. It is not the women's fault, for so few have been in school, so what we are trying to do is to form schools for grown-up women. That's what women's institutes really are. But in a school you need teachers and there are a few African women who understand the important truth we are trying to pass on. So we are making big efforts to train women who are ready to help others improve their way of living.⁵⁹⁵

European women seemed to understand something of the plight of the rural women confined by many children, daily farms chore and merge cash resources and isolated from larger groups of women with similar interests. Part of the motivation to organize these groups was the realization that African women were lagging behind African

⁵⁹³Okuro, *The impact of colonial socio-economic policies and practices of female-headed households in Kenya*, 97.

⁵⁹⁴ Industries 1942-1947, KNA, PC/NZA, 2/17/15.

⁵⁹⁵ Ibid.,.

men in development. Eleanor Grant, prominent in the East African Women's League, pointed out this discrepancy in 1952:

The backwardness of African women is a menace to the balance of the East African society, from reasons humane, economic and hygiene; there are already signs that the advance of African Women may come as rapidly and sporadically, as has happened in the past decades with men, and it is obvious that European planning, direction and sympathy must be forthcoming to meet the tide.⁵⁹⁶

How do we explain the decline? Generally, MYW seemed to be very popular in the scale of urban towns like Kakamega, not only with the women but the men too were keen that their wives should learn improved methods of living and care of their families. But in 1954 issues about policy began to be confused. Isukha women could not attend the meetings because they did not have money to buy materials to sew and therefore, felt they had no reason to attend. In spite of this there were requests from district community development officers for clubs to be established.⁵⁹⁷ In addition kinship heads and married men did not seem to like these initiatives despite reports to the contrary. One of the participants explained;

The mobility of the women during training sessions started to worry men. Some men thought their wives were becoming *prostitutes* and were involved sexually with other men. Other than training, other men were of the opinion that the kind of skills offered to women were not practical to their everyday life as reports of women becoming difficult also reported. A change was thus necessary particularly of courses offered and where they are offered.⁵⁹⁸

Ndeda (1991) further explains this in terms of too much work on the part of married women as women and men did not know their position within the organization.

In 1957 there was progress in all the clubs all over Isukha location. While new clubs were opened some old ones were closed due to bad leadership, mismanagement and

⁵⁹⁶East Africa Women's League 1917-1977 KNA, MSS, 26/11.

⁵⁹⁷General Correspondence on Maendeleo ya wanawake 1959-60, KNA, DC/KMG/1/1/181.

⁵⁹⁸ OI., Dinah Shilazi 06/01/2018.

decrease in attendance as observed in different localities in Isukha such as Shinyalu, Birende, Luanda and Khayega centres.⁵⁹⁹ Another problem in Kakamega was that the educated women did not as a rule join *Maendelo* Groups because, what was taught was too basic for them. An attempt was made to involve women in groupwork, especially, during the peak agricultural periods. Some enthusiasts tried this in 1958 and realized that the shamba work would be much easier tackled in a group. By 1959 some groups did not even know what the aims of MYW were and many were not even aware of the things that went on in other groups within the same district. Many women began to think that if one paid two shillings per year then one belonged to MYW even if they did not attend a single meeting. Leaders also programmed activities for their groups but did not actually do what was programmed. Groupwork, however, persisted in Isukha location clubs where women united in making houses, farming and weeding.⁶⁰⁰

According to Ndeda (1999) homecraft courses were handmaiden by the colonial patriarchs whose goal was to prevent women from getting out of control. One would have expected that large increase in the Maendeleo clubs in the 1950s was a sign of development potential for the community but this was not the case. If indeed there was recognition of female potential one would have expected a more positive move towards improvement of female skills than the piecemeal training which was done by *Maendeleo* clubs. Moreover, the government persisted in her move on male labour to return to rural areas for any improvement to occur. But perhaps the colonial government feared that raising female standards fully was going to mean a drop in the

⁵⁹⁹ Community Development and women institutes 1956-59 KNA, DC/KMG/1/1/178.

⁶⁰⁰ Community Development 1956-1958, KNA, PC/NZA/3/1/563 See Annual Report, Community Development Office (W) DN.1958.

profits obtained by capital from rural areas. How successful was this movement in achieving its stated aims? Lamenting the failure Enrunfels stated:

In these clubs they wanted to learn everything as was done in Europe. Once they have, off they go and the club is forever forgotten. It is not their own. We are missing something that is part of the traditions; I do not know what it is. The plural wives of a chief have more social cohesion between themselves than the equally African members of any club we are sponsoring. The African desire to learn and the European incapability to offer an emotional background to it all: that is the real problem.⁶⁰¹

The social welfare activities, needless to say, were European in outlook and alien to Isukha women. Inexperienced and unmarried European women who deeply adored European values, customs, character and tastes offered the trainings at the Jeanes schools. Any graduate of these centres could serve Europeans in everything when it came to domestic work. Mrs. Phoebe Asiyo, the first MYW African president indicated that “things like queen cake baking and other European dishes, which provided the bulk of MYW syllabus were not the answers to our problems. African children still had less than enough to eat. True, the white ladies tried hard and they were sympathetic but they did not understand the African women’s needs.⁶⁰² And so as men were taking up hard labour, it was the women whom the colonialist seems to have embarked on to provide domestic duties hitherto under men. Under the guise of social welfare, the colonialist for their own benefit, improved on traditional roles of women at home. A clash, as competition for such jobs intensified, was unavoidable. The men had to fight back. But this they could only do with the support of the old men. Moreover, the traditional Isukha society, especially the institution of marriage, was in disarray as training proceeded.

⁶⁰¹ Okuro, *The impact of colonial socio-economic policies and practices of female-headed households in Kenya* 187. Cited in Enrunfels 1960:133.

⁶⁰² L.Aubrey. *The politics of Development Cooperation: NGOS, Gender and Partnership in Kenya*. (London: Routledge, 1997), 52.

As time progressed, Isukha women and wives no longer respected the traditional sanctions that had tied them at home. They had, without knowing, been prepared for another role in a larger capitalist economy. Social welfare activities came up basically to subsidize capital and wages given to men by teaching women to be “better wives”. The purpose of social welfare was to raise the standard of living among African women by showing them how to become literate, either in their own languages or Kiswahili and English. The subordinate role of women, in cinematography of the time was hardly challenged.

The African woman and wife was painted as a beast of burden and passive in the face of abuse. In addition, her respectability was in laboring for the maintenance of a stable marriage and family. But as women were bearing the heavy workload which was put on them by men and the colonial administration, social welfare came up to halt the perceived trend of social disintegration and to restore the organic unit of community. Women leaders and homecraft trainers, thus, became the handmaidens of not only the colonial patriarchs but also the colonial capitalists whose goal was to prevent women from getting out of control. The availability of women at home ensured that male labourers could not ask for permission to go and settle cases at home since the woman was there. The woman was also an economic shock absorber to the worker.⁶⁰³ This enabled the capitalist system to pay the labourers a wage below minimum rate.

Society failed because it only offered help to women who joined it, meaning that the bulk of the women were unaffected by its operations. Even twelve years later after it began its operation, African women were still calling on the government to recognize

⁶⁰³Okuro, *The impact of colonial socio-economic policies and practices of female-headed households in Kenya*. 189.

the many difficulties they experienced in their day to day life.⁶⁰⁴ The women were still desperately poor, had to walk long distances to draw water, work hard on the *shambas* and to cook for the families. These problems had persisted due to lack of communication with one another and that *Maendeleo* had not managed to bring many women under its banner. The communal approach to economic wellbeing in farming or animal husbandry, recreational and cultural pursuits were dead due to the impact of external ideas and forces which threw the community off balance. In 1963 women's active involvement in community development was seen as the only way to revive the old trends. This is what has been reiterated over the years but the trend has remained the same in many areas of Isukha.

It is obvious that the colonial administration felt comfortable with the welfare programmes than the agricultural programmes because welfare permitted full scope for expression of imperialism or paternalism without requiring any rethinking. As one administrator put it "welfare is really a synonym for good administration". Their interest was to halt the perceived trend of social disintegration and restore the organic unity of the community. These attempts were exemplified by a variety of concrete programmes as well as earnest moral exhortation of the African. These were to stimulate local interest, participation and had the added attraction of supposedly being inexpensive, since it relied heavily on unpaid voluntary labour. All these attempts at social welfare or community development was hinged on the insistence of the administration on maintaining control on all activities. Close supervision of all activities was a must. This placed clear limits on the extent to which local initiatives could be tolerated. The African was ignorant and inexperienced and had nothing to contribute towards development processes except his or her labour. This attitude

⁶⁰⁴ J.K. Nyerere, *Freedom and Socialism: A selection for writings and speeches 1965-1967* (OUP: Dar es Salaam 1969), 10.

sounded the death knell of all the social welfare, community development and women's clubs of Isukha. What was left by independence was a caricature of the original plan.

Ironically, social welfare programmes disintegrated many families in Isukha and other areas around Kakamega Township. The training offered to women strained many marriages. Some marriages even got dissolved. Those women who could not get employment within the local institutes opted to migrate to Kakamega or urban centres. Unmarried girls and widows thus became beneficiaries as the former were most preferred by the colonial administrators and Asian employers in the township. Given the rural difficulties, the social welfare systems seem to have offered economic solutions to many women particularly those with some training. The acquired skills could enable them cope favourably well in the urban centres such as Kakamega. As the country moved towards independence, there were emerging changes in the patterns of Isukha marriage as discussed in the next section.

4.9 Transformation of Isukha Marriage towards Independence

On the eve of independence, Isukha marriage had some semblance to marriage in the developed world. In the developed world, such as Ireland, it has been noted that the 1960s occasioned a "marriage revolution." According to Fahey and Field in Ireland, prior to the sexual revolution of the 1960s, marriage was the gateway to sex and reproduction: premarital sex and even more, non-marital childbearing were strongly disapproved of and as far as we can tell from the available evidence, occurred at a relatively low rate.⁶⁰⁵ The marriage revolution led to changes in marriage in the sense that "marriage had lost much of the gateway function it possessed in the past: sex and

⁶⁰⁵T. Fahey and C.A. Field, "Families in Ireland: An analysis of patterns and trends" (Department of social and family affairs), 8.

childbearing before marriage” became “more or less accepted as normal.”⁶⁰⁶ By this time, Isukha men had travelled far and wide and encountered various forms and experiences of marriage. Most of the women had lived with people from other ethnic communities while working on settlers’ farms or in urban settings. When they came back home, Isukha men brought these experiences with them back home. Changes that had taken place since the advent of colonial administration led to improved communication, social mobility, industrialization and urbanization among others. The state of the matter had resulted to increased migration and changes of Isukha attitudes, values and belief system. These factors had a reasonable impact on Isukha marriage.

Urbanization led to the separation of the youth from their ancestral land and residence. Being away from the influence of their clan and its way of life, most youths did not have the benefit of Isukha way of life especially on the institution of marriage. This situation was worsened when the youth gained employment in the urban centres and thus became financially independent of their parents since this more often than not led to loss of parental control. The consequence of this scenario was that the marriage ceremonies had been shorten to such an extent that the customs sequence of rites and observances were no longer being followed. Many western values had been adopted in such ceremonies which were often very costly and of no real significance.⁶⁰⁷ Further, the migrant worker system brought about by the concomitant effects of industrialization and modernization greatly affected Isukha marriage. Since it was men who left their powers over family, as discussed at length in the previous chapter, were effectively lessened and weakened it is then not a wonder that the diminishing power exercised by husbands cum fathers in domestic life was also

⁶⁰⁶ Ibid,18.

⁶⁰⁷ See B.J.Ekeya *The Sacraments of Matrimony and the customary African marriage* (MA Thesis in Theology, St.John’s University, Minnesota, 1973), 116.

lowered and the status held by them as well as prestige that was customarily been attached to their status.

The desire to accumulate material wealth in terms of land ownership increased such that Isukha men considered it wise to concentrate on the exercise than they would in respect to marriage. In fact, the presence or absence of money determined whether or not a person should get married, who to get married to, when, who to involve and to what kind of wedding ceremony to engage in. In this way Isukha marriage was contaminated with western values with reference to Christianity, after all it had reflected the social economic status quo “aped” from western cultures.⁶⁰⁸ It is worth noting that Isukha marriage had been modified to cope with economic and social demands as discussed in chapter three. For instance, the ceremony that concluded marriage was shortened greatly so as to allow parties to the marriage to be in a position to meet other pressing commitments such as allowing men to go back to their work station in the urban areas for their official duties. Thus a short cut to Isukha marriage was favoured because it saved it from elaborate, financially and time demanding ceremonial marriage. This in turn led to increasing cases of elopement which was neither Christian nor African.

Moreover, in Isukha, a woman most precious and valuable assets was her ability to cultivate, to be married, produce and bring up children were under the strict control of men. She also depended upon men for all her protection including that of her rights. With the impact of western education on women and migration of men who left them at home. Women began enjoying a higher degree of independence and status because just like men, they began possessing opportunities, means and power that were

⁶⁰⁸ In most of the church weddings, the wedding itself lasted for only a few hours and the new couple proceed to form their family.

traditionally denied to them. It then followed that it was no longer necessary for a woman to look for a man to satisfy most of her needs for if she choose she could satisfy most of them through her own efforts. This scenario enabled women to exercise much greater freedom in sexual relationships. For instance, widows decided to remain single and not to be inherited especially those who had embraced Christianity. There were cases although rare during this period of women deciding to remain single and yet get children, not because of lacking a husband but because of her desire to remain free and self-supporting. Hence marriage was no longer considered an absolute necessity. It should be noted that the introduction of monetary economy, western types of education system and new modes of production offering equal social economic benefits to both sexes by the colonizing government led to adoption of aliens' values and attitudes, such as individualism and sense of independence that counteracted Isukha culture especially in the realm of marriage. Besides, separation of family members through migrant worker system among others greatly undermined the communal aspect of marriage and this state of the matter had far reaching repercussions on almost all the aspects of Isukha marital relation and family.

In the past cattle given to the bride's people were not considered in terms of their commercial values. But with the introduction of money and hence cash economy, a commercial element began to prevent the traditional institution of bridewealth. Furthermore, the formation of marriage alliance had been checked by cash economy. With the change of payment of bridewealth in form of money there was a growing and spirit of individualism among the younger generation and a fair degree of independence of the extended family. Since most young men could raise money to pay bridewealth without depending upon their father as discussed in chapter three, it

then followed that there was a loosening of ties that traditionally bound together clan members, in the sense that a man who paid bridewealth by himself felt free of obligation to his clan in choosing a spouse, or in recognizing any debt of gratitude owed to his family for their help.⁶⁰⁹

Besides, the introduction of cash economy introduced inspirations for new values. Additional wives through polygyny marriage and hence having many children that was considered as an economic aspect or even as a mark of prestige as it was the case of Isukha culture. The mere presence of many wives and children began to be seen as a big handicap to get rich. Rather than being a source of income, with the diminishing of land as the major means of livelihood, they were a means of expense. The Matrimonial amendment ordinance of 1952 made no important alterations in the substantive law relating to matrimonial causes but it removed certain difficulties in connection with the jurisdiction of the courts and similar allied matters. The amendment enabled a wife who could not acquire an independent domicile to petition for either divorce or a decree of nullify if she was resident in Kenya or had been ordinarily resident for at three years preceding the presentation of the petition in Kenya. It declared that children of voidable marriages which were annulled by a court were deemed to be legitimate. Thirdly, it increased the courts powers of making maintenance orders for the wife and children.⁶¹⁰ Affiliation law was introduced in Kenya to make the father of a child to support the child till the child attained the age of 16. The Kenya Affiliation Act was passed in 1959. The Act removed any doubt concerning the obligation of the unmarried parent's duty to maintain their child. The

⁶⁰⁹M. Poluku, *Bantu Traditional Marriage: its modern changes and suggestions of its inculturation* (Nairobi: Hekima College, 1992),63.

⁶¹⁰D.N.Mwihaki, *For better or for worse: Changing trends in Kenya Family Law with special emphasis on the proposed marriage Bill* (B.A Dissertation, University of Nairobi), 5. Retrieved from <http://erepository.unobi.ac.ke/pdf>.

principle of affiliation was that a woman could get a court order compelling the natural father to pay maintenance to her in respect of the child. The affiliation legislation passed in 1959 forced men to take responsibility over children born outside wedlock and made many men who were employed to be polygamous. This Act was repealed in 1969.⁶¹¹

4.10 Conclusion

The chapter has demonstrated how colonial economy set many Isukha men migrating in towns to seek employment in European economic ventures and forced them to abandon their pre-colonial economic responsibilities. In the first case, the demand on labour drew more men out of Isukha location than the previous years, particularly to European farms. Women had, therefore to redouble their labour in both agriculture and in domestic tasks. This was particularly difficult for women and their families to work. Male labour migration intensified women's burden of work and limited their mobility without enlarging their freedoms to make decisions. Marriages were strained as the colonial administration attempted to tie women to their location and forcing them to perform a subsidizing function for the male labour which was increasingly employed in many parts of the colony. Women rejected this by drifting to urban centres to look for survival strategies. Therefore, these opportunities and the increasing socio-economic problems in the district Isukha women, however found it cumbersome to participate in urban migration because of government movement restrictions and opposition of African men. Despite the restrictions women persevered and found ways of adapting to the situation. Women also increasing joined prostitution as an alternative way of making their own money. One area of particular interest was the plight of capitalism that affected bridewealth leading to increased

⁶¹¹Ibid,6.

number of elopement in Isukha. In Isukha elopement marriages were frequent, a woman had merely to run off to another man, which point her father's power of compulsion ended.

The chapter has argued that the result of the increased Christianity and education was broader socio-economic transformation among the Isukha in the post-war period. Education produced two distinct social classes among the Isukha: the elite and the middle class or petite bourgeoisie. Their new status was reflected in the accumulation of resources and commitment to progress, through the education of their children. Secondly, there were the peasants had minimum or no education, and little or no land and thus they were forced to seek for wage employment outside the district a factor that led to the development of remittance household families. It has also been shown that Christianity did not hesitate to introduce changes in Isukha marriage, meant to modify it to fit their concept of a "Christian marriage". Thus alien notions, as noted above, were introduced in such aspects as initiation rites, choice of a partner, bride-wealth, polygamy, childless, widowhood among others.

Besides, other key influences that had an impact on Isukha marriage have been discussed in this chapter. By the close of the 1940s the land question was further complicated as the government reluctantly began to support individuals who had state patronage to accumulate land. The aspect of individualized land ownership began to gradually become institutionalized with specific members of the society, the chiefs, tribunals elders and the western educated capitalizing on the situation to accumulate large parcels of land at the expense of others. Isukha women would not accumulate land since they did not occupy any position that gave them patronage. But they became targets of social welfare activities introduced by the government to reconstruct African areas.

In the 1950s, women clubs were turned to be important avenues through which the government suppressed Isukha marital institution. The development of a social welfare system with its contradictions enabled many women and girls who had been tied up by traditional authorities to think of their lives outside the boundaries of Isukha location. This posed a great challenge to kinship/family heads power and authority. The social welfare disintegrated many families in Isukha and other areas around Kakamega Township. The training offered to women strained many marriages. Some marriages even got dissolved. Those women who could not get employment within the local institutes opted to migrate to Kakamega or urban centres. It has been noted that the introduction of monetary economy, western type of education system and new modes of production offering equal social economic benefits to both sexes, by the colonizing government led to adoption of alien values and attitudes, such as individualism and sense of independence that counteracted Isukha customary ones especially in the realm of marriage. Besides, separation of family members through migrant worker system, greatly undermined the communal aspects of marriage and this state of the matter had far reaching negative repercussions on almost all aspects of Isukha marriage. The next chapter will assess the actual response of post-colonial government in the institution of marriage.

CHAPTER FIVE

TRANSFORMATION IN ISUKHA MARRIAGE, 1963-2010

5.1 Introduction

Kenya attained independence in 1963 and Kenyans had a lot of expectations on the government led by fellow Africans. These expectations were of a mixed nature. Some people felt that independence marked a shift from what “European mentality” back to African ways of doing things while others felt that it was good to promote the changes which began during the colonial period.

The founding father of the nation, President Jomo Kenyatta, stood for enhancing African culture and he was always entertained by traditional singing and dancing groups. In addition, Kenyatta was a polygynist as was the case with many of the senior government officers in the government. While this was the case, there were leaders who tended to promote what Europeans, both missionaries and colonial administrators stood for such as monogamy. Two of the first three vice presidents of the country, Daniel arap Moi and Joseph Murumbi were in monogamous marriages. These leaders had a profound impact on government policies and laws which had a bearing on marriage. It was not easy for political leaders to agree to enact laws that promoted monogamous marriages because of vested interests. The 1968 Commission on the Law of Marriage and Divorce came down against forced marriage, polygamy and bridewealth. Like the colonial executive, however, Kenya’s parliament refused to challenge certain aspects of “traditional” marriage and did not write into law all the Commission’s recommendations.

What political leaders agreed upon was the need for development for the people who had suffered under the colonial yoke. Social welfare programmes were intensified in areas such as education, health and agriculture with the aim of uplifting the economic

status of Kenyans. These programmes had a profound effect on families and their perception of marriage. Intensified educational opportunities saw many boys and girls join schools and colleges. Those who had education landed lucrative government jobs in the independence government and this became an incentive for many parents to take their children's schooling seriously. Better and affordable healthcare services led to an increase in population as fewer children died younger. Population pressure led to land scarcity and people who no longer continued relying on land-based development (farming and livestock rearing). Education, as was clearly stated by leaders, became the "key to good life". Education impacted marriage decisions of the "*uhuru* (independence)" generation. On their part, the churches continued to shape marriage patterns as they did in the pre-independence period. Churches increasingly came under the leadership of African clergy. The post-colonial church, under African leadership, attracted more Africans, both monogamous and polygamous, to membership. However, the position of the mainstream churches with regard to marriage seemed to remain as was the case during the colonial period, although less strict. Though in favour of monogamous marriages, polygyny couples were encouraged to join the church and they were tolerated rather than expelled.

Another aspect that is important to the analysis in this chapter is the global advocacy for increased participation and representation of women in politics. The advocacy was spearheaded by civil society organizations whose numbers increased as a result of the opening up of the political space and pressure, on the Kenyan government, by international donors and development partners for good and accountable governance. The economic sphere was also expanded through privatization of the public sector. Government privatized many of its parastatals. Services which had hitherto been

provided by the state were taken up by the private sector. Consequently, the informal sector, which employs more women, also expanded.

Alongside with increased participation of women in the informal sector were calls for expanded credit facilities to enable women access capital from financial institutions. Many women-centered NGOs sprout with the intention of offering credit as well as training to women. These NGOs tended to target single parents especially women (women-headed households). Households which had been hit by HIV/AIDS pandemic also became a target. Generally, poverty alleviating programmes, with a community focus, increased in the post-1990s. Whereas development programmes of the pre-1990s were seen as feminizing poverty, especially within the institution of marriage, development programmes of the post-1990s were aimed at defeminizing poverty.

The paradigm shift in the political and economic spheres had their major impact in the social sphere in which marriage is imbedded. There has been a paradigm shift in the recent times concerning marriage. This followed the emergence and spread of ideas around same sex relationships and marriages as well as alternatives marriage options such as single parenthood, extra marital relationships “*mpango wa kando*” marriages, among others. Young women in Kenya began preferring to get sponsors instead of husbands. In Kenya, such relations and unions have been faced with mixed reactions from the citizenry, the government, politicians and the church. For many, same sex relations and marriages as well as other forms of marriages were considered to be either an outcome of outside influence or decay of the African culture. The internet and a surge in the use of mobile phones have been blamed for easing the spread of foreign ideas about marriage. This chapter provides an analysis and discussion of the changing paradigm shift in ideas, practices and trajectories about African marriages with special focus on Isukha marriage.

5.2 Enactment of Legislation on Laws of Marriage and Divorce in Independent Kenya

In the previous section, we have observed that the institution of marriage experienced challenges as well as changes. The two notable ones were increasing cases of cohabitation marriages as well as cases where men enticed and married other people's wives. As alluded to earlier President Kenyatta, the founding father of the nation, postured himself as the father of the nation and a cherisher of African traditions. He was a family man, a polygamist who went through four marriages all of which gave him seven children most dear to him: Peter Muigai, Margaret Wambui, Peter Magana, Christine Wambui, Uhuru Kenyatta, Anna Nyokabi and Muhoho Kenyatta.⁶¹² He was also a lover of Gikuyu culture, about which he wrote extensively in his book, *Facing Mount Kenya*. He was more often entertained by cultural performing groups everywhere he toured. His influence on society was thus the same. Even though Kenyatta cherished African culture, the contradiction arose in the area of legislation.⁶¹³

The government, through legislation rejected the significance of customary law which gave African nations distinctive elements of African traditional culture. As a result, customary law existed in subordination to the English law.⁶¹⁴ A few illustrations may be given. The 1963 constitution of Kenya declared that any law inconsistent with it was void to the extent of its inconsistency.⁶¹⁵ It further provided for the recognition of

⁶¹²J. Khamisi, *Kenya Looters and Grabbers; 54 Years of Corruption and plunder by the elite, 1963-2017* (Plano, Texas: Jodeybook Publishers, 2018), 42. Retrieved from [www.kenya-looters-and-grabbers_54_Years_of_Corruption_and_\(1\).pdf](http://www.kenya-looters-and-grabbers_54_Years_of_Corruption_and_(1).pdf).

⁶¹³C.M.K. Mwenda, *Customary Law and Social Change: A study of dissolution of marriages among the Tharaka, Meru* (B.A Dissertation, University of Nairobi, 1992), and 39. Retrieved from <http://erepository.unobi.ac.ke/pdf>.

⁶¹⁴L. Mair, *African Marriage and social change* (London: 1969 (Book) Section 82(4)b).

⁶¹⁵C.M.K. Mwenda, *Customary Law and Social Change: A study of dissolution of marriages among the Tharaka, Meru* (B.A Dissertation, University of Nairobi, 1992), and 40. Retrieved from <http://erepository.unobi.ac.ke/pdf>.

the various legal regimes relating to divorce, marriage, inheritance and custody of children. Come– we-stay marriages were not consistent with either customary law or English law. The marriage Bill of 1976, provided for the registration of all marriages in Kenya. This, it was thought, would help the courts to preside over cases which resulted from come-we-stay marriages upon dissolution.⁶¹⁶ The objective was to impose the English value to a people who largely conducted their affairs in the traditional way. It also aimed at destroying the traditional institutional setting of marriage adjudication.

At independence, there was no significant change apart from the transfer of power. It was not surprising then that the independent government continued with the status quo and with a greater seal. It was an attempt to bring Kenyans into line with the law of metropolitan British Capitalism, and through it link the national bourgeoisie to the international bourgeoisie. In short, the analysis shows that the plight of customary law in the country during the colonial era and after independence was traceable directly to the overall policy decision on the part of the colonial government to put the country irrevocably on a capitalist road. As government pressure towards neo-colonialism continued to pile, and there was no discernible change of policy in the offing, there was no future for customary law.

Charles Njonjo, the first Attorney General of independent Kenya, felt strongly that Kenya needed a more detailed and national set of laws on marriage. In 1967, he appointed a Commission on the Law of Marriage and Divorce to consider the creation of a new law providing a comprehensive and, so far as may be practicable, uniform law of marriage and divorce applicable to all persons in Kenya, and to supersede

⁶¹⁶ Ibid,41.

customary, Hindu, Islamic and statutory laws.⁶¹⁷ Njonjo himself was a monogamous Kenyan who had married a British citizen. The paramount consideration, the Commission later concluded, was the promotion of marriage and family life. At the same time, creating a new nation also meant advancing women's status. The Commission was instructed to "pay particular attention to the status of women in relation to marriage and divorce in a free democratic society."⁶¹⁸ Thus the commissioners concluded that whatever their desire to promote the family, the "law must be based on a recognition of human dignity, regardless of sex..."⁶¹⁹ The Commission itself was composed of fourteen people, of whom three were women namely Pheobe Asiyio, Shirin Esmail, and Margaret Kenyatta (President Kenyatta's daughter). The inquiry sought input from all sectors of the Kenya nation. Those giving evidence included *inter alia*, Christian and Muslim leaders, representatives of ethnic organizations, social worker, teachers "traditional elders and chiefs" and many women groups.⁶²⁰

The Commission was concerned with ideas about marriage, gender and forced marriage. The commission hesitated to make generalizations about the status of women, given the many different customs in effect across the nation. However, certain practices such as forced marriages and restrictions on widows' marital lives regarded "as derogation from the dignity and status to which women were entitled" were considered. The very definition of marriage was "the voluntary union of a man

⁶¹⁷Bret L. Shadle, *Girls cases: Marriage and colonialism in Gusii land, Kenya 1890-1970* (Portsmouth: Heinemann, 2006), 220.

⁶¹⁸*Ibid.*,

⁶¹⁹*Report of the Commission on the Law of Marriage and Divorce- 1968* - (Nairobi; Government of Kenya, 1968), 3. Retrieved from <https://www.kenyalaw.org/pdf>.

⁶²⁰Bret L. Shadle, *Girls cases: Marriage and colonialism in Gusii land, Kenya 1890-1970* (Portsmouth: Heinemann, 2006), 220.

and a woman, intended to last for their joint lives.”⁶²¹ The commission members were “emphatically of the opinion that the consent, freely given of both parties should be essential to the validity of every marriage,” although marriage still required parental consent for those under twenty-one.⁶²² The age of consent to marriage was to be standardized for all ethnic, religious and racial groups pegged at eighteen years old for men and sixteen for women. This was to protect girls from forced marriages as well as rape, for a man charged with defiling a minor could not claim to be exercising his conjugal rights.

The Commission also came down hard against domestic abuse, polygyny and bridewealth. Wife-beating was “all too common” and the commissioners recommended that “the law provide expressly that no-one had the right to inflict corporal punishment on his or her spouse.” Some witness opposed to polygyny argued that only in monogamous marriage was it possible “to find the mutual love and trust that were essential to a stable and happy home,”⁶²³ like European administrators before them, the commissioners concluded that the outright prohibition of polygamy would “cause considerable social disruption without being really effective.” At the same time, neither should the law be used to support polygyny as an institution.

⁶²¹ The last point was important for the commissioners. Divorce, they wrote “should not be made easy”. The only ground for divorce should that the marriage “has irreparably broken down.” (Marriages could be annulled in such instances as impotency or a refusal to consummate the union.). The commission suggested the creation of ‘marriage tribunals’ to which couples would first take their disputes. Only when a tribunal had failed to reconcile the two could a divorce case be filed at court.

⁶²² The quotes are from Report of the Commission, 15-28, to take part in a wedding that had not been given parental blessing should an offense and parents could appeal to a court to annul an unapproved marriage. Yet there were limits even here. The requirement of parental consent would not apply to couples over twenty-one and any couple could apply to the court to overrule “unreasonably withheld” parental consent.

⁶²³ *Report of the Commission on the Law of Marriage and Divorce- 1968* - (Nairobi; Government of Kenya, 1968), 22. Retrieved from <https://www.kenyalaw.org/pdf>.

Indeed, the “law should do everything reasonably possible,” they wrote, “to discourage the practice of polygamy.”⁶²⁴

Bridewealth ought not to be abolished but the validity of marriage and divorce was to be determined by the exchange of bridewealth because this would “impede change” away from the custom.⁶²⁵ The commission’s discussion of adultery underscored their commitment to both the institution of marriage and the advancement of women’s rights. It was recommended that a husband could make a civil claim for damages up to shs. 1000, against his wife’s lover. “We base this,” they wrote, “both on the principle that where there is a wrong there should be a remedy and on the assumption that the liability to such proceedings will have some deterrent effect, however slight”.⁶²⁶ Moreover they recommended that adultery or enticing away of a wife be criminalized. The commission asserted that wives also had sole claim to their husbands sexually. There was “no logical reasons” why a wife could not lodge a civil claim against her husband’s lover for there was no “ground for discrimination in the law.” Such too should be the case in criminal prosecutions for adultery and enticement. “We see no reason,” the commissioners argued, “to distinguish between adultery by men and women and we think the criminal law should be the same for both”.⁶²⁷ Like British administrators before them, the commission members hoped to create a new, “modern” marriage and preserving marital unions was of enormous import and directly to advance women’s right under the law.

Despite the commission’s strong defense of traditional marriage, its more liberal proposal was too much for the male-dominated parliament to swallow, and its

⁶²⁴*Ibid*, 22-23.

⁶²⁵ *Ibid*,29-30.

⁶²⁶ *Ibid*,62.

⁶²⁷*Ibid*, 123.

recommendations were never enacted. It was rejected by Parliament, mainly because it criminalized adultery, and did not recognize polygamy and that incorporated a hefty number of African customary law aspects.⁶²⁸ The Parliament was in general not amenable to advancing women's rights. For example, the Affiliation Act (1959) granted unwed mothers the legal right to claim child support from their former lovers. Members of Parliament (MPs) charged that the Act encouraged promiscuity on the part of the woman, and led fathers to discourage their pregnant daughters from marrying, and was financially burdensome to men.⁶²⁹

By 1969 these criticisms, along with the fact that some leading politicians were being sued by former lovers, led to the Act's repeal. Most controversial was the proposed criminalization of adultery. Outraged MPs argued that men, especially monogamists, had a biological need for extramarital sex. It was unfair to punish a man for that which he could not control. A compromise bill was reinforced three years later with the clause criminalizing adultery removed although lodging civil claims would still be allowed.⁶³⁰ MPs raised new objections to the bill especially the discouragement of polygamy and the criminalization of domestic violence. The Bill MPs claimed, contained too many "western" ideas incompatible with African traditional. As Cotran described it after a "very heated debate" Parliament voted it down.⁶³¹ Yet another version of the Marriage Bill was proposed in 1985. This one eliminated the domestic

⁶²⁸ D.N. Mwhaki, *For better or for worse: Changing trends in Kenya Family Law with special emphasis on the proposed marriage Bill* (B.A Dissertation, University of Nairobi), 36. Retrieved from <http://erepository.unobi.ac.ke/pdf>.

⁶²⁹ However, among the Isukha if a young lady who was not married and became pregnant by another man, the man had a choice to marry her as a second wife if he so wishes for the protection of the man's name.

⁶³⁰ Republic of Kenya The National Assembly Official Report: Third Parliamentary Inaugurated. Vol. LI 6th November 1974. Tuesday, 3rd July, 1979 To Thursday, 23rd August, 1979. Page 360-416

⁶³¹ E. Cotran, *Casebook on Kenya Customary Law* (Nairobi: Nairobi University Press, 1995), 1. See also Parliamentary proceeding, Republic of Kenya The National Assembly Official Report: Third Parliamentary Inaugurated Vol. LI 6th November 1974. Tuesday, 3rd July, 1979 To Thursday, 23rd August, 1979. Page 586-862

violence clause and declared adultery and elopement “moral” matters not subject to civil suits. Nonetheless, this time the bill failed even to be introduced into parliament.

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Likewise, the 1990s brought to the fore a new dimension in the manner in which marriage laws were enacted in Kenya. Unlike before, contemporary efforts aimed at legislating marriage practices and processes started meeting both opposition and support in equal measure. For example, advocacy for same sex marriages started shaping up in the 1990s. The human rights discourse assumed an international scope. Before the 1990s, the presence and activities of international human rights advocacy groups had operated on a limited scale in Kenya. It was in the 1990s that the rights of same sex couples as well as the rights of women (in marriage) came to the fore on a scale that had not been witnessed before.

The marriage bill of 1993 was entitled “a Bill for an Act of Parliament to amend and consolidate the laws relating to marriage, personal and property rights between husband and wife, separation, divorce and nullity and the custody and maintenance of children and to provide for connected purposes.”⁶³³ The bill enacted provided for a comprehensive legislation which dealt with all marriages whether contracted before or after the enactment of the said bill in Kenya and elsewhere. The advantages a uniform law of marriage and divorce twofold. Firstly, the new bill tried to do away with the, hierarchical system of family laws, which was a common feature of the colonial era where by one system of law was considered superior to another. Precisely, the English law was considered superior to the customary law. Another advantage of the new

⁶³² K. Kibwana, *Law and status of women in Kenya*, (Nairobi: Claripress, for the Faculty of Law, University of Nairobi, 1996), 142-143.

⁶³³ *Ibid.*,

marriage bill was that it aimed at doing away with conflict of legal issues in marriage which was prevalent in the post independent era.

The bill did away with traditional definition of marriage “the voluntary union for life of one man and one woman to the exclusion of all others.” The bill defined marriage as “the voluntary union between a man and a woman intended to last for their joint lives.”⁶³⁴ The new definition of marriage meant that the polygamous type of marriage was a *de jure* type of marriage as opposed to the *de facto* situation that had always operated. Thus, the bill made provision for two types of marriages a monogamous union and polygyny one.⁶³⁵ This bill categorically failed to recognize marriage between people of the opposite sexes. However, by this time, advocacy for same sex marriages and sexual relations had not been contemplated as such issues were uncommon in the Kenyan context compared to the Western countries.

The issue of same sex marriages was not even an issue when the Marriage Bill, of 2007 was drafted to capture the existing gaps as well as to standardize the rights and responsibilities of parties in a marriage. This was because the law that the judiciary had been applying in archaic and non-responsive to modern day marriages was a colonial piece of law. The marriage Bill draft of 2007, collapsed and consolidated the five different statutes relating to marriage into a single regime, for harmony. The draft bill sought to create a single marriage law in Kenya. Even though the 2007 marriage Bill failed to liberalize same sex marriages, it had a human right angle. The Bill took a very liberal view of marriage, and recognized equality of parties in marriage, while guaranteeing equal protection at the same time.

⁶³⁴ D. N. Mwihi, *For better or for worse: Changing trends in Kenya Family Law with special emphasis on the proposed marriage Bill*, 39.

⁶³⁵ C.M.K. Mwenda, *Customary Law and Social Change: A study of dissolution of marriages among the Tharaka, Meru* (B.A Dissertation, University of Nairobi, 1992), 39. Retrieved from <http://erepository.unobi.ac.ke/pdf>.

Marriage under African customary law was also allowed, provided it conformed to all the social and cultural norms with the required rituals and cultural practices of the relevant community. The draft Bill recognized both monogamous and polygamous marriages, as well as the equality of wives in polygyny; and it proposed that all marriages should be registered, regardless of form, including cohabitation which the law did not recognize. The registration of polygynous marriages was being proposed for purposes of granting children legal status needed for succession. However, the equality of co-wives remained a contentious issue, with some critics arguing, for example, that a wife who had been married for twenty years could not have the same status with one who has only been married for two years.⁶³⁶ The Marriage Bill draft of 2007 came to its final debate and was never enacted as law. So matters on ground on which divorce and nullity could be obtained, polygamy, same sex marriage, abortion, pre-nuptial agreements, bridewealth, separation and rights of children out of wedlock remained unaddressed.

The 2010 Kenya Constitution which replaced the 1963 independence constitution introduced fundamental changes in marital institution. The 2010 Constitution steeped in the values of social justices and respect for human rights.⁶³⁷ Some of the standards recognized as forming the national values and principles included “human dignity, equity, social justice, inclusiveness, equality, human rights, non-discrimination and protection of marginalized”.⁶³⁸ The Constitution also provided fundamentally that

⁶³⁶C.A. Suda. (2007), *Formal monogamous and informal polygamy in patriarchal African family traditions in Transition*. Inaugural lecture: University of Nairobi, 13. Retrieved from [https://vpn.uonbi.ac.ke/proxy/http/erepository.uonbi.ac.ke/bistream/handle/11295/795/suda1pdf?\(2007\)](https://vpn.uonbi.ac.ke/proxy/http/erepository.uonbi.ac.ke/bistream/handle/11295/795/suda1pdf?(2007)).

⁶³⁷The Constitution of Kenya was promulgated on 27th August, 2010. Retrieved from http://www.kenyalaw.org/klrfileadmin/pdfdownloads/Acts/Constitution_of_Kenya_2010.doc Provisions of Chapter Four (Bill of Rights) The preamble recognizes that Kenyans “aspire for a government based on the essential values of human rights, equality, freedom, democracy, social justice and the rule of the law”

⁶³⁸ Ibid, Article 10

“every person was equal before the law and has the right to equal protection and equal benefit of the law.”⁶³⁹ This clearly intended to reverse the historical exclusions that women had encountered in the society. This corrected the injustices against women, children and minority groups. The new law thus protected the rights of women since the courts had been inconsistent over disinheritance of women, widows and divorcees by providing the right to co-own matrimonial property.

With respect to family property the Constitution provided for rights of equality of a husband and wife “at the time of marriage, during the marriage and the dissolution of marriage.”⁶⁴⁰ This equality of rights while encompassing many other matters particularly applied to the parties’ entitlement to matrimonial property. This basically meant that while the husband’s name may appear in the register as the proprietor of family property he could not make unilateral decisions in regards to disposing the property without the wife’s knowledge. This equality requirement also prohibited any action which could limit the wife’s access or use of the property or any interest arising therein. Beyond these general provisions the Kenyan Constitution 2010 set out specific obligations that applied to land ownership and practices related to it.⁶⁴¹ The Constitution provided that land should be held, used and managed on the basis of principles including equitable access, security of rights and importantly, “elimination of gender discrimination in law, customs and practices related to land and property in land.”⁶⁴² The Constitution also required parliament to “revise, consolidate and rationalize existing land laws” in accordance with the principles set out in Article

⁶³⁹ Ibid, Article 27(1).

⁶⁴⁰ Ibid, Article 45 (3)

⁶⁴¹ Ibid, Article 60.

⁶⁴² Ibid,.

60(1).⁶⁴³ This provision culminated to the enactment of the new laws namely the Land Act, Matrimonial Property Act which contains provision which protected women's rights in matrimonial properties. The civil liberties and human freedoms which the new constitution introduced in Kenya also led civil society groups to advocate for the acceptance and rights of same sex couples. Though not popular and common among the Isukha people, debates about same sex marriages are not common. The debate is pitting the old against the young generations.

5.3 Independence, Migration and Isukha Marriage

Independence brought varying hopes for both men and women in Isukha land. Independence lifted the lid which had blocked women from migrating from their rural homes to search for employment in urban areas. In addition, many households embarked on the education of girls, especially at the post-primary schooling level. Parents began valuing their daughters for other reasons other than as fetchers of bridewealth. Education of girls further increased the incidence of migration of Isukha women as most of the educated women sought employment in urban areas.

Independence also encouraged the migration of women as the value of men as "house boys" decreased in favour of women domestic servants (*ayahs*). The colonial government had encouraged the employment of men as domestic servants but independence changed the equation. Increased migration of Africans out of their rural areas also led to an increase in the demand of female domestic servants. Expansion of post-primary educational opportunities for girls enabled them to interact with girls from other ethnic communities and regions while at the same time providing them with an opportunities to get formal employment. Increasing importance of Isukha

⁶⁴³V. J. Sirma, *Lending on the Security of Matrimonial Property in Kenya: the issue of spousal Consent* (M.A Law, University of Nairobi, 2014), 33.

women changed their status in family and marriage. Most of the women who migrated from Isukha-land got married to people from other communities.

Prior to independence, it was common for migrating Isukha men to intermarry with women from other ethnic communities. Independence changed the equation and Isukha women also started migrating and interacting with men from other ethnic communities. Perhaps the greatest impact of migration on Isukha marriage was the fact that as men and women migrated from their rural areas, they got out of touch with their Isukha customary law and the control of the elders. Thus, the enforcement of marriage customs and laws began to diminish. The result was the decreasing value of bridewealth in Isukha marriage and increasing cases of cohabitation type of marriage unions as discussed in the next section.

5.3.1 Decline in the Value of Bridewealth and the Emergence of “Come –We-Stay”

From the 1960s, and increasingly so in the 1970s and 1980s the Isukha political economy underwent series of changes that had as serious consequences for marriage as had those of the 1940s and 1950s. Education became one of the most promising avenues of investment. While the cost of secondary and even primary school could quickly deplete a family's disposable income, most parents had few qualms about paying for as many years of schooling as possible to their children, especially sons. Educated men filled well-paying salarized jobs in the new nation's expanding bureaucracy-cum-patronage system. This income could be put towards bridewealth or invested in school fees for younger brothers. Declining land availability in Isukha created new aggravations.

In previous generations a growing family could always expand into unoccupied bush beyond their clan boundaries. Now, as fathers divided their land between sons, plots shrank to barely sustainable acreage. A tiny farm could allow enough land for one wife but could hardly provide plots for multiple wives. Many children by many wives did little but spread homestead resources thinner than they already were. Recurrent expenditures mounted as did the potential for unexpected financial demands medical costs, for example. The hope of educating even one child dimmed. A polygynous homestead could no longer be equated with a prosperous homestead. Some men claimed that their land had been taken away by relatives or occupied by foreign person who claimed to have bought those land. Many of these men were workers in towns. For example Alfonse Lipwama who worked at Nairobi found out that his land was given to two individual, Joseph Kwasira and Charles Lunalo by the sub-chief and three headmen.⁶⁴⁴

It is apparent that, in the decades after *Uhuru* women were no longer such a good investment for men and bridewealth steadily declined. As stated by one informant; “by 1970 bridewealth was half of what it had been in 1965; it halved again by 1980”.⁶⁴⁵ At the same time, household income rose in relation to cattle prices. Bridewealth declined in absolute and relative terms. Even so, bridewealth remained out of the reach of many young men, although the percentage of aging bachelors was certainly less than it had been in the 1950s.⁶⁴⁶ Yet marriage itself remained the hallmark of adulthood. The Isukha, believed that “marriages must be sealed with both

⁶⁴⁴Alfonse complaint through a letter to the DC of Western Province to find out how his piece of land was given out in his absence.KNA, DC/KMG/2/1/165 African Affairs and miscellaneous affairs Isukha Location, 19960-1965.

⁶⁴⁵ OI.,Hezron Ngaira 04/01/2018.

⁶⁴⁶OI., Francis Major, 04/01/2018.

solemn vows and fat cattle.”⁶⁴⁷ Most pragmatic concerns also led women to seek marriage. Women still gained land rights only through marriage. If their parents were not wedded, children could make no claim on their biological fathers.

As before, dedication to bridewealth marriage did not mean it would be easily achieved. Changes in the law and in the Isukha economy and decades that elopement had become a standard preliminary to marriage had transformed marriage. To alleviate the burden of supporting their daughters, fathers often agreed to delay bridewealth demands. One informant mentioned that in the 1980s, “if a daughter goes you lose a member who has been using limited family resources. Therefore, people waited several years for the bridewealth.”⁶⁴⁸ The number of elopements and the time that passed before men gave bridewealth both rose. What had been the rule in pre-colonial had become the exception by 1975-1980. During the field research, it was established that in those years more than half of all marriages were immediately sealed by bridewealth and one out of five husbands still owed bridewealth four years into their marriages. Moreover, fathers no longer had legal recourse to recover a daughter. Parents did not approve of “come-we-stay” but they would indeed, had to accept it.

With no legal penalties for elopement and little pressure to quickly produce bridewealth, young men sensed the balance of power tilting towards them. Women slid into greater insecurity as their men adopted more cavalier attitudes toward these unions. Young men saw elopement as a chance to “try out” women, so to speak. As one informant said of his lovers in the 1980s;

⁶⁴⁷ Ibid.,

⁶⁴⁸ OI., Monica Mkatili 04/01/2018.

If she proved worthy I consider paying bridewealth. But I first had to know her character, if she was lazy or hard working, if she was dirty or cleans the house, if she was a witch, if she was harsh or kind, if she received visitors warmly or not. She may be dirty in the way of baths, not cleaning the house or beddings, and if she could wash my young brothers and sisters while she has no kids of her own. When I learned her character fully I could pay but if I didn't like her I chased her off.⁶⁴⁹

This man knew that once he was tired of his lover he could send her away without consequence. What could a spurned woman do? If she remained childless she might find another man with whom to live. In a more difficult position was a single mother, who had to bear the full burden of raising her children since no bridewealth had been given, the biological father had no rights over and no responsibilities of his offspring. A family would hesitate to take on the expense of supporting a daughter and child, and few men would be anxious to marry her and bear the burden of raising children born of another man.

One might wonder why women eloped at all. Considerable financial pressures forced some to leave their families. A daughter whose parents did not pay her school fees felt that she had little reason to remain at home. Neighbours did give a greater measure of respect to a "wife" than they did to women still living at home. Rather than being greeted as a daughter of her father, an eloped woman was known as the wife of her lover.⁶⁵⁰ Most legitimized with bridewealth. In the early years of a come-we-stay the woman strove to please her lover and his family, proving herself "worthy" and giving them no reason to turn her out. Perhaps if she were not "lazy" or "dirty" she could become a real woman, a married woman. Come-we-stay offered some benefits and at least a possibility of marriage, enough to outweigh many women's reservations.

⁶⁴⁹ OI., Bernard Mukhaya Khamalinya 11/01/2018.

⁶⁵⁰ OI., Elizabeth Acheisa Mukabwa 12/01/2018.

A decrease in the bridewealth eliminated the impetus for abduction and, although the evidence is not overwhelming, it appears that by the later 1960s, instances of abduction had declined significantly. Moreover, abduction cases of the late 1960s and 1970s were not like those of the previous decades. In 1966, for example, a man from Wanga location stated that Elkana Mbatia a worker as a County clerk to Kakamega had taken his wife by “force” to his home yet this man had two wives. The husband to the “abducted” had written a letter to the Minister for Justice in Nairobi and argued in favour of a harsh sentence to Elkana Mbatia:

The accused is a big man in the area and well educated and a clerk to the Kakamega councils. His misbehavior has caused difficulties in my family that already has children of school age yet Mbatia a family man can't do without chasing my wife. Is this really kind to my wife. To make the matters worse last December he made an attempt to sue me in the African Appeal Court Kakamega but it failed. In this respect I ask your office to impose severe sentence on him for damaging my family, make others sees as this offense is too common over here.⁶⁵¹

Crimes such as the one Elkana Mbatia was accused of were becoming “too common.”

⁶⁵² These were not abductions committed by desperate impoverished youth. Mbatia had the where-withal to marry a wife properly and in fact already had two wives. The decline in abductions was also suggested by chiefs and sub-chiefs dutifully recorded matters regarding health, education, taxes and law and order. Under the last heading they noted the many disputes that their subjects continued to bring before them. Few crimes against women were brought to chiefs' and sub-chiefs' attention. In October 1966, for example, there were only two recorded assaults; one sub-chiefs listed two cases of girls being “pulled” (for which to young men were imprisoned for ten months

⁶⁵¹Brothels and Prostitution 1945-64 KNA, DC/KMG/2/133.Letter written to the Minister for Justice on 31st October 1964.

⁶⁵² Ibid,.

and fined shs.600).⁶⁵³ That year the chiefs and sub-chiefs reported a total of two cases of child sexual abuse, one of indecent assault, one of “two people pulling girls from the road” and “two cases of abduction” for which suspects were arrested.⁶⁵⁴

Abductors violated the rights of women. Even if an abductor had cattle most fathers would reject the union because their daughters had rejected the union. Abductees, not their fathers or brothers, prosecuted their attackers before the council of elders. In the 1960s, abductions were interpreted as “removing an unmarried girl from the custody of her parents,” but it was the unmarried girl not her parents who laid out charges. As noted in chapter four Isukha elders punished abductors much more harshly than they did men guilty of elopement. Fines in abduction cases were higher than in elopement cases, sometimes twice as much. Elders sentenced some abductors to peremptory imprisonment along with fines, which they never did in elopement cases. Abductors, and only abductors believed that their circumstances justified their actions.

Only marriage through bridewealth transformed young people into adults and put them on the road to being respected elders. These couples were not revolutionaries. They shared with senior men an abiding faith in the promise of marriage, and the presumption that bridewealth made marriage. Even if an Isukha woman called her mate her *bwana* (husband), she and everyone around her family, friends, neighbours, indeed, knew this could never be true until he had paid bridewealth. Young people believed that bridewealth helped to explain why, compared with adultery and abduction cases, exceptional numbers of men accused of elopement pleaded guilty. But if elopement is understood as a failed bid at marriage, pleading guilty makes more

⁶⁵³Complaints 1965-66 KNA, DC/KMG/2/1/209.

⁶⁵⁴ Ibid,.

sense. Eloped couples sincerely wished to marry rather than simply cohabit, and only bridewealth could transform an illicit union into marriage.

Eloping was not a rejection of marriage or of bridewealth, but a pragmatic decision foisted upon young people because of poverty. By pleading guilty men hoped to placate complainants, disputing neither the facts presented nor the importance of gaining a father's consent. Accused men hoped, would soften them to the idea of consenting to a real marriage. No matter how long lovers spent together they did not regard themselves as truly married until bridewealth had been paid. Even a woman who had spent ten years and had borne two children with her lover did not consider herself married since bridewealth had not been paid.⁶⁵⁵ But it was not bridewealth that caused them such headaches. Their forced marriages and extended bachelorhoods resulted directly from the cripplingly high bridewealth rates and senior men's interpretation of bridewealth, not the existence of bridewealth. Young people desperately wanted all the social amenities that went with the bridewealth marriage, but were unwilling to let the importance of bridewealth overshadow the importance of consent. As time progressed, changing patterns in the institution of marriage seemed to have created confusion to the extent that some legislation was contemplated. Elopement and abduction were complex problems which both the colonial and post-colonial government found hard to deal with from the legal point of view. This is partly because elopement and abductions are protwin problems which kept on metamorphosing.

⁶⁵⁵OL., Angelina Muhinja 16/01/2018, Pricilla Indimo 16/01/2018 and Edward D.C. Konzolo 16/01/2018.

5.4 Changing Marital Stability among the Isukha

As already discussed in the previous section, aspects of Isukha marriage were in a constant state of change. Elopement, for example, was an aspect of Isukha marriage in the pre-colonial period and it persisted in the colonial and post-colonial period. However, as the Isukha people migrated from their rural homes and interacted with people from other regions, including intermarrying, they lost touch with their customary laws. One thing that was noticeable in the independence years was changing marital stability of the Isukha marriage. In the Isukha traditional society, once marriage was contracted following the payment of required bridewealth, the marriage was deemed to be permanent.

Divorce was not permissible except on extreme cases where life of the partners was incompatible. Before any divorce was permitted, the family members, lineage and clan elders who had been responsible for that marriage arrangement had to carefully examine the grievances brought before them and divorce could be accepted only on very genuine ground. This was because the Isukha took marriage seriously. This was not exclusive to the Isukha people. Other ethnic communities in Kenya took marriage seriously. Mbiti has aptly pointed out that: “once full marriage contract had been executed it was extremely hard to dissolve it. If a dissolution does come about, then it created a scar in the community concerned.”⁶⁵⁶ If either of the partners had a genuine reason to seek divorce, the elders had to examine carefully the issues in disputes involved. The husband had to be cautioned, warned or fined if there was evidence that he meted bestial beating to his wife and by so doing, threatening her life.

As observed in chapter two, at least six culturally recognized grounds were identified namely: barrenness; denial of conjugal rights by either partner without good reason,

⁶⁵⁶ Mbiti, *African Religions and Philosophy*), 145.

witchcraft; being a habitual thief; desertion and continual gross misconduct by the woman. Women took matrimonial disputes to the elders not so much to secure divorce, but to get their husband to change their behavior. In most cases, divorce could only be granted after several attempts at reconciliation and in some cases it was argued that there was no divorce, particularly when children were present. Isukha elders examined their grievances with all frankness and fairness more often, the partners were advised to change their habits and behaviours that made their life incompatible, and reconcile so that they stayed together peacefully and build a family. The elders did encourage divorce because the children would suffer yet children were a vehicle of hope and consolation for they continued the next generation. Sometimes, when divorce was allowed, both or either of them found it difficult to get new partners. So there was need for the partners to bear with each other in their married life to make the families remain stable.

After independence Isukha women initiated most divorce proceedings even though many of them had more to lose than men when the marriage broke down. In order for a woman to win a divorce case against one's husband, a woman had to complain about and prove neglect, desertion and assault. Neglect was found to be the most common ground for divorce. Where neglect, adultery and assault could be proven, many courts were likely to grant divorce.⁶⁵⁷ There were several ways in which labour migration brought about divorce. One of the related to the fact that many labour migrants rarely returned home to settle down with their wives until they were much older, and therefore, didn't belong to a marriage partnership. Some had been separated from their wives and children for several years. Others visited their families at least once a year during their annual leave, or arrange for their wives to visit for

⁶⁵⁷ OI., Christine Muhatia 18/01/2018.

short period usually to have babies as discussed in chapter four. While many migrant workers sent their remittances to their families, some often spend their resources on mistresses and prostitutes in town, signifying the weakening of conjugal ties with the wife left behind.

On the other hand, the lonely woman left behind could be tempted to engage in extra-marital relationships, which often threatened the marriage. In a few cases, some men divorced their wives when they got reports that they were unfaithful. Some husbands even found their wives made pregnant by other men and protested against such pregnancies. An example was Livinstone Mutogo who was working in Mombasa but later found out that his wife had a baby with another man.⁶⁵⁸ Five cases were found in field research where husbands had divorced such wives. Separation and divorce in such marriages often occurred as a result of loss of emotional connection between the spouses and lack of support for the wife and children left behind. Many Isukha men on the other hand complained that their wives left behind were unfaithful in their absence. Many wives of migrant workers developed a greater deal of freedom and autonomy which they found difficult to relinquish, and which some men also found difficult to adapt or to cope with, when they returned. Such a situation provided a framework for marital instability.

Divorce cases differed fundamentally from all other marriage disputes. In many cases it was women who filed divorce cases. If men wished to end a marriage they simply demanded the return of their bridewealth. More important, women's thoughts about their marriages took centre stage. Rather than debating whether or not a marriage existed, litigants debated whether or not their marriages should continue. A husband could not focus on bridewealth, for if he wished to retain his wife he had to answer

⁶⁵⁸Complaint General 1967-1968 KNA, DC/KMG/2/1/215.

her accusations of abuse, desertion, infertility and forced marriages. Nonetheless, women's words alone did not determine the outcome of divorce cases. Court elders granted divorces less out of sympathy to women's complaints than to the wishes of the women's relatives.⁶⁵⁹

Divorce proceedings opened with the words of dissatisfied women. Women as they did in other cases, presented litanies of abuse suffered at the hands of their would-be husbands. Any number of actions, women insisted, could render a marriage dead. She had never wished to marry the man, a plaintiff might argue "I want to divorce *Mimi nataka ili tuachane na mume wangu* because I didn't love him since long ago, he is a good young man, but I don't love him."⁶⁶⁰ Other complained of physical violence, or having been accused of witchcraft or barrenness and neglect of their husband not supporting them financially. In 1964 Civil Secretary Western region wrote to Regional government agent Kakamega a complaint of a lady Safina Musirbi stating that:

She has not seen her husband since 1952. She is experiencing difficulties in meeting school fees at the local schools at Shibuya and Lukalo in Chief Jeremiah Segero's area, Sub-location (Sub-Chief Amok?). Could anything be done to assist her because she has heard her husband is staying with another woman and that the family is at present time starving from hunger, no money to buy food⁶⁶¹

For these women, their marriages had already essentially ended. They wished only officially to end the marriages, allowing them legally to create new marriages. Divorce cases proved the only legal context in which a woman could effectively present the argument that was otherwise so often ignored: that bridewealth alone did not make marriage.

⁶⁵⁹ OI., Andrew Mulima Shirandula 31/12/2017.

⁶⁶⁰ OI., Joseph S.C. Makatiani 21/01/2018

⁶⁶¹ African Affairs and miscellaneous affairs Isukha location 1960-1965. KNA DC/KMG/2/1/165.

To retain rights over his wife a husband had to convince elders that the divorce petition was baseless. As always they detailed the status of bridewealth: she is, and should remain, my wife because I paid bridewealth. “I don’t want to divorce my wife” stated one informant, “because she is my wife whom I married with 10 heads of cattle, and five calves, and two goats”.⁶⁶² Yet husbands could not end their testimony there. There were cases where husbands who had separated with their wives and still did not want these women to get some independent source of livelihood.⁶⁶³ Adultery and custody of women cases hinged primarily on men demonstrating the existence of a marriage sealed by bridewealth while, in contrast, divorce cases by definition presumed the existence of a marriage sealed by bridewealth. Proving that bridewealth had been exchanged was redundant. Unlike men charging adultery, respondents in divorce cases could not ignore their wives’ accusations of mistreatment or forced marriage.

Refuting women’s accusations of mistreatment was all the more important given the number of successful divorce applications. As with criminal customary law, elders on the Isukha related restrictive rules on divorce yet interpreted them very loosely in practice. Why were elderly so willing to follow the wishes of unsatisfied women? In fact, it was not women’s words that counted so much as those of their brothers or parents. The plaintiff who had the support of her family could expect a favourable hearing by the court elders. Recognizing the continuing rights of a family over a married off daughter, elders nearly always followed the wishes of the plaintiff’s kin. In not a single case did the elders grant a woman a divorce against the wishes of her

⁶⁶² OI., Hezron Ingaria Alumasa 21/01/2018

⁶⁶³ Complaints- General 1967-1968 KNA, DC/KMG/2/1/215. In a letter dated 31st January, 1968 where the Provincial Commissioner of Western Province was responding to Mr. Absalom M. Malongo.

relatives.⁶⁶⁴ Perhaps more than anything else, the difference between father's attitudes in criminal and in civil cases came down to a woman's respect for parental rights. What incensed fathers most was daughters taking matters into their own hands, living with new men without first seeking familial approval. The Isukha agreed that childlessness, accusations of witchcraft, and excessive domestic violence could dangerously weaken marriage. The crucial questions centered on when these issues entirely and irrevocably undermined a marriage and most important who could make the determination.

Women's arguments remained relatively similar across criminal and civil cases; whether they would be received favourably by court elders depended on their kin's testimony. By supporting divorce petitions fathers and brothers and in some few cases mothers admitted circumstances in which marriage should be dissolved, agreeing with the claims made by so many women. Excessive physical violence, the failure to produce children and accusation and counter-accusations of witchcraft led relatives to support a woman who had left her husband.⁶⁶⁵ Kin might also agree that a marriage could not be preserved because of what might be called irreconcilable differences. A man who chased off his wife or called her a prostitute could alienate his in-laws.⁶⁶⁶ One sympathetic father admitted that he had done wrong to force her daughter into marriage on two grounds: that she did not love him and that he had failed to support her when she fell ill.⁶⁶⁷

In divorce and civil claims matters of bridewealth loomed large in determining the support a woman could expect from her family. Should a marriage end bridewealth

⁶⁶⁴ OI., David Ashimosi 22/01/2018.

⁶⁶⁵ OI., Everlyne Makona, 24/01/2018, Martha Yadudo 24/01/2018, Nancy Ingonga 24/01/2018.

⁶⁶⁶ OI., Clemet Chivolo 22/01/2018.

⁶⁶⁷ OI., Jacob Luseno 31/12/2017.

would have to be returned; no one would dispute this point. Perhaps the cattle remained in the family homestead, which made returning bridewealth a simple matter. But a woman filing for divorce would be unlikely to hear kind words from her family if the bridewealth had already been used. The second marriage would have to be broken, the bridewealth reclaimed and the wife sent home, all in order to satisfy the unhappy daughter. Not all families were willing to take such steps. Some women however, were blessed with families willing to refund bridewealth even if no new source of bridewealth had yet been found. But too often questions of bridewealth bested any desire to release a relative from unwanted marriage. In many cases litigants had negotiated divorces contingent on the return of bridewealth. When the cattle could not be produced the agreements were off, the divorces rescinded.

Churches held the same view that once marriage was contracted it should remain indissoluble. In the early years between 1930-1950s, the Isukha Christian marriages were relatively stable and were admirable as stated by one informant:

Christian marriages contracted at the inception of Christianity and the early stages of its growth were stable. They tried to live up to the Christian ideal of love and peace between partners. They were patient with each other and lived in mutual respects. Many Christian families held evening prayers together. They cared for their children well and educated them. It was not surprising, therefore that some of the Christian families were able to educate their children who later held important jobs in the colonial government and in the post-independence Kenya government.⁶⁶⁸

There were also other socio-economic factors responsible for instability of marriages. First, some couples had contracted marriages without the knowledge of the parents, therefore without the knowledge of the parents. On some occasions, these partners had known each other for relatively short periods. In cases where parents did not

⁶⁶⁸OL., Jenifer Ayosta Aluvala 03/01/2018.

know about the marriage, bridewealth was not paid prior to contracting the marriage. The lack of bridewealth payments in such marriages, explains the existence of loose marriage bonds between the couples and the families of both couples. Even if they went through church weddings to sanctify, the bond tying the couple was weak. A church wedding alone without payment of bridewealth did not strongly bind the couple. In some church marriages where a lot of expenditure and entertainment had been displayed were easily broken down. Most of these prestigious types of marriages were preferred by the educated people, some of whom were rich. If they happened to be poor, they asked their friends to aid them financially or sometimes they borrowed loans to help them in the arrangement of richly displayed weddings. Secondly, church arranged marriages tended to be individualistic pointing much more to the two who became one flesh. Such couples did not integrate into household of their parents to become subordinate as it used to be traditionally. Where there was financial ability which gave the couples economic independence, the couple existed independently of the parents. But when their relations became sore and resulted into conflict over social as well as domestic affairs, they lacked seniors close to them particularly parents who could guide and advise them. Their life finally wrecked with misunderstandings and quarrels. Such marriages occasionally ended in separation or divorce.

Where educated people had married and earned almost equal salaries, the “demand for equality” by the wife tended to cause tension and destroyed peace in the marriage. The issue here was “authority and power” of decision making. Because of occasional unilateral decisions made by the husband due to his authority as the head of the family made the wife to consider her intelligence and dignity belittled when she was not consulted on matters that affected the family. Some participants pointed out that there often occurred disagreements when the husband continued to refuse to involve or

consult the wife when making a decision on an issue that involved the whole family.⁶⁶⁹ Finally, this resulted to lack of communication or less communication between them.

The picture established from the field research was that the families with low income and the families where the husband had high education and higher income tended to be more stable than the families of educated people where the couple earned almost equally high salaries. This was because in the former, the decision of the husband tended to be accepted because he was the main bread winner in the family. There was more effective communication between them than in the latter. In the latter, there was less consultation or sometimes lack of it. All these descriptions points to the differential impact of divorce on women, men and children. Majority of Isukha people however, remained committed to their families and their marriage were still stable.

Copying of western cultures and values as gender equality in the decision making in the home resulted in misunderstanding and men claiming to be the head of the family sent their uncompromising wife away. Many women were co-providers and felt the need to have a hand in decision making regarding the wealth of their families. Additionally, lack of openness in domestic affairs at times leads to lack of trust between the spouses and this more often than not resulted to separation.⁶⁷⁰ Ambitions such as going abroad for business ventures or studies or being employed too far off places from home, led to estrangement between the spouses and some ended up separating. As marriage stability lessened in the impence period so did claims over children. This is bearing in mind that, among the Isukha, children belong to the father.

⁶⁶⁹OI., Andrian Ingachi 22/01/2018, Samuel Makomele 22/01/2018, and Clemet Chivolo 22/01/2018

⁶⁷⁰Many spouses are said to be confiding their secrets to the people whom they are not closely related by blood or marriage. if such secrets leak, divorce becomes a possibility.

In some cases, marriage dissolution was followed by claims over both women and children.

Children were highly valued among the Isukha. Children belonged to everyone and were not only brought up by the extended family but even by the clan. The ideal was to have as many children as was physically and socially possible. First children were seen as the strongest cord that tied married couples and families together. As such, it was mainly for their sake that many unhappy marital relationships were endured. Secondly, children were highly viewed as a blessing from God and the ancestors, a status symbol and a source of identity, security and wealth. The flow of wealth was from the children to their parents. It would not have been at all uncommon for Isukha elders one day to hear several adultery and elopement cases, and the next to hear several divorce petitions and claims for the custody of women. A husband could sue his “runaway wife’s” lover for legal custody over her. Men used civil claims as an indirect method to regain women. A successful claim reasserted a man’s legal rights over a woman, no matter where or with whom she might live, or for how long. This scuttled any plans the unwed couple might have had of getting married. The woman and her lover would be forced to realize that, regardless of their desire to live and to raise their children together, social recognition as a married couple could not be theirs.

Perhaps most importantly, husbands claimed children as well as wives. All children among the Isukha, no matter who had fathered them, socially and legally belonged to the man who had paid bridewealth. Thus a plaintiff claimed all the children his wife had borne regardless of their biological father. Unlike women, children could be given to the successful claimant at the time of the court hearing or, if not yet weaned, later by warrants of attachment. The significance of physical and legal control over

children was twofold. First, while a daughter's bridewealth would always technically belong to her legal father, he stood a better chance of negotiating and realizing it should she live with him. Second, according to one participant women were averse to remaining away from their children and would often remain with an unwanted husband rather than risk separation from children.⁶⁷¹ The relations between a mother and her boys could often be the closest in a homestead: mothers defended their sons' interests in bridewealth, and sons later provided for their mothers in their old age. Mothers and daughters retained deep emotional ties well after the latter had married and moved away.⁶⁷² The residence of children could well determine the residence of their mothers.

5.5 The Decline of Polygyny

Many participants admitted that Christianity in colonial period and after independence did not change polygyny practice very much. Moreover, Christianity failed to transform the Isukha attitude towards its cultural practices. Even the mission founded churches that were once hostile to traditional practices such as polygamy began to reconsider their position on how to treat polygamists, particularly with the view to admitting them in the church and possibly getting them baptized. It was true, there was a pocket of faithful Christians who followed Christian teaching and remained in monogamous marriages but there were also many Isukha who remained traditionalist and continued with the practice of polygyny. There were also many Christians who later married more than one wife but remained partial church members for they were not allowed to partake of the Holy Communion. So the practice of polygamy and attitude of the Isukha towards it was not so much affected because the social and economic structures that supported it endured destruction.

⁶⁷¹ OI., Agnes Ruth Ishenye 12/01/2018.

⁶⁷² OI., Margret Mukasia 03/01/2018.

However, from the late 1960s, the practice of polygyny began to wane for the structures that supported it started to break. Furthermore, social and economic pressures began to force many men to change their attitude towards polygamy. Educated wives began to demand for equality and started to exhibit lack of tolerance for co-wives. Polygynists' prestige began to change, in turn, the love for polygamy too began to change. The biggest factors that affected the practice of polygamy were economic. The constantly rising standards of living made polygyny a liability to many men rather than an asset. There was continuous demand for family members to be clothed decently, sheltered, well fed and the children's fees paid so that they could receive good education. Because of the constant increase in family population, a small piece of land could not produce enough food for the growing family. Formerly, a wife would be given a piece of land to till and produce food to feed her household. During this period with various factors such as title deeds, unreliability of rainfall, exhaustion of land, among others produced a lot of pressure on polygamous household. Land demarcation also meant that shifting cultivation was no longer possible.

The colonial economy had turned a large number of Isukha men into migrant wage earners. These migrant workers in towns found it very difficult to keep a wife or many wives in the village and perhaps live with one in town. The low salaries they earned could not enable them keep such two separate families well due to the inflationary trend of the economy. Many of the migrant workers had changed their attitude towards polygamy. They viewed it critically as unnecessary practice. So after independence, it was social and economic pressure rather than Christianity that dealt a death blow to the practice of polygyny. However, there was a section of the Isukha, which tolerated polygyny. There were some rich men, rich educated people and rich business people who entered polygyny and married wives who could help them run

their business rather than employing servants. As stated by one participant; “some secondary school girls, particularly fourth and sixth formers would prefer marrying rich business men, rich business elite, or elite holding high positions and earning high salaries.”⁶⁷³ They felt more financially comfortable in such polygynous marriages than to their contemporaries who were either unemployed or engaged in low salaried jobs.

Most of the average educated working class had set goals and expectations. The working class had the insight that marrying many wives would hinder them from giving their children the necessary education, food, shelter and clothing. Consequently, a good number preferred to remain in monogamous marriages. But the peasant population tended to engage in polygyny marriages without setting goals so that finally, in most cases, the wives were left to struggle by themselves to maintain their own children by engaging in peasant economy and petty trades. Considering the fact that the colonial government had neglected improving the peasant economy and even since independence, the peasant economy had not much improved, such wives found it extremely difficult to meet their household needs adequately, leave alone raising fees to pay for the education of their children. Consequently, such families were likely to suffer from a permanent circle of poverty under which the practice of polygamy was very difficult.

Improved health services among the Isukha led to a cut-down in polygamous tendencies. Isukha men practiced polygyny for various reasons; one which has already been discussed in chapter two was to enable men acquire access to more land. Secondly, it was in order to get more children. The reason being, at that early period there was high mortality rate among children. With the introduction of western

⁶⁷³ OI., Helen Linakha, 07/01/2018.

medicine and health facilities child mortality dropped significantly and the risk of losing children to death reduced. Thus, there was no need to have many children for insurance purposes. An African hospital, then called “Civil” hospital was established in Kakamega town in the heartland of Isukha people. Christian missions had also set up mission hospitals. These included Mukumu hospital. However, Isukha did not adopt modern medical services all at once since there were a number of individuals who continued to hold onto traditional Isukha medicine even after independence. Such men continued bearing many children out of polygynous marriages while those who identified with modern medicine minimized their polygynous appetite. Polygyny waned further during the Moi years.

During the 1980s and early 1990s, the Isukha most of whom lived around the Kakamega forest encountered the harsh realities of the economic crisis that was witnessed during the Moi era. This reality became more conspicuous when one examines the pressure that the people of Kakamega put on the protected forest of Kakamega. People turned to illegal exploitation of the forest at a high rate than hitherto. The government had to impose a ban on forest logging in the 1980s but even in the wake of the government ban, people continued to exploit the forest to meet local demand for timber products and forest-related income. This was attributed to growing dense population with high poverty levels. The economic crisis witnessed in Kenya since the late 1980s was also witnessed in other countries including the Developed world. The crisis had an impact of marriage patterns. In Ireland for example, there was a “period of decline in marriage rates during the 1980s and early 1990s”.⁶⁷⁴

⁶⁷⁴ T. Fahey and C.A. Filed, *Families in Ireland: An analysis of patterns and trends* (Department of Social and Family Affairs, 2008), 7.

A decline in marriage rates among the young adults had been off-set to some degree by a rise in cohabitation.⁶⁷⁵ Cohabitation, as a replacement of Isukha marriage had according to Fahey and Field diminished the cultural status or primacy of marriage as a “gateway to family formation that it once had, since sex, childbearing and cohabitation outside of marriage now widely occurred.” However, in spite of these, Isukha people continued to marry because of various factors; firstly, there was a growth in the size of the population in the marriageable age groups, in part to the new possibility for second marriages opened up by the advent of divorce and in part to a rise in the propensity of single people to marry. Rising marriage rates among single people were concentrated very much among those aged in their 20s and 30s and to some extent were the consequences of catch-up among those who had deferred marriage in the previous decade. Those who delayed marriage were those who had advanced their education to higher level (college level) and who were searching for employment.⁶⁷⁶

The rising levels of poverty among the Isukha around Kakamega during this period serves to explain why young men had given up on polygynous marriages. Firstly, young men, in marriageable bracket could not afford bridewealth with which to marry numerous wives. Secondly, the land size holding had diminished to the extent that some families had given up on further subdivision of land. Young members of most families, survived without inheriting land from their parents. Many families living adjacent to urban areas had sold family land and there was very little left for households to subsists on.

⁶⁷⁵In general, however, cohabitation was more often either a transient arrangement that dissolves or a stage on the road to marriage rather than a long- term alternative to marriage.

⁶⁷⁶ Unemployed rates sourced during the Moi era due to poor economy

5.6 Isukha Marriage on the Era of HIV/AIDS

A part from population pressure and poverty, the people of Isukha encountered the reality of the emerging Acquired Immune Deficiency Syndrome AIDS epidemic. AIDS epidemic broke out in the 1980s and the first case in Kenya was diagnosed in 1984.⁶⁷⁷ It was in Kakamega District where the first case of AIDS was diagnosed in 1984.⁶⁷⁸ By implication, the first case of HIV was first diagnosed in the heartland of Isukhaland. This fact suggest high statistical figures for Human Immunodeficiency Virus (HIV) /AIDS in the Kakamega County. However, the case of Kakamega County as the leading in HIV/AIDS cases may be moderated by the facts of continued maintenance of high fertility rate, and large average family size found among people living in Kakamega at that time.⁶⁷⁹

Table 5.1: HIV/AIDS Cases in the Former Western Province 1984-1990

	Year	1984	1987	1988	1989	1990
District						
Bungoma		0	0	34	18	25
Busia		0	0	0	25	582
Kakamega		1	9	30	146	163
Total		1	9	64	189	770

Source: Kakamega District Development Plan 1994-1996 pg. 124

Table 5.1 shows the HIV/AIDS cases in former western province. The number AIDS cases continued to increase from one case in 1984 to 163 cases in 1990. Kakamega was second to Busia in the number of cases reported in the province. The highest number 582 was reported in 1990. This could be as a result of patients from the neighbouring Busia town in Uganda seeking medical treatment in Busia Kenya.

⁶⁷⁷ Republic of Kenya, *Kakamega District Development Plan 1994-1996*(Nairobi: Government Printer, 1997), 121.

⁶⁷⁸ Ibid 123

⁶⁷⁹ Ibid,123

The Isukha most of whom lived in or around Kakamega town and other townships became struck by this incidence of first AIDS case. “It all started as a rumour. Then we found we were dealing with a disease. Then we realized that it was an epidemic. And now we have accepted it as a tragedy”⁶⁸⁰ The cause of AIDS was still unclear in the early eighties although it was thought to be an infectious agent probably a ‘virus’. Very little was known about transmission and public anxiety was high. Many questions remained unanswered, most significantly “what causes AIDS and how it was transmitted”.⁶⁸¹ There were numerous misconceptions, with people thinking that ‘you could get HIV through an apple or an orange or an injection or anything or a fat person didn’t have HIV or HIV could be transmitted just by looking at a person.’⁶⁸² Limited awareness of the existence and suffering caused by HIV/AIDS had not proved to be deterrents and there was need for effecting attitudinal and behavioural changes in the population. An example of misinformation that went around the Isukha was that women in bars and women who were described loosely as “prostitute” went for regular check-ups and despite their having multiple sexual partners were therefore safe from AIDS.⁶⁸³ AIDS also spread as a result of prevailing traditional belief that “AIDS has always been with us” in the form of a rare, unexplained, incurable wasting and fatal illnesses. This was explained in terms of witchcraft, punishment for sacrilegious actions, serious unexpected and unnatural behaviours against the local mores or modern religions.⁶⁸⁴ Additionally, confusion with other diseases such as malaria led to over-estimations of the transmissibility of HIV and added to the fear surrounding the virus.

⁶⁸⁰ OI., Joseph Shikundi Mbalilwa, 30/12/2017.

⁶⁸¹ OI., Angelia Lichina, 11/01/2018.

⁶⁸² Ibid.,.

⁶⁸³ OI., Elizabeth Acheisa Mukabwa 11/01/2018.

⁶⁸⁴ Republic of Kenya, *Kakamega District Development Plan 1994-1996*. (Nairobi: Government Printer, 1997), 125.

The accelerated spread of HIV/AIDS among the Isukha could be classified into fourfold: lack of awareness by the general public, low preferences and use of contraceptives, the prevailing low incomes and the spectre of open unemployment, the low level of blood screening and HIV/AIDS testing technology within the county and certain traditional practices which were still embraced within Kakamega. In addition, a combination of widespread labour migration, high ratio of men in the urban populations, low status of women and prevalence of sexually transmitted diseases were some of the factors responsible for the spread of the disease. The main cause was commercialized sex activities that involved truck drivers who operated between trading centers in western Kenya and Kenya's neighboring countries. Mumias existed along the truck routes that connected Western Kenya and border towns such as Malaba on the Kenya-Uganda border. Commercialized sex activities took place at entertainment facilities in Mumias and Kakamega towns.⁶⁸⁵

It is an established fact that commercial sex workers played a major part in accelerated transmission rate of HIV/AIDS in Kenya. Massive migration of young, unmarried adults from Isukha land to more sexually permissive towns and cities were regarded as partly responsible for the much higher infection levels. Many male migrants were forced to separate from their families for long periods and lived in towns. This resulted in high risk behaviours which increased the rates of sexually transmitted infections, including HIV, which spread rapidly back to the homes of the migrant workers. Women lacked power to negotiate sexual relationships with male partners especially in marriage placed many Isukha women in increasingly difficult situation. Women whose husbands had migrated for work were afraid of the return of the men knowing that they may be HIV infected. Truck drivers alongside other

⁶⁸⁵Ibid,124.

migrants such as soldiers, traders and miners were identified as a group which facilitated the initial rapid spread of HIV as they engaged with sex workers and spread HIV outwards on the transport and trade routes. As was accurately reported by the National AIDS Control Programme (NACP), approximately 80% of Kenyans including those of Kakamega County already had some knowledge of the killer disease.⁶⁸⁶

The non-use and low preference for contraceptives both among males and females in the country was a problem facing population extension. It was ironical that the limited knowledge about the proper application of condoms, especially the widespread possibility of hoarding used and uncertified or damaged condoms were potential technological bottleneck that sabotaged good intentions in the battle against AIDS in Kakamega. Condom use by adults in Kakamega was believed to be low despite their availability through the Ministry of Health outlets and Non-governmental Organizations (NGO's). Although, the use of condoms was reportedly increased by over 68% in the country their use by the youth, was probably because of the costs, adult discouragement and poor access to distributive points, remained low.⁶⁸⁷ The scarcity and limited HIV/AIDS detection and control technology and capacity within Kakamega was only matched by the already described its low contraceptive adoption and the general unpopularity of permanent methods. There were only three AIDS testing facilities at Provincial General Hospital (PGH), at Kakamega town, Mukumu hospital and St Mary's hospital in Mumias in the whole county.⁶⁸⁸

With a few notable exceptions, the 1980s were characterized by an insufficient response to AIDS in Kenya and Africa in general. Often government was saturated by

⁶⁸⁶ Ibid,125.

⁶⁸⁷ Ibid,126.

⁶⁸⁸ Ibid,.

immediate economic concerns and political crisis. As there was no treatment or cure for HIV infection or AIDS in the 1980s, the government strategies had to focus on prevention. Prevention efforts often included encouraging people to revise their sexual behavior, by abstaining from sex or delaying first sex, being faithful to one partner or having fewer partners, or using condoms consistently and correctly, promotion of public awareness through schools, churches, public *barazas*, social work extension, radio and television, stocked or sold condoms across counter in bars and other entertaining places, training of health workers and popularization of the use of condoms. For this reason prevention efforts in Kenya were often confronted with opposition from religious authorities. Both Muslim and Christian leaders found prevention campaign such as condom promotion difficult to reconcile with their teachings, despite prevailing evidence that abstinence and mutual monogamy were perhaps not as common as they would like. Many senior politicians were reluctant to admit to a generalized HIV/AIDS epidemic in the country for fear of creating panic, or discouraging tourism.

Among the Isukha the families of migrants contracting HIV/AIDS carried the cost both through the loss of income remitted by a worker who had fallen ill, and through the cost of supporting the family member if they returned home once they were ill. Similarly, extended family network sometimes collapsed, not least due to pressure of having to support orphaned children. HIV/AIDS thus forced a change in household composition, severely weakening and often breaking down the young adult nexus between generations. This, in turn exacerbated an already existing social crisis of care, which worsened as the epidemic progressed. Economic impact at the household level were decreased income, increased health-care costs, decreased productivity capacity and changing expenditure patterns.

Following death, the impact increased the number of dependents such as orphans. AIDS also made widowhood a common reality and aggravated the risk of women's land and property dispossession. In such cases, the perpetrators were mostly the relatives of deceased husbands. Even though many women were able to defend their rights to land, widowhood still resulted in loss of property such as livestock or farm implements. Arguably, the 1980s introduced a tragedy among the Isukha in the name of HIV/AIDS which left a trail of death in its path. Accompanying this was an equal challenging issue of inheritance of matrimonial property by the surviving members of the deceased's family members.

5.7 Matrimonial Property

The United Nations Organization recognized that gender inequality resulting from women's low status persisted in all societies although the extent of the gap varied across countries, cultures and time. The magnitude and burden of inequality was expressed that "women, who comprised half of the world's population, do two thirds of the world's work, earn one tenth of the world's income and own one hundredth of the world's property."⁶⁸⁹ With advance in time the ownership, control and management of property in a marriage situation or under circumstance akin to marriage evolved as one of the critical areas in gender development. In pre-colonial times Isukha society, women were basically beholden to patriarchal customary norms which treated them less equally with men. Women were also not entitled to own land during pre-colonial days. All land was deemed to be community land controlled by councils of elders who were guided by Isukha norms which notably objectified women. During the colonial period women's marginalization became more profound

⁶⁸⁹E. W. Mwangi, *Factors Hindering Realization of women's land rights: A case of the Luhya community in Kakamega County, Kenya* (M.A Thesis, University of Nairobi, 2013), 12. Retrieved from [www:http://erepository.unobi.ac.ke/pdf](http://erepository.unobi.ac.ke/pdf).

because of their subjection to at least two legal norms both of which were debilitating. The colonial legal system reinforced the supposed inferiority of women. The colonial system was also premised on gendered notions of the roles of men and women in society.

The British colonial land policy began when Kenya became a crown colony in 1920. All the land was assumed to belong to the crown.⁶⁹⁰ The acquisition of African land took place through the Crown Land Ordinance of 1915 and imposed English tenure of land. In 1932, the Kenya Land Commission was appointed and charged with responsibility of appropriating land to Kenyans and British settlers in accordance with the British colonial laws.⁶⁹¹ In order to address issues of ownership the colonialist later imposed the Married Women's Property Act of 1882 onto the Kenyan courts to provide an avenue through which married women could access matrimonial property.⁶⁹² The Act, an antiquated British law was the only sole legislation which provided that women could own property. However, the truth of the matter was that the majority of Kenyan marriages were polygamous and the Act hindered many women from accessing and owning matrimonial property. Further, the non-existence of any other law which defined and addressed control and management of matrimonial property led to flourish of ideology that women did not have the right to own property.⁶⁹³ Contrary to expectation, when Kenya attained independence it continued with policies left by the colonialists. This was the colonial policy of individualization which transformed land from a shared form of property to individual

⁶⁹⁰ W.S. Holdsworth, *An Historical Introduction to the Land Law*, (Oxford Clarendon, 1927),22)

⁶⁹¹ Sirma, *Lending on the Security of Matrimonial Property in Kenya*, 20.

⁶⁹² Ibid.,.

⁶⁹³ Ibid.,.

ownership through registration.⁶⁹⁴ However by design women were excluded from land ownership. Land was registered in the man's name. The post-independence government found dismantling the colonial framework of governance to be inimical to their own individual interest. This led to the retention of status quo.

In Kenya as regards to women status, there were certain areas such as their legal status, rights to land inheritance and entitlement which were still matters of debate and clouded by various traditional biases. There were cultural biases against women especially on rights to ownership and other specific resources. This was the case when HIV/AIDS broke out and most women increasingly became widowed. The heavy burdens of women were not lightened through the use of technology, improved access to credit and that despite many declarations, the status of women in Kakamega remained low.⁶⁹⁵ General attitudes and unwritten biases against women as agriculturalist, their difficulties with land inheritance obtaining title deeds and loans which persisted in some quarters are explained by this hangover.

Women population in Kakamega by 1976 were still preoccupied with "domesticity" instead of competing with men in more lucrative and technologically aided outdoor roles.⁶⁹⁶ Women's access to most property was through male relatives; usually husbands, fathers, brothers or sons.⁶⁹⁷ In most of Kenya's ethnic groups, a husband's clan essentially absorbs a woman upon marriage. Women who were married had no choice but to leave their parents homestead to join their husbands' clan land. Men at all times controlled land allocation while women were responsible for crop

⁶⁹⁴Sirma, *Lending on the Security of Matrimonial Property in Kenya*, 21 quoted in Claris Ongaangael-al.

⁶⁹⁵Republic of Kenya, *Kakamega District Development Plan 1994-1996*. (Nairobi: Government Printer, 1997), 101.

⁶⁹⁶ Ibid.,.

⁶⁹⁷ Human Rights Watch, *Double Standards: Women Property Violations in Kenya* (2003, March, Volume 15, No.5(A))

production. Although women's property rights were limited, social structures protected both women and men against exclusion from land, Kenya's most important asset.⁶⁹⁸

As a result of the British colonization, communal, clan-based property systems eroded as colonial authorities' confiscated land thus uprooted communities from their ancestral lands. The British colonial later introduced individual titling system. This system equated ownership to having a title deed and many times, the title deed would have the name of the man. Unfortunately, women's right to use land received no legal recognition. Men being heads of households became legal owners. Land became a commodity that men could dispose through selling or any other means without the approval of the clan.⁶⁹⁹ This lured men to carelessly sell their land without the consent of their families. This was backed up by the fact that had title deeds thus sole owners.⁷⁰⁰ This is despite the fact that women provided most of the labour in the farm.⁷⁰¹

Among the Isukha access to land was through clearance of bush and planting of crops: the person who cleared the bush was deemed to be the rightful owner. Gender roles in many instances dictated that clearing of bushes was for men, women's work was to plant and cultivate the land after it had been acquired. Further, clan land was allotted to household heads who were men and were inherited by males down the line. Women did not have rights of inheritance under Isukha customary land tenure. While married women gained access through their husbands, who were obliged to provide

⁶⁹⁸Ibid.,

⁶⁹⁹Mwagae, *Factors Hindering Realization of women's land rights:*, 11.

⁷⁰⁰Ibid, 11

⁷⁰¹Land is a principal economic asset through which a large proportion of the population derived their livelihood. Kenyans have therefore always maintained a unique relationship with their land and its ownership has been the primary objective of every Kenyan. The economic aspect aside, Kenyans have always maintained a great emotional and psychological attachment and investment in land as an asset intrinsically linked to and inseparable from their cultural and traditional beliefs.

them with land, unmarried daughters or single or divorced women were given smaller portions of land on which to farm until they married or remarried, or alternatively could rely on their mother's portions of land. Customary laws generally sanctioned male authority over women. Men control household land since community customs and traditions support land allocation to male. Under customary laws "ownership of all property acquired by the spouses is the head of the house, the man."⁷⁰² An exception was given to personal goods. Polygyny was a common practice in the past however due to many factors among them financial constrains, many Isukha walked out of the practice. Within a family, the man of the home was considered the ultimate authority, followed by his first born son. The first born son of the first wife was usually the main heir to his father, even if he happened to be younger than his half-brothers from his father's other wives. Daughters never had a permanent position in Isukha families as they would eventually become other men's wives. They did not inherit property, and were excluded from decision making meetings within the family. The Isukha like many other Luyia communities subscribed to thoughts that it was a taboo for women to own or inherit land. This is why land inheritance was left for the first born son only.

Retrogressive attitudes undermined efforts to address inequality in land ownership between the sexes. The decision on whether to transfer land to a daughter was solely at the discretion of the father even where access to land through marriage was not certain for the daughter. This particular right to inherit from her parents became ineffective for lack of a willingness to break away from deep rooted tradition and the fact that there was nothing in the law that compelled parents to make disposition in favour of their daughter. In some situations, husbands, outrightly forbid their wives to

⁷⁰² Mwagae, *Factors Hindering Realization of women's land rights*), 15.

buy land in their own names; forcing women to register their land in the names of the husbands. The prevailing practice of registering land bought with joint incomes in the names of the husbands only was another hindrance to joint ownership of land. In the event of marital breakdown, a woman's rights to proration of the land as a joint contributor during purchasing were threatened by the law's insistence on the indefeasibility of a registered proprietor's title.⁷⁰³

To avoid marital problems, women who would otherwise be willing to and were capable of buying land abandoned their rights in favour of stable relationships with their spouses. Kenya still applied the Married Women's Property Act of England, 1882, in solving dispute on property in dissolution of marriage.⁷⁰⁴ However, this act was partially effective in creating an equitable pattern of land ownership between the sexes and was invoked only in cases of marital breakdown or widowhood. In addition, the married women's property Act demanded for evidence of contribution by monetary value using receipt. These were some of the details that most Isukha women did not know. The ability for women to own land and property greatly contributed to poverty among Isukha women. The rapid growth of a land market as a result of population pressure and land accumulation by the rich also put the price of land so high, outside the reach of many women. Such obstacles lead to only a small percentage of women in comparison to men managing to buy land in their own names. Women's lack of collateral for credit purposes due to lack of title deeds left women in a cycle of landlessness thus become increasingly dependent on unwilling husbands or fathers for access to land.

⁷⁰³ Ibid.,. Quoted in Simon Coldham.

⁷⁰⁴.Ibid.,.

The decade following independence witnessed little change in the foundational attribute of the law and therefore the women's status remained the same. Women were still under the triple yoke of local culture, domestic law and the European cultural values which did not propagate for their usage and ownership of land as a matrimonial property. The government failed to implement the social reforms strategies such as fair land distribution. It became less responsive to address the attendant desires of the citizen and particularly ignored reforms in the land law which concerned the rights of the women to own land. Realisation that law had been transformed into a tool of discrimination against women led to various initiatives to change and conform it to aspirations of equality for all citizens regardless of sex. These changes while undoubtedly instigated from within were also significantly informed by drifts in the international platform especially with respect to human rights.⁷⁰⁵ As the country slowly ambled towards the path of democracy certain allowances were made in favour of women. In the 1990's the legal status of whether women could own properties started to gravitate albeit at a less than desirable pace. For example legislators began measured reforms allowing women to own property. These changes necessitated restructuring of the laws and ultimately led to the adoption of a new constitutional framework. The new constitution 2010 of Kenya that dismantled the longstanding legal barrier previously imposed on women by hitherto addressing the equality difference through entrenching express provisions which prohibited discrimination based on one gender one way or the other. The Constitution

⁷⁰⁵ Since the first international women's conference in Mexico in 1975 legal systems all over the world have focused on the inequalities of the sexes and embarked on procedure of removing them. This can be discerned from the many conferences held subsequently and the resultant instruments. Examples include conferences such as the Nairobi forward Looking strategies Conference of 1985, the Beijing Conference that culminated in the Beijing Declaration and Platform of action of 1995.. The common theme for these conferences has been the quest for gender equality. In addition many governments including Kenya have signed and ratified or merely endorsed by signature various United Nations Conventions and Declarations that promote gender equality and mainstream gender perspectives in all spheres of life.

2010 attempted to address traditional exclusion that Kenyan women had faced and the attendant “second-class” treatment that the exclusion wrought over them. In its avowed goal of securing social justice for all, the Constitution 2010 sought to provide a framework that lead to inclusion of women in the mainstream Kenyan societies.

5.8 Changing Conception and Perception of Marriage

From the 1990s there was a major shift in the traditional conception and perception of marriage: marriage was viewed less as an alliance between families, and more as a relationship between the two individuals concerned. The new conception of marriage was shifting the focus from family to the individual and this betokens a movement from collective responsibility to individual accountability in mate-selection. This shift in the focus of marriage from a family relationship in which people shared their joys and sorrows together, to an alliance between two individuals was not only diminishing the parental and family role in the marriage process and weakening the sense of community but also re-defining the basis for and the order of priority in the marriage enterprise.

Modern conceptions of marriage emphasized the importance of companionship, communication, collaboration, commitment, intimacy, personal fulfillment and satisfaction between partners as the basic pillars of a successful relationship.⁷⁰⁶ Owing to increased moral and economic delocalization many young Isukha got married without the knowledge or consent of their parents. Some parents came to know only after the marriage of their children had taken place. This trend reflected a decline in parental authority and loss of respect for the elders which prevailed under the

⁷⁰⁶C.A.Suda, *Formal monogamous and informal polygamy in patriarchal African family traditions in Transition*. Inaugural lecture 4th October 2007 Retrieved from [https://vpn.uonbi.ac.ke/proxy/http/erepository.uonbi.ac.ke/bistream/handle/11295/795/suda1pdf?\(2007\)](https://vpn.uonbi.ac.ke/proxy/http/erepository.uonbi.ac.ke/bistream/handle/11295/795/suda1pdf?(2007), 30), 30.

traditional family system. It also reinforced the view that the traditional moral influence of the family on its members had severely weakened. Many families among the Isukha faced serious moral dilemmas because of conflicting conceptions of what was “right and wrong” owing to a general lack of consensus on acceptable standards of marital behaviours.

Contemporary marital relationships were also seen and defined as something “active” meaning that one had to constantly work on the relationship to keep it alive, but perhaps much more importantly, was to recognize that its success and sustainability ultimately depended on winning the trust of the other partner.⁷⁰⁷ Respect for the rights of the individuals involved in a marriage was increasingly becoming central to a stable marital and family life. The traditional expectations in the roles of married couples were no longer relevant, but were being challenged and tested. The traditional gender-based family roles that usually clear-cut and were culturally well defined were being re-examined and re-evaluated. However, the intensity of these transformations tended to vary with age, time, class and backgrounds. While some Isukha men were still seeking women who could bear them children, as well as attend to their many other needs, other sought a partner with at least an equivalent education who could be a wife, a friend and an intellectual companion. Similarly, some married women still expected the man to be the main economic provider in the family and to function as the household head, the modern professional woman had little room for such and expected to be treated as an equal partner in a relationship.

The transformation in the mode of bridewealth payment from cattle to cash for example did not only make marriage a private affair but also minimized the involvement of many family members in matrimonial arrangements and

⁷⁰⁷Ibid, 31.

negotiations.⁷⁰⁸ By the 1990s, most households in Isukha lacked even a single cow. Households came to rely heavily on the market place for everything including milk. Increased social and physical mobility which also intensified in the 1990s, also contributed to a great deal of freedom for the youth and the weakening of the moral authority of parents and the elders. This scenario was seen not only in the generational gap but also in some instances in the clash of values between the older and the younger generations.

Many young people in Isukha were growing up or working in the urban areas or in different parts of the world away from the influence of their rural kin. Most of these people tended to organize their lives on the basis of the practical realities impinging upon them, and were mostly unresponsive to the cultural imperatives of their traditional backgrounds. Since modern marriages broke up quite easily, many young people were reluctant to commit themselves to a life-long Christian marriage. Furthermore, others didn't marry because they could not afford the high cost of bridewealth. It also emerged from field research that many Isukha Christians did not marry in church even though they were still considered to be 'properly' married.

The Christian idea of marriage as a covenant for life, as a sacrament and as an enduring relationship of love and fidelity, was becoming more difficult to uphold in the context of delocalized moral values and increased marital problems.⁷⁰⁹ The mutual commitment to enter into a marriage and make it work seemed to be replaced by different options. As one of the participant stated; "Many young couples hastily entered into a marriage even as they considered options; and they were prepared to

⁷⁰⁸ OI., Christina Muhatia, 16/01/2018.

⁷⁰⁹ OI., Pricilla Indimo, 16/01/2018.

address the possibility of a break-up.”⁷¹⁰ One of the things which is shown by this trend is that the notion of marriage as an indissoluble union was no longer widely upheld and secondly, that many couples anticipated marital problems and how to deal with them even before they got married. And when things went wrong with a relationship, the partners quitted rather than wait and try to work things out. While there was no moral basis for anyone to stay in a marriage which was deeply unhappy and riddle with violence, it was desirable for spouses to demonstrate a genuine commitment to remaining married. But this kind of commitment became less common in modern marriages than was the case in Isukha traditional marriage. Under conditions of weak ‘moralnets’ coupled with an emerging sense of individualism, there was usually little or no attempt by relatives and friends to reconcile the ‘warring’ patterns. Moralnets encompass traditional values, moral responsibilities and ethical standards which not only defined socially acceptable behaviours but more importantly, also served to protect the interests of vulnerable groups in society. This moral delocalization accounts in part for the fragility of modern marriages.

In many modern Isukha marriages, monogamous fidelity was a value which was no longer strongly upheld. A growing number of married people were looking outside their marriages for sexual fulfillment. The number of ‘outside wives’ and ‘outside’ children had become high and rose in Isukha during this period.⁷¹¹ A consciousness that occurred among the well-educated and economically independent Isukha women, cultural practices such as polygyny were seen by many of them as oppressive structures that was no longer respectable or appealing but many Isukha men still continued to marry more than one wife. The changing perception and expectations attached to marriage thus, contributed to the emergence of alternative family

⁷¹⁰OL., Christina Muhatia, 16/01/2018.

⁷¹¹OL., Gilbert Shigami 16/01/2018 and Nancy Ingonga 22/01/2018.

arrangements. However, it was the poor women, some of whom were single mothers heading their own households, who came out of this transition process worst affected and most vulnerable particularly when they had to support their children alone in the absence of any system of moral social and economic obligations.

5.9 Increasing cases of Singlehood and Single Parenthood

Whereas economic crisis was felt in Kenya in the late 1980s, Structural Adjustment Programmes which were introduced to remedy the situation led to an economic crisis of untold proportion in the 1990s. Economic fortunes dwindled further because of the effects of HIV/AIDS among the Isukha. The HIV/AIDS epidemic rendered the most economically active population unproductive as many of them were bed-ridden. A lot of household assets were consumed with the funeral and medical expenses.

Increased cases of single parenthood, in the 1990s onwards can be attributed to the HIV/AIDS epidemic coupled with biting the economic crisis that rocked the country after the introduction of Structural Adjustment Programmes. The crisis was felt more in the 1990s than was even the case in the later 1980s. Traditionally, the status of unmarried persons was not recognized. Production of legitimate children was a social obligation of men and women. The reasons for remaining single according to participants were several; there are those who had not found a suitable life partner and lived in the hope of finding one. For instance, some women found it hard to find a devoted man to marry for there were far too many women in the society than men. But equally important was the fact that, with increased advocacy for girl-child education, more women attained higher levels of schooling and training.

In addition, also through human rights advocacy, more women were sensitized about their rights and this created a clash between them and men. Some argued that a highly

educated woman was seen as a threat to a less educated man. As such, a girl's very education became a hindrance in marriage. There were those with physical impediments and other abnormalities that made them incapable of marriage. Some parents also made unreasonable demands on a prospective husband that they chased away a prospective marriage partner. Besides, children from troubled families where family quarreled and separations became the order of the day often led to marriage phobia. Sometimes, the daughter refused to marry either because they feared men or because she wanted to take care of her mother who had been abused by her father. There were also Christian celibacy where some took single state as a vocation to dedicated services to society and this applied to priests (Fathers), brothers and sisters. Such unmarried persons who had reached maturity were still looked upon with suspicion. Especially if it was a man, he would be suspected of impotence and the woman of being a prostitute.⁷¹²

Cases of single parent's especially single mothers were on the increase in the post-independence Kenya. Many Kenyan communities seemed to have accepted the defeat. A most significant trend among the Isukha family life and one that had far-reaching consequences for child welfare was the increase in the number of single-parents families, particularly those headed by women. One of the causes of this was the effect of HIV/AIDS. Whereas HIV emerged in the 1980s, its effect, in terms of mortality, was felt in the 1990s. This created fear among the Isukha people towards marrying as well as wife inheritance. Some women were sent away by their husbands upon diagnosis of HIV/AIDS pandemic. In most cases, it was women who blamed for the spread of HIV/AIDS. Taking place during the era of advocacy for women's rights, many civil society organizations sprung up to help single women by helping them

⁷¹² OI., Gilbert Shigami 16/01/2018.

initiate income-generating activities. This was meant to reduce the need for women to continue depending on men for economic support, for it was this dependence on men which exacerbated the spread of HIV among the Isukha. It was observed during field research, that, most of the female headed house-holds were attributed to widowhood. There were however, many factors which influenced the rate of widowhood; one of them was the fact that women generally had longer life expectancy than men, and another was the tendency for older men to marry extra wives who were several years younger. Almost invariably, the younger wives out-lived their husbands and had to share whatever resources previously owned and controlled by the husband. Issues concerning property inheritance often generated hostility among co-wives on the one hand and between the widows and their deceased husband's adult kinsmen on the other.

While some women remained single because of a variety of social and cultural barriers, others became single by choice. Voluntary single-parenthood arose from changing expectations of marriage, women's economic empowerment and increased freedom to choose a family lifestyle that suited individual needs. However, among the Isukha marriage was still treasured even with the professional men and women in many parts of Isukha who were not choosing single life. Many of them were married before while others were "single but searching". Some single participants mentioned that they preferred marriage but had settled for single lifestyles because they were unable to find suitable partners to admit them into heterosexual monogamy.⁷¹³ Commenting on the social trend and its inherent contradictions in the Kenyan context, Kilbride noted:

⁷¹³ OI., Gilbert Shigami 16/01/2018.

In Kenya: professional women were rejecting marriage altogether because many of them felt that men on the whole were unsympathetic to their attempts to leave careers: to seek education beyond the bachelor's degree and to practice independent lifestyles frequently associated with modern professional occupations. At the same time, many women felt that men too frequently involved themselves with other women (mistresses) while they expected their wives to remain home caring for the children.⁷¹⁴

Although many professional women were opting against marriage they had not given up their desire to have children. For this reason, such women frequently found themselves in a position of seeking out a man, married or single, to give them a child or to become a father to that child or one they already have. Kilbride's book on plural marriage concretizes the reality of the ongoing reinvention of family options in Isukha. Many Isukha men and women were delaying marriages and a growing number of well-educated and financially more secured women opted to have children without getting married. Although such women were exercising their right to choose, many of them recognized the importance of having a father or a father figure for their children and therefore remained single mothers with male companions, but not husbands. Their views reflected the fundamental changes in social and cultural values as many of them no longer considered being a mother and a wife as the only valued achievements of womanhood. Some of the women held the view that marriages were no longer made to last because of their instability and the tendency to take women's reproductive roles in the care-economy for granted. This view was expressed by one of the female participant in the following words:

I wouldn't mind cooking, cleaning or laundering for my husband even after toiling in the office until evening, but I have seen many women do this and not get any acknowledgement for their efforts. The modern

⁷¹⁴ K. L. P. Kilbride Philip., *Plural Marriage for our times: A Reinvented Option?*(Bergin & Gravey, Westport, Connecticut, 1994), 114.

woman is against being taken for granted and that is what puts her off the whole marriage thing.⁷¹⁵

Based on this kind of perception and concomitant behavior change, some women felt that being a mother was a much more fulfilling experience and a better option than being a wife. The emerging trends in new family configurations seemed to indicate that many young, educated and upward moving professional Isukha women were constructing social and sexual relationships for themselves. Most of these “customized” social relationships were matters of personal choice; some were based on romantic love, commitment and loyalty while others were driven by convenience and expediency. The reason for this trend was due to increased freedom of courtship and mate-selection. Such selections were established with little or no involvement of the larger community moral nets. Perhaps one of the most profound transformations of family life which significantly contributed to the prevalence of the mistress phenomenon or “informal polygyny *mpango wa kando*.”

The pattern that emerged was that of formal monogamy, which was frequently practiced alongside delocalized, informal or clandestine polygamy according to which some married men kept mistresses whom they supported. However, given the high polygynous tendencies of many African men, more women choose between marrying down, and not marrying at all or entering into quasi-polygynous relationship with a married man. Paradoxically, this option made women get into the very same relationships which they resented, when it affected their own marriages.⁷¹⁶

The participants pointed out that many young people engaged in pre-marital sex that resulted in teenage pregnancies. The boy not being ready to take up any responsibility

⁷¹⁵ OI., Everlyne Makona, 24/01/2018.

⁷¹⁶ C.A.Suda, *Formal monogamous and informal polygamy in patriarchal African family traditions in Transition*. Inaugural lecture 4th October 2007, 46.

left the girl alone to take care of the child. The young girl may be economically incapable of taking care of the child and his necessities hence the need to have a “sponsor” husband or father. Besides, some girls who contemplated about marriage got children while in the process of trying to find somebody to marry them. Then if it so happened that the persons they were seeking were not interested in marrying them.⁷¹⁷ Further, some parents neglected their parental duty and left their role to their partners; for instance, an alcoholic husband abandoning his home and goes to live irresponsibly with other women in the urban centres. Through acquisition of education and employment, some women deemed themselves independent from their husbands. If their husbands didn’t show them their due respect they parted each other with or without children. The participants however, acknowledged that there were problems faced by children of single parents. One of the participant mentioned that:

Children of single parents were disturbed psychologically. They ask themselves various questions such as why one of their parents was absent and to some extent they felt insecure in being in an incomplete family. They also felt inadequate in the presence of other children with both parents and hence longed to know and live with the other parent if they were still alive.⁷¹⁸

The cultural habit of referring everyone by his or her father’s name gives an impression that a child who is known only by his or her baptism and original name lacked identity to tie them to their father or rather there was a stigma in his identity. Children were thus deprived of the missing parents’ part in their lives. The single parent responsible for the family was often too busy that he or she had no adequate time for the children. Given that most single parents were financially handicapped and were the sole bread winners for their family, they spent much time in trying to generate income while leaving their children under the care of neighbours or relatives

⁷¹⁷ This point was emphasized by a group of single mothers interviewed at Isukha east ward on 3/01/2018. Two of them mentioned that they are victims of that practice.

⁷¹⁸ OI., Silvester Imbugwa, 24/01/2018.

especially to grandparents. Such children lacked proper parental care and some grew up to unruly, in disciplined, and even adopted anti-social behaviours like smoking and taking alcohol.⁷¹⁹ If living with their mother, the children may not identify themselves with any place of origin. At times conflicts emergencies especially over inheritance whereby they were viewed as non-members of the family. Hostility also arose from relatives who viewed them as burdens especially where their assistance was sought to feed and clothe them. At times they were made to perform the duties of the absent spouse such as cooking, washing and other child-abuse related chores. Some lacked in essentials such as education, good diet and medical care in cases where their existing parent was financially handicapped. Participants also cited that:

Single mothers in Isukha were viewed with suspicion as people of loose morals. At times they were accused unfairly of having affairs with husbands of other wives. Moreover, to the woman some men assumed they were of loose morals and tried to demand sex and for the man on the other hand, women were always at his side to snatch whatever he had toiled for.⁷²⁰

Majority of single parents faced problems in bringing up their children. Some children lacked discipline because the parents were afraid to be hard on them. The children sometimes showed their feelings for the absence of the other parents thus, emotionally pushing the existing parent. Stigma also rested on those who had children out of wedlock's. Many participants however, agreed that Isukha society, still did not respect a woman who was a single parent. She was blamed as somebody who had betrayed the community by bringing forth a child without a social father. Such women were still not looked as good examples and many Isukha parents forbid their daughters to mingle with them. In many families, when such a woman died they were still buried

⁷¹⁹ Many boys and girls loitering in shopping centres were identified as some of the children of single parents.

⁷²⁰ OI., Martha Yadudo 24/01/2018 and Nancy Igonga 24/10/2018.

next to the fence of their parents' home especially if they had attained marriage age.⁷²¹

5.10 Cohabitation and its Impact on Isukha families

Live in relationships were not popular in traditional Isukha society. However, during the post-independence period cohabitation became an increasingly common type of domestic and sexual arrangement, particularly among the youth. This has led to a phenomenon commonly referred to by the youth as “come we stay”. The number of young men and women who were living together without being married and often had children had risen steadily.

Cohabitation has been defined by Suda as “an emotional physical and intellectual intimate relationship which includes a common living place and which exists without the benefit of legal cultural or religious sanction.”⁷²² In some cases the cohabiting couples knew each other for a very short period of time often as little as six months or less. According to participants, in many cases parents were not aware of nor given consent to the relationship of their children and were informed after the couple had started living together and in some cases already had children. These tentative and sometimes uncommitted relationships often emerged out of romantic love or on some practical economic considerations or both. As one of the participants pointed out:

Cohabitation became a more common alternative to marriage particularly among the younger and more educated people because of; the desire for emotional, social and economic support; sexual intimacy and exclusivity without the obligations of marriage. The couple's needed to test their compatibility before making a formal commitment to marry; an opportunity to know each other better; attitudinal changes towards the practice often expressed in the form of more tolerance and in some cases, social acceptance; the high cost

⁷²¹OL.,Roslyne Nechesa Musiami 16/01/2018.

⁷²²C.A.Suda, *Formal monogamous and informal polygamy in patriarchal African family traditions in Transition*. Inaugural lecture 4th October 2007, 48.

of bride-wealth; the current crisis in marriage; and the general tendency to postpone or reject marriage outright.⁷²³

Other factors which contributed to cohabitation included declining social pressure to marry, the rising rate of marital instability, increased rural-urban migration which predisposes male labour migrants to cohabit with women in the urban areas, and women's lack of economic empowerment which led them to live with men who were not prepared to marry them. Although cohabiting was very rare in traditional Isukha, it was regarded as a scandal, with time it was gradually being accepted or tolerated or simply ignored by the Isukha. One of the female participants interviewed expressed strong support for cohabitation which she referred to as an intergenerational issue. She further explained that:

More and more teenagers among the Isukha viewed marriage just as one of those relationships in which sexual encounter was acceptable. Cohabitation had therefore become more acceptable in contemporary Isukha than it was in the past. This was partly because marriage had ceased to be important and urgent for some young people. While the older generation still viewed cohabitation as something scandalous and marriage in terms of duties and obligations, the younger generation emphasized freedom of choice.⁷²⁴

In her study on the negative effects of cohabitation, Waite reported that these tentative relationships were bound together by what she called "the cohabitation deal" rather than "the marriage bargain."⁷²⁵ Among the Isukha for example the increase in cohabitation was influenced by changing attitudes towards marriage among the younger generation and the concomitant decline in marriage rates. The study revealed that there was a definite intergenerational differences in attitudes towards marriage with people aged 40 and above showing more positive attitudes towards marriage than young adults who preferred or tolerated personal choices, alternative views and living

⁷²³ Oral Interview Janet Moshe, 16/01/2018.

⁷²⁴ OI. Angeline Muhinja, 16/01/2018.

⁷²⁵ W. Harm, *Research Looks at Cohabitation's Negative Effects*. Chronicle Vol.19, No.11. March 2 (2000),1.

arrangements. A lot of millennial in Isukha were delaying marriage until they were reasonable economically secure and were able to meet the high cost of the bridewealth support a family. In addition one of the participants pointed out that:

Because of the increasing instability in modern marriages, many young men and women were delaying marriages but living together and having children “until they knew each other better.” Some of these relationships lasted only a few months before they broke up while others took several years before they were eventually formalized.⁷²⁶

From the oral interview, the study also showed that many couples who cohabited tended to regard a formal marriage as a severe restriction of personal liberty. The reports from participants found two types of cohabitation; those in which the partners intended to marry and those in which they did not. Partners who cohabit with the intention of marrying shared many of the characteristics of married people. Those who cohabited without the intention of marrying often had short relationships with few benefits.⁷²⁷ Some cohabiting couples who intended to marry usually did so in order to “test” their compatibility before they made a formal commitment. In such cases cohabitation may not necessarily be viewed as an alternative to marriage but rather as a stage that preceded marriage.

As already noted, cohabiting relationships did not always end in marriage due to lack of commitment. This is because some men felt that they could not marry a person they “know too well” and therefore, when they become tired of the woman, they abandoned her and looked for another woman to marry. Some men cohabited with women out of ‘sympathy’ particularly when the woman did not have anyone to support her. Others lived together for a while and after realizing that their love had faded they abandon her since there was no marriage bond. Given that the couples

⁷²⁶ OI., Danton Konzolo, 18/01/2018.

⁷²⁷ OI., Angelina Muhinja, 16/01/2018.

were not bound together as husband and wife such relationships were unstable with frequent breakups, as the couple did not feel obliged to address any problem that could affect the relationship. The couple separated when conflicts rose only to reunite after some time. In such cases, their lives became a series of separations and reunions, with new relationships being formed in-between the period of separations. Finally, due to the unstable nature of such relationships cohabiting partners didn't make long-term plans such as investments for the future due to fear that they may separate.

The effect of cohabitation tended to be mediated by the length of the time a couple spent sharing a residence and the cohabitation experience. The longer the time spent in cohabitation the greater the impact if the experience was unpleasant.⁷²⁸ Living arrangements in which couples did not intend to get married have been criticized for adversely affecting the emotional, social, financial and sometimes physical well-being of the couples and the children. One of the most disturbing aspects of cohabitation is its impact on the welfare and future of the children born to the couple living together with no intention of marrying. Some of the issues often raised with respect to children of cohabiting parents are; the children's identity their custody when the couples cease to live together and the couples' obligations to them. One of the female participants stated:

The problem with cohabitation is that in most cases the women are abandoned with their children. These children are then brought up by a single mother or she may decide to marry another man who may abuse her children. Such children may run away from home because of abuse, neglect and frustration and go to work in the streets or as domestic child labourers.⁷²⁹

⁷²⁸ Suda, *Formal monogamous and informal polygamy in patriarchal African family traditions in Transition.* , 53,

⁷²⁹ OI., Nancy Igonga 24/01/2018.

The reason for this concern about cohabitation is that even when the biological parents of the children are known, the social-parenting roles of a cohabiting couple towards children of the other partner may not be very well defined. She also pointed out that this ambiguity in the definition of the parenting roles of the cohabiting partners and the lack of a legal framework to enforce children rights, make cohabitation an unstable living arrangement which is harmful to children if it undermines their ability to access care, protection and livelihood.

During field research selected married and unmarried men and women participant between the ages of 35-45 in Isukha, reported that men preferred cohabitation over formal marriage because they were not obliged to assume responsibilities that were required of a man in a formal marriage. One of the male participant said that under cohabitation, the man was “as free as a bird” since there was no marriage bond, the man was under no obligation to provide for his partner’s needs including the children’s.⁷³⁰ The confusion and ambiguity were however not only restricted to the obligations of the parents and children in the context of cohabitation, but they also affected the reciprocal role-expectations and mutual obligations between the cohabiting parents themselves. One of the informants argued that cohabitation shared some of the characteristics with marriage in terms of the degree of the couple’s affection for and commitment to one another.⁷³¹

The study has shown that cohabitation does not always deliver the same benefits as marriage, primarily because there is significant difference between “being married” and “living together.” The study has also noted that among the Isukha, people who cohabited often argued that marriage was just about a piece of paper reflecting the

⁷³⁰ OI., Silvester Imbugwa 24/01/2018

⁷³¹ OI., Danton Konzolo, 18/01/2018

view that the legal status of the relationship was less important than real commitment and loyalty which couples had for each other. Whatever the justification for cohabitation, the study has identified several disadvantages of this type of “trial marriage.” Firstly, cohabiting women tend to experience more verbal and physical abuse than their married counterparts. Secondly, cohabiting couples were more likely than those in formal marriages to have secondary sex partners, despite the expectations of sexual exclusivity. Thirdly, parenting roles of cohabiting partners tend to be less clearly defined, particularly with regard to the biological children of the other partner. But even with their own biological children, there are issues of child-support, care, protection, custody and property rights which present a challenge when cohabitation comes to an end. Fourth, cohabiting couples, partly because they do not benefit from economic infrastructure which is developed within the institutional framework of a formal marriage. And finally, people in cohabiting relationships tend to lead relatively separate lives reflecting the tentative uncommitted and partially unsupportive nature of this type of living arrangement.

With regards to the risk of HIV/AIDS and unplanned pregnancies some participants argued that the availability of easy-to-use, effective and inexpensive contraceptives had made cohabitation a much more acceptable and relatively risk-free lifestyle, among young adults.

5.11 Childless Marriages and Use of Family Planning

As pointed out in chapter two, the prime reason for marriage in Isukha society was to get children. Marriage without children was viewed as incomplete and hence a failure. Childless couples were still viewed as a continuous state of discontentment. This is so because they lived in a culture where the ultimate goal of marriage was child-bearing. The Isukha viewed childlessness as undignifying, especially where there were no

direct heirs in the family. Lack of children, was not an adequate reason for dissolving a marriage as far as the Isukha community was concerned.

Many participants observed that staying together with an infertile spouse was not logical since children were expected to cater for them in old age. Those who said they would appreciate the situation asserted that due to the prevailing socio-economic difficulties children were more of liabilities than an asset and in some cases promoted unhappiness in marriage in the pursuit of trying to meet their basic needs. They would, therefore, be contented with the situation because this would be interpreted as the will of God. Furthermore, what mattered most in marriage was companionship. Some male participants, however, felt that they would retain the infertile wife and marry a second one. They argued that this ensured the love they had for the first wife was not lost and at the same time they got children who satisfied them psychologically. Some were for the idea that they would adopt a child to bring happiness in the home and in some way strengthen their marriage. They felt that this would enable them to adhere to their wedding vows and stay together until death separated them and at the same time get a heir.⁷³²

There were however, social problems faced by childless couples among the Isukha. They suffered from anxiety and frustrations because they were expected to have children so as to be treated as normal people in the society. The woman in particular was blamed for childlessness and she becomes the topic of discussion, ridicule and gossip in the society. Childless couples were regarded as inferior and incomplete and there were a lot of speculations as regards to the causes of their infertility. Some wondered aloud whether the cause of their infertility was through abuse of sex before

⁷³² OI., Simon Osiango 07/01/2018.

marriage.⁷³³ They also suffered from loneliness because they did not feel free to intermingle and socialize with the rest of the community. Such couples tended to avoid such functions and activities that involved family matters such as seminars on how to bring up children and responsible parenthood, since in these forum they feel inferior to those couples blessed with children and hence the uneasiness.

A majority of participants also felt that childless couples faced discrimination in certain quarters in the church such as being appointed as leaders for youth or in other related areas where parental experience was sought. If interested and not chosen they felt the reason behind this was simply because they were childless. Besides, through various gestures such as being greeted by one's name instead of being referred to as a mother or a father of so and so, while in the company of others who were not greeted in such a manner the spouses were remained that there was none to continue or even marry a second wife.

Some participants noted that the desire to procreate has been manifested by the phenomenon of ensuring the bride is pregnant before they wed. As such, some couples who did not want to be trapped in a childless monogamous marriage tried their luck before marriage.⁷³⁴ This conflicts directly with Isukha traditional view of indulging in sex before marriage. Furthermore, it was almost agreed unanimously by men that in a childless home it was the wife who had something amiss. This was reflected by many men taking a second wife if they did not procreate with the first one.

⁷³³ In this particular point some participants mentioned abortion and other means of preventing pregnancy as possible causes on infertility in women.

⁷³⁴ It was noted that some of the young people seeking church wedding had already indulged in sex either through cohabitation or while engaging, to many youths this not wrong

In addition, participants pointed out that the use of family planning devices had greatly contributed to childless marriages and adultery. Family planning was blamed to have led teenagers and singles to engage in premarital sex facilitating adultery and abortion. Majority of the participants felt that long absenteeism in sexual union with a mother of a young baby was comparatively easier in the olden days because many men had several wives. With the emphasized on monogamous marriage, it became extremely difficult to some Isukha people to effectively promote monogamous and faithfulness in marriage at the same time.

Many men were known to engage in extra-marital sex. Unlike the traditional Isukha practices, the couple shared a bed instead of sleeping separately. Responsible parenthood or spacing of children then becomes a major issue. They cannot share the same bed same night and then be able to space the birth of their children with a two or three years traditional period. They are taught in church that to sleep separately symbolized lack of love for each other. Most participants however said that economic constraints determined the number of children a couple should have but did not elaborate how this was achieved.

5.12 State of Widowhood

The state of widowhood that existed in the Isukha community was the same just as it was in the Isukha traditional society. The main difference between the two was that very few widows' and widowers remarried despite the fact that the society did not oppose to the idea. The participants advanced the following to be some of the possible reasons for this disinterest. Due to the breakdown of Isukha traditional customs the brother of the deceased were not willing to care for all those children, given the socio-economic hardships that prevailed. Few persons would like to take a woman who belonged to another person who had paid bridewealth and shoulder responsibility for

her children who according to Isukha customs, belonged to another clan.⁷³⁵ In addition, young men were not willing to marry older women. In other cases, some widows were very wealthy after inheriting their deceased husband's property. If such a widow married, she may lose all the property for it would go to the family of the new husband.

Isukha widows and widowers faced numerous challenges. Widowers mainly married single mothers. At times there arose disagreements between the children of both sides and this led to hatred and unhappiness in the home. Sometimes these younger wives were not content with their older husbands hence they sought other young men to meet their sexual drives. In some cases widowers were very old men and women refused to marry them or they lack bridewealth or at times they were refused by their own children to remarry. Such men lived a very painful life full of frustrations and dissatisfaction.⁷³⁶ However, some participants felt that there was a conflict between how the church viewed widowhood and the way it was viewed traditionally. They asserted that the church recognized widows as just ordinary members of the society whose rights should be upheld.

Conflict often arose in the whole area of property inheritance. Some people tried to intimidate widows to get married elsewhere or to return to their parents so that they can acquire the property they had inherited from their deceased's husbands.⁷³⁷ Moreover, the church did not encourage widow and widower to remarry this sometimes led to fornication and prostitution to some of them. Since the church advocated purity and puts emphasis on remarriage in church, many widows on

⁷³⁵ OI., Elizabeth Wendo 03/01/2018.

⁷³⁶ OI., Pricilla Indimo 16/01/2018.

⁷³⁷ OI., Flora Kuhola Shimwati 03/01/2018.

lacking paternal to marry ended up having children out of wedlock.⁷³⁸ On the other hand widowers ended up having secret affairs with widows and single mothers.

The Government of Kenya did not seriously address the problem of property and denial of land ownership by women and girls as a human rights violation and a cause of poverty amongst women and general population. Widows were still expected to perform numerous rites and rituals or ceremonies upon the death of their husbands as part of the process of ritually separating her from her husband. The practice of widowhood rites is still widespread in Africa and is manifested in various forms from long periods of confinement, isolation of the widow with the corpse and many others. These practices are gendered discriminatory.⁷³⁹ The roles imposed upon women were extreme and burdensome compared to what men had to perform as widowers. They also infringe on the woman's rights to dignity, life and health among other rights.

Land has emerged as a major theme in Isukha marriage that women and men depended on for their survival in terms of food and shelter, production and security. This in essence means that land had a socio-economic and political development in Isukha society. In chapter two it was noted that when a husband died a widow automatically obtained a life interest in the piece of land she had been cultivating provided that she continued to live on the land of her husband. On her death the land reverted to her sons.⁷⁴⁰ If the widow was inherited or remarried to another man and then moved to his village she could not claim the land.

The customary law among the Isukha relating to widow's rights on the land of her late husband did not change after post-independence. For instance Margret Mukasia a 65

⁷³⁸OI., Peter Lubelela 02/01/2018.

⁷³⁹Mwagae, *Factors Hindering Realization of women's land rights*, 15..

⁷⁴⁰E.A.Andrere, *The Abaluyia Customary law relating to marriage and Inheritance*, KNA: PC/NZA/3/3/2, p 35.

years old widow claimed the land of her late husband called Shiverenga that was taken by his brother-in-law after the death of her husband. The land dispute was later taken to court. In their judgment the court granted the land under dispute to Margret. Margret was to use that land and when she dies it will be reverted to her sons.⁷⁴¹ Therefore compared with unmarried or divorced women, widows in Isukha were still protected during post-independence. For example title deeds to land remained in the name of the deceased husband's until his sons were old enough to establish themselves.

5.13 Marriage and the changing Status of Women

The status of women in post-independence Kenya had improved tremendously with them embracing western education. Human equality expanded globally in the 1990s and put the status of women at par with that of men. Women battering on the other hand was greatly condemned by UN and Christian teaching on love between spouses. Women were set free to choose a marriage partner. Polygamy was checked by the church and this ensured a more dignified position for women like never before since polygamy used to give an overwhelming authority to a man as the overall head of polygamous family. As noted by many participants, it was through education, that women held similar or even more executive positions than their husbands. As narrated by a participant;

Traditionally, women could not hold higher authority than men. But this days in decision making women are frequently consulted by their husbands on deciding on issues such as the number of children to have, house to live in, acquisition of land among others.⁷⁴²

Medical care had contributed a lot in the improvement of the status of women whose needs seemed to be ignored. Child mortality was checked and responsible parenthood

⁷⁴¹ OI., Margret Mukasia Shiverenga, 03/01/2018.

⁷⁴² OI., Peter Lubelela, 02/01/2018.

greatly promoted the health status of women. However, some participants were of the view that there were aspects in which present day duties of a wife conflicted with the traditional ones. As regards to the present day duties a participant observed;

From her job, a woman becomes a co-provider with her husband and thus she easily ignores her traditional roles such as being submissive and hence appears domineering to her husband. This might generate conflict to those men who still try to assert male supremacy and superiority over women. In some instances employed women have left the caring of young ones and other domestic chores such as cooking to maids. Some no longer depend on their husbands for decision making for the latter have been forced by economic forces to migrate in search for earning an income.⁷⁴³

Women were no longer the source of education and counselling to their daughters especially on marital issues. This was overtaken by the church, media and interest groups. Women held traditional duties that were meant for men such as heading family in the case of single mothers and thus being the sole breadwinner for the family. Women were allowed to be away all the day long like men unlike traditional belief whereby she was expected to remain at home, bring forth children till land and grow crops. Through education women were involved in medicine, animal husbandry, judiciary and even industry which men held autonomously. However, it was noted through oral interview that some Isukha men still restricted the movement of their wives in the name of curbing immoral practices.

Those who were of the views that western education, employment and urbanization had improved the status of women and children noted that in Isukha traditional society women and children of broken marriages were regarded as servants but in the today's Isukha society especially where the woman had a good career and was well educated such women were respected. Traditionally, such women *shitwati* were regarded as dependents and they were remarried to an old man as second or third

⁷⁴³ OI., Kenneth Shisimba 04/01/2018.

wives and in addition, their bridewealth was low. With economic empowerment such women to a greater extent opted to remain single because of the possible ill-treatment of their children by a step father. Those who felt that their status had deteriorated argued that children of broken families lacked adequate parental care and at times other basic needs such as education and medical attention.

Traditionally, such victims were incorporated into the extended family and clan, they also acquired a piece of land for their livelihood. Unlike customarily, such victims rarely had good reputation as some indulged in malpractice in the name of being free and independent. In Isukha traditional society members of the extended family took it as their duty and obligation to ensure that such victims adhered to Isukha traditional beliefs, values and attitudes.

The activities of women groups and their impact at household and community level was another measure advanced in favour of their enhanced social status. The increase of women groups and their memberships were signs of dramatic improvements in their social status. Most of their handcrafts work groups, group farming, livestock and fish farming activities generated some income.⁷⁴⁴

Table 5.2 Enrolments in Women Groups by Division

Year	Shinyalu	Ikolomani	Mumias	Municip	Lugari	Kabras	Lurambi	Butere	Khwisero
1989	73	121	45	148	202	108	108	99	118
1990	79	145	54	153	227	117	117	121	132
1991	93	178	69	163	240	126	126	141	157
1992	202	193	122	172	252	137	137	165	189
1993	208	205	132	178	262	146	146	173	199

Source: District Social development Annual Report, 1993

⁷⁴⁴Republic of Kenya, *Kakamega District Development Plan 1994-1996*. (Nairobi: Government Printer, 1997), 102.

Although actual production of items or outputs from their various handicraft and livestock projects were not significant, the groups provided useful training and awareness media. Their impact at household level was tremendous in terms of savings through cheaper tailoring of school uniforms, dividends and benefits from merry-go-round pooled resources. Women became breadwinners in educating their children and siblings and taking care of their families.⁷⁴⁵

Through the activities of the MYW Organization, women attempted integration of development process through participating in the then District Committees and penetrated the previously male dominated Jua Kali sector.⁷⁴⁶ Women in Kakamega were effective members of Parent Teacher Associations (PTAs), Youth Polytechnic management committees and Board of Governors' (BOGs). They were the majority in the implementing Primary Health Care activities as community health workers on voluntary basis. They were employed by Family Planning Association in Kenya (FPAK) and other agencies for part time jobs to distribute contraceptives and off-counter drugs as community based distributors (CBD). Traditional Birth Attendance (TBAs) were all females who were trained on hygienic deliveries.

From the proceeds of the women economic activities, members normally borrowed money to offset emergencies and occasions of distress, such as the paying of school fees and members funerals. Through the merry-go-round activities, members reached a stage of loaning each other some reasonable amounts to boost individual businesses.

⁷⁴⁵ OI, Christine Muhatia, 16/01/2018.

⁷⁴⁶ Republic of Kenya, *Kakamega District Development Plan 1994-1996*. (Nairobi: Government Printer, 1997), 102.

Table 5.3: Women Groups Activities in Kakamega by Category, 1992

Category of Activity	No. of Groups Involved	Percent
Farming	720	50.7
Sale of Cereals (Petty Trade)	68	5.7
Handicraft (Pottery, Basketry, Weaving)	370	26.0
Merry-Go-Round Contributions	140	9.9
Livestock Keeping	120	8.5
Total	1,418	100

Source: District Social Development Office, 1993

Women group activities still remained the main hope for Isukha women's advancement. They contributed effectively to their status and sense of self direction as well as positively impacted at household level. The above plans adopts the view that the status of the women as reflected by their multi-sectoral roles described above was fairly high compared to the previous years. These were appreciated by the society. In addition, the local community still persisted in its high social regard for the women's capacities for child bearing, nurturing and homemaking.

5.14 Attitudes on Changing Marriage Patterns

There are several changes or threats at the economic, social, cultural, religious and political level that have impacted on Isukha marriage and continue to pose challenges and opportunities or new openings. Bahemuka sees globalization as a change that has both positive and negative impact. She stated that: "globalization has threaten and caused Africa to adopt "modern" way of thinking, acting, living and consuming, ways that are mainly western and sometimes opposed to the values African Religion holds

dear.”⁷⁴⁷ The economic, political and socio-cultural changes have affected some aspects of African marriage. Such include bridewealth, preparation for marriage, rituals related to marriage, the purpose of marriage, marital union and the termination of the marriage covenant.⁷⁴⁸

It was important to know what different participants thought of the changes in the marriage systems as discussed above. Most of the old generation participants wished to see the Isukha traditional practices continued with regard to their children’s marriages, while the young participants however, wished to see more and more changes in the marriage procedure. The old participants proved to be conservative believing strongly that the traditional practices were the ‘pride’ of Isukha. Asked to comment on some of these changes one old participants reported; “why should we copy other people’s way of life”?⁷⁴⁹

Some old participants also argued that comparatively present day marriages were less peaceful than those of their time. Further interrogation revealed that old participants felt that a young man marrying a young woman whom he so much loved emotionally but whose social background he entirely didn’t know exposed him to many unforeseen dangers.⁷⁵⁰ A participant criticized the present generation as lacking respects for their parents, unlike those of the old days and argued that: “the wives of our children these days are almost becoming the husbands of their husbands.”⁷⁵¹ His main contention was that young men cannot move a step towards marrying a subsequent wife without consulting their first wife for the consent. This humble

⁷⁴⁷ N. Luke.& K. Munish. *New roles for marriage in urban Africa: kinship Networks and the Labour market in Kenya*. The Review of economics and statistics. May 2006, Vol.88, No. 2, Pages 264-282.

⁷⁴⁸D.O. Okiya. *The Centrality of marriage in African Religio-culture with reference to the Maasai of Kajiado County, Kenya*. (Ph.D Thesis Kenyatta University, 2006), 14. Retrieved from www.ir-library.ku.ac.ke/pdf Assessed on 18-10-2016.

⁷⁴⁹OI., Peter Lubelela, 02/01/2018.

⁷⁵⁰OI., Andrew Mulima, 31/12/2017

⁷⁵¹Ibid.,

request, according to the respondent was always “vetoed” and, “Women could not dream of making such moves during our time.”⁷⁵²

In the arguments presented by most of the old participants the following factors were salient as the main causes of peacelessness marriages among the millennial. In the first case, lack of knowledge of the social background, history of each party and the respective families was mentioned as the main cause that contributed to broken marriages and exposed each of the marrying parties to various in foreseen dangers. In the past when a woman was discovered to be weak, unable to perform household chores well and work hard in her garden, a witch, quarrelsome, selfish etc., then she was seen as not having qualities of wife thus their married life would be uncomfortable. It was therefore essential to know these qualities to avoid the dangers.

Furthermore, in a polygamous home, when an untruly woman was married, her co-wives and other women of the home were given the right to discipline her in any way they deemed best, ranging from physical confrontation when she was too rude to them, ridiculed her if she was a new monger. The latter state of affairs was shameful to all the women of the home and those of the neighbouring homes would gossip about her to her husband. These days when most of the homes are mainly of nuclear families no such social sanctions can possibly be applied to correct the wrong type of women.

Some old and even young participants blamed education and employment of women as being the major cause of the frequent marriage instabilities especially with millennial, featured by the many separations and divorces. One young divorcee participant complained that:

⁷⁵² Ibid.,.

They lived very peacefully since they married and when his wife was still at the Teacher Training College for 2 years, but immediately she completed college and started teaching, matters began to change for the worse unlike what he expected. The woman started grumbling over simple domestic chores which she used to do before without grumbles. Then the problem of how to make a joint budget out of both their earnings brought more disagreements.⁷⁵³

This participant blamed employment as the main cause of all the petty troubles he had experienced. The struggle for women's emancipation from the so called men's yoke is not a new phenomenon to most Africans and to move towards the achievement of this goal the economic and educational tools are the essential ones for the women in their struggle for equality with men. Should the young men therefore accept going back to the paths their forefathers trod on? "No" most young participants opposed to this. "All one needed to do was to get a woman with lower educational standard than one's own. Or alternatively get a woman from a poorer family than the man's one young participant explained.⁷⁵⁴ What is implicit in this argument is that there was a widespread feeling among many young men that such a woman as described by the participant above would entirely dependent on the husband and hence constrained them from being disobedient to their husbands, lest he curtailed her supply of the various items she needed.

The arguments presented by most of the old generation participants however appeared to focus the blame on the lack of respect for the parents that was phenomena most young men and women. A case was pointed out of one old participant whose daughter-in-law, having been married while in town came home for the first time to be introduced to the parents-in-law, but to the latter's surprise the young woman turned disappointing to the whole home. She couldn't fetch water from the well for

⁷⁵³OI., Silvester Imbugwa, 24/01/2018.

⁷⁵⁴ OI, Gilbert Shigami 16/01/2018.

her mother-in-law.⁷⁵⁵ Some participants thus, mentioned that educated girls could not be controlled.

Most of the old participants when asked how they would have their children marry, they expressed the wish that they would like them to do Isukha traditional way and later church wedding. One of them stated that it was easy to direct the action of the young people in the old days because they knew less than the elders, in terms of social affairs and were economically dependent on their parents in the second instance. “These days the young think they know more than the old and they live on their own and support their parents in addition, one would simply let them do what they feel is good for them.”⁷⁵⁶ Another participant talking on the same issue stated:

Sometimes we parents fear disappointing our sons. Some of them are so sensitive to disappointment than when you disappoint them they simply stop giving you any form of aid you might need. And this is a serious state of affairs especially now when we depend almost entirely on money for our living.⁷⁵⁷

The researcher attended an Isukha church wedding that took place on April 28th 2018 held at Friends International Church in Ngong Nairobi. In Pictures 2 and 3 the researcher shows some of the wedding pictures at the reception.

⁷⁵⁵ OI., Jacob Luseno 31/12/2017.

⁷⁵⁶ Oral Interview Andrew Mulima Shirandula 31/12/2017.

⁷⁵⁷ Oral interview, Paul Mulima 31/12/2017.



Isukha Church Wedding.

Other participants simply said that the old generation had played their part well during their time and that it was time for the young generation to play their part. The last comment carried more meaning than one could simply imagine. It perhaps implied that as it was the order of the old days to see all marriages assume a strongly traditional character, so it was the order of the present day to see most if not all perhaps marriage assume as much of modern character as possible. And as the old

generation did just as their time required them to do so should the young generation fulfill the demands of their time. One may conclude that the participants perhaps were aware of and had accepted the changes which had taken place and were still taking place with regard to marriage among the Isukha. He also appeared to be encouraging unlike most of his counterparts, the young generation to accept and adapt to the changes accordingly.

Most of the young generation participants had no important comments to make with regard to the Isukha traditional practices. Most of them thought it was a burden to go back to the past times. It was noticeable from the interviews with the young generation that they were running away from the traditional system because they claimed it was expensive. But expensive in terms of what? Various interpretations were given. In the first instance, most of these participants thought that this form of marriage was expensive economically and here time factor was also taken into account. The bridewealth cattle, was seen by the young people to be a luxury which they couldn't afford. Moreover, as was mentioned earlier payment of bridewealth among the Isukha and of course in many parts of the Luyia bridewealth payment was made in money form rather than in the form of animals. This in itself brought complications in the institution of "payment of bridewealth". Moreover, one never waited to complete payment of a given amount of bridewealth before he could have his bride, as it was in the old days.

It is apparent that many people married just after paying only a small portion of the required amount of bridewealth or before any payment was made, as in a few cases I came across during the research. In such cases payment was made in little installments while living as husband and wife. In this light therefore many young participants saw modern forms of marriage especially the elopement as easy to effect.

Many young participants thus, saw the capture itself as shameful and degrading both to the bride and groom. The very act of pulling the girl by force destroyed the happiness that could immediately follow after the marriage. Many more participants stated proudly that though abduction ‘capture method’ was greatly honoured in the old days, its time was past. For example one young participants viewed rituals like ‘capture’ followed by ‘defloration’ of the bride the coming of the witnesses as really unnecessary. She stated;

When a girl was pulled into the boy’s house *isimba* by force, his friend would find the girl sobbing sadly, because she had been beaten up during the capture and in many cases she would completely refuse to eat anything or talk to anybody at least for a short time. Nothing is more frustrating to the present young man than this state of affair. And then when you failed to deflower your bride this was a great blow to your status as an active young man. But what was most embarrassing however was to discover that the girl was not a virgin at marriage. This would make her a laughing stock among her cowives.⁷⁵⁸

They argued that marriage should be based on an agreement between the boy and girl and no interference should come from somewhere else. Some argued that elopement was the only type of marriage that was based on free choice of the bride, guided by romantic love.

While many years ago cattle were the main forms of bridewealth in Isukha marriage arrangements, this had greatly changed. Money as bridewealth had quickly taken the place of the animals in bridewealth payment. Consequently, for marriage to be recognized as a complete marriage, be it through elopement, capture, church or civil procedures, payment of bridewealth was still a must. This could perhaps be the reason why employment as a factor contributed to the changes was of fundamental importance. Investigation into this factor revealed that employment greatly

⁷⁵⁸ OI., Roselyne Nechesa Musiama, 16/01/2018.

determined one's marriage. Many participants expressed the opinion that being unemployed made it difficult for one to secure a wife. This was because, unlike in the old days when parents took the whole responsibility of paying bridewealth for their sons, the groom had to struggle with the greater part of all bridewealth payment himself as no animals were available to be used and instead money was popularly being used as a form of bridewealth.

The amount of money paid usually ranged from a couple of hundreds thousands of shillings say about 160,000 shillings to 500,000 shillings.⁷⁵⁹ Again, the amount of bride-wealth to be paid was determined by the girl's educational standard. The higher her education the more expensive was her bridewealth. As regular employment was a source of constant supply of money, it enabled those concerned to acquire wives without much trouble, as was believed by most young participants. One such participant commented; "You don't have to worry about the girl's parents, for if they appeared to be problematic, you simply arrange with the girl, send her some amount of money for her transport charges and meet her, at the nearest bus terminus."⁷⁶⁰

This statement indicates that having regular employment had encouraged elopement which according to this research marked the main deviation from the traditional marriage system. Furthermore many people worried less about completing the payment of bridewealth before they got married. Secondly, there was the economic gravitation that affected many girls in that they were always attracted by promises of a better economic future.

In the foregoing analysis therefore, it can be said that the Isukha marriage is slowly losing its original meaning. In most cases, a man shoulders all the responsibilities

⁷⁵⁹ OI., Simon Osiango 07/01/2018.

⁷⁶⁰ OI., Danston Konzolo 18/01/2018.

although his father may raise one cow for the traditional requirement that a father's cow to be part of the son's first bridewealth. Bridewealth in Isukha has thus been individualized. The researcher also discovered another interesting incident where a bride had paid for her bridewealth. The couples were all working in the urban centres and when the bride's people insisted that her husband pays the bridewealth, she took a loan and bought some cattle which were later taken to her people's as bridewealth.⁷⁶¹ This is another pointer that bridewealth in Isukha had taken a different dimension.

5.15 Conclusion

This chapter has examined five key issues namely, legislation and marriage in independent Kenya; reasons for the decline in bridewealth; the fate of polygamy in Isukha after independence and Isukha marriages during the economic crisis of 1980/1990s with particular emphasis of spread of HIV/AIDS and the impact of globalization on the stability and quality of marriage and family life among the Isukha. The peculiarities of the colonial political economy and legal system helped to create the context for and to shape the crisis in Isukha marriage. Very different were political economy of independent Kenya and Isukha marriage disputes. Adultery and elopement were decriminalized at government debates over marriage entered the public arena. With less wealth to invest in bridewealth cattle. Bridewealth levels dropped, the idea of forced marriages and abductions declined and eloped couples were left alone in what came to be called "come we stay" unions. Women had thus won the war over the importance of their consent to marriage. It has however, been observed that payment of bridewealth is still cherished on the stability of Isukha marriage.

⁷⁶¹ OI., Nancy Igonga 24/01/2018.

Cases of divorce and separation were on the increase due to women familiar support especially from their fathers and brothers. Unfaithfulness especially to males who migrated to towns also contributed to broken marriages. It was observed that although polygamy was condemned by the church, some rich Isukha men still practiced it. It also thrived openly where some men took a second wife especially if the first one was infertile. In addition, it is noted that polygamy declined in Isukha due to social and economic pressure that resulted to poverty on Isukha families. Furthermore, it was noted that remarriage of widows/widowers were very minimal after postcolonial. A part from population pressure and poverty the people of Isukha also encountered the reality of the emerging HIV/AIDS epidemic during the economic crisis of the 1980s/1990s that declined marriage pattern in Isukha.

The laws to the ownership and acquisition of matrimonial have greatly changed in Kenya from pre-colonial time to 2010. This can be traced from the era when women were not allowed to own property to the reign where their consent were entrenched in law as one of the necessary requirements in any transaction dealing with land. The culmination of this transformation was marked by the promulgation of the new constitution. The constitution 2010 created the impetus for this reform through specifically providing for the enforcement of new land laws and matrimonial property law.

The chapter further established increase of single parenthood in Isukha especially with the millennial was due to pre-marital sex and marriage instability. Children from such parents suffered from feelings of insecurity, social stigma, lack of proper parental care and general abuse, while single parents suffered from being accused of leading a loose life, conflict over family property and lack of good place for them in the community. Childless couple among the Isukha suffered a great deal in the

community. There were social stigma and many felt uncomfortable while in the presence of couples blessed with children. Some ended up taking a second wife or ensuring the bride was pregnant before they wedded. Moreover, it was observed that traditional family planning method such as abstinence had been ignored by the Isukha society.

Despite decrease of polygamy marriage from the 1990s, some Isukha men from monogamous marriages still practiced it secretly by maintaining mistresses. It was also noted that marriages of widows and widowers were very minimal in Isukha society. Most homes of those who remarried were full of stress due to incompatibility and some of those who did not marry were involved in extra-marital sex. As residents tried to cope with changes brought by the new political economy in the independent government and gender equality initiated by global bodies such as the UN that were observed in almost all the spheres of life. Some of these acts and rights initiated conflicts with the traditional ones especially on the realm of domestic affairs. The next chapter will draw conclusions from the findings

CHAPTER SIX

SUMMARY, CONCLUSION AND RECOMMENDATION

6.1 Summary of Major Findings

Using articulation and agency as theoretical framework the study set out to examine the significance and the changes that have taken place in Isukha marriage between 1894 and 2010. The study was mainly concerned with establishing and describing what constituted a socially sanctioned Isukha marriage. It also investigated the interaction between Isukha and the emerging colonial states, missionaries and post-colonial institutions particularly, parliamentary debates and marriage laws and their impact on the Isukha beliefs, practices and attitude regarding marriage. Equally the study outlined the forces of globalization and technology, education, urbanization, monetary economy and the public perceptions advanced by the Isukha which have been incorporated into Isukha marriages. The study relied on f both primary sources, such as archival and oral information and secondary sources comprising published works on the subject.

In order to establish a background against which an investigation of the extent to which Isukha marriage underwent transformation, it was imperative to discuss Isukha traditional marriage before it interacted with western world. This task was undertaken in chapter two of the study which demonstrated that Isukha marriage was one of the most important social institutions that brought stability in the society. It was in marriage that gender ideology was produced and reproduced. Marriage thus ensured the community's perpetuation. The reasons for the high regard for the marriage institution have also been analysed in the chapter. The stability was guaranteed by a number of factors namely: the kinship system which, for instance, guaranteed the

position, responsibilities and obligations of each and every individual right from the family to the entire community level.

Through its collective sanctions, marriage ensured peace and harmony by checking any deviant behavior of members of any one given group in the community. Anti-social and other unbecoming behaviours which could have threatened the institution of marriage were thus checked since one's behavior was under close scrutiny from one's age mates. It was established that Isukha marriage was categorized into two groups namely; those organized in the "normal way" and those organized in the extraordinary circumstances. The "normal marriage" was attained after a long period of courtship through which the concerned parties familiarized with each other. Courtship was very important in the Isukha marriage for it determined whether the whole affair could proceed or become a cropper. The other form of marriage did not follow the right procedures and in most cases it was hurriedly and secretly arranged. However, clan exogamy was the rule in most cases. Elopement and marriage by abduction have been cited in this text as some of the marriage forms which did not follow the right channels. The circumstances surrounding the occurrence and prevalence of each one of them have been fully examined.

It has been argued in the study that there was ample life-long education given to children by the elderly members of the community especially parents and relatives on marriage and family life. The elders also acted as role-models for the children to learn from. This education was particularly intensified during the initiation rites when both boys and girls were taught how they were expected to conduct themselves on entering marital life. After initiation the youth had an opportunity of getting adequately acquainted with members of the opposite sex thereby being able to identify prospective marriage partners through healthy socialization. Moreover, the youth

were trained on how to handle and control their sexual instinct and this checked pre-marital sex considerably. Generally, an individual was expected to marry from an acceptable clan or family and the characteristic qualities of the spouse-to-be had to meet the expectations and standards advocated for by the extended family. Marriage preparation was a long process that involved both the clans of the prospective husband and wife. The ceremonies and rituals involved in this preparation afforded the two clans an opportunity to meet severally to acknowledge and approve the marriage.

The process of Isukha marriage was initiated by the exchange of bridewealth. Bridewealth had an important social, economic and even religious significance. It stabilized marriages and legitimized children. It was after exchange of bridewealth that marriage was completed. Generally, it was not culturally in order for a girl to be married without exchange of bridewealth. Bridewealth exchange ensured stability of marriages and was never viewed like buying a woman or a wife. Bridewealth was compensation to the girl's parents and it was a useful marriage seal. Marriage also legalized the marriage and gave the husband a right to bring charges against a wife before her parents if she misbehaved. If the husband did not pay bridewealth, he had no right to bury the wife nor could he have the right to claim the children as his own. It was also not legal for a man to use the bridewealth of the daughters if he did not pay bridewealth for their mother.

The study established that divorce was rare, although there were traditional grounds for it. In addition, the study has demonstrated that in marriage, every gender had a specific role to play for the maintenance and the smooth running of the whole household unit, which was the centre of production and reproduction. There was thus, a clear gender interdependence and complementarity. When a married woman lost the

husband, the widow was entitled to a leviratic arrangement, which was a form of social and economic security, safety and protection for the widow and her children. It's worth noting that infertility was not a threat to marriage because a man had freedom to marry a second wife in case the first one was infertile. An impotent man on the other hand, could invite his male relatives to procreate with his wife/wives on his behalf. This study has thus established that these arrangement ensured that the aim of marriage was for procreational purposes. As such, the idea that marriage defined a woman did not exist in Isukha before the coming of colonialism but it was children who were mostly valued in the community. Polygamy also guaranteed the marriage of all marriageable women and this checked premarital sex and adultery from both men and women which could have threatened marriage stability. Isukha marriage laws on sexual life to a greater extent checked adultery that could have led to divorce or separations.

The study has established that the Isukha came under British colonialism in 1905 after a bloody military expedition. This invasion undermined the pre-colonial social and economic structures of the community. The establishment of colonial administration altered the nature of Isukha family and marriage relation through land ownership, livestock keeping and labour promotion. This was done through the various land ordinances and labour laws that the government enacted. Therefore, the incorporation of the Isukha into the colonial economy partially transformed the pre-existing forces and marital relations and production. Three factors were key to this incorporation when it came to Isukha. These included the imposition of taxes, labour demand and missionary activities which are discussed in chapter three. The imposition of colonial rule in the 20th century considerably transformed land tenure system in Isukha land. Since the goal of the colonial government was to economically exploit the colony, it

put structures that disengaged Africans from their domestic production and forced them to work for the advancement of the colonial economy.

Through the Crown Land Ordinances (1901), of (1902) and of (1915) that stated that Africans were tenants-at-will of the British Crown, Africans' land was alienated. Land alienation and the creation of the North Kavirondo reserve affected the pre-colonial land use pattern. By 1915, there was no more vacant land to be acquired and occupied freely. This was the genesis of land commoditization in Isukha. The development of individual land ownership determined the extent and magnitude of social and economic impact that affected the daily life of the household particularly the position of the wife.

Land ownership facilitated men's direct ownership of right to farmland. Consequently, women's role in food crop production was interfered with through formal registration that denied majority access to land, which was traditionally guaranteed through customary laws. Secondly, gender roles changed as women took on the roles usually performed by men. The study has established that although women acquired men's roles, they did not acquire the authority and power that previously went along with these roles. Therefore, land began to acquire new meanings, and the social relationships, marriage included that had mediated men and women's access to that land and their relationships to each other. For example, within the homestead and the larger group, were subjected into monetary economy in which cash, to buy goods and pay taxes, became critical for survival. Men continued to claim to land, to women's labours to authority were exercised in increasingly individualized contexts.

The First World War witnessed the institutionalization of forced labour. The Edward Northey Circular of 1919 and the Registration of Natives Ordinance of 1920 were the most important policies in transforming labour relations in Isukha. According to the Circular the colonial administration was enjoined to exert every possible lawful influence to encourage the African to work outside their district. It was this Circular that drove as many men as possible from Isukha land since the chiefs and headmen abused it in interpretation and implementation. This period witnessed communal falling on women married to migrant labourers, widows, independent women, runaway women and children. This was because almost all able-bodied men became liable for labour recruitment. As such this became a difficult time for most women especially married women in Isukha who did not even have time to take care of their children. During the First World War able-bodied men were recruited as carrier corps and for other military duties. Given the situation it was the women who mobilized the resources for the day-to day running of the household. Women thus headed many households in Isukha.

Apart from changes in land tenure and labour organization affecting marital relations in Isukha, taxation remained a major aspect of the colonial administration and interfered with marriage system in Isukha. Like land alienation, taxation also forced Africans to join wage employment which negatively affected the pre-existing forces of marital relation and production among the Isukha achieved by the colonial demands for taxes. Hut tax was charged on men depending on the number of wives one had. Hut tax was imposed in 1899. It was based on any hut used as a place of human habitation.⁷⁶² By 1902, the hut tax had been introduced to areas that were under proper administration. It was however, only after the First World that taxes

⁷⁶² Okuro, *The impact of colonial socio-economic policies and practices of female-headed households in Kenya*, 227.

increased sharply were collected efficiently.⁷⁶³ Chiefs were effective in tax collection by exerting considerable pressure on the people of Isukha to pay their taxes fully and in time. The hut tax was nevertheless limiting in the collection of revenue because only married men were required to pay as owners of dwellings. To rectify this status in tax collection, a poll tax was introduced in 1903. It was payable by all adult above sixteen years. The tax targeted young men who were not yet married and were, therefore not taxable under the hut tax. No particular mention was made concerning widows, old women who had “huts” and had been compelled before to pay taxes.

In 1929 it was identified that very old women, the blind and the lame and lepers were included in the hut and poll registration, defaulters were punished by being put on tax camp. In 1932 the PC of Nyanza listed some provision for widows’ exemption from tax payment. These included; if a man inherited a widow after she had passed child bearing age. But if a widow was young and capable of bearing children her inheritor was to pay tax on her behalf. The study has further indicated that women and men who defaulted had their huts destroyed and burnt by tax collectors. Equally some men even refused to come back where they had a lot of debts to clear. Many women thus felt the absence of men from the village. Throughout the colonial period taxation and migrant labour stood out to be the most disliked aspect of colonialism. The two made married women to stay lonely for a long time. It also exposed widows from traditional social and economic securities.

Taxation and migrant labour contributed to numerous huts falling without anybody to repair and forced women to become household heads. Marriages started to crumble as village hardship escalated during this period. Problem posed by male migrant labour

⁷⁶³ R.L. Tignor. *The Colonial Transformation of Kenya: The Kamba, Kikuyu and Maasai from 1900-1939* (Princeton: Princeton University Press, 1976).

also meant that most young men were unable to pay bridewealth. Consequently, many Isukha men sought wage employment in urban areas and white settler farms to earn money for payment of bridewealth and taxes. Newly married women thus lost husbands' economic support at the onset of marriage, thereby putting them in a disempowerment economic status from the beginning of marriage. These impacts were social, economic and even touched on health status of families. One such impact was the elaborate wide spread of diseases key amongst them were yaws and syphilis after the First World War, which were associated with migrant men. Migrant men upon their return infected not only married women but also girls who participated in events at funeral places where *Isukuti* dance was involved. The study has also demonstrated that the need to pay taxes was not the most important factor influencing men to seek employment outside their district but the desire to have many wives. This was because men married more women to supply the much needed labour as well as to secure more land as each wife required her own land territory which she could cultivate.

The study also established that the Christian missions worked together with the colonialisers in Isukha in transforming Isukha marriage. The study has noted that among other missions, FAM had a leading influence on the Isukha. FAM like other missions, attached the ultimate value upon the individual. The study has argued that FAM unlike the Roman Catholic Church was particularly intolerant of the Isukha culture. FAM missions challenged traditional customs that maintained cohesion and encouraged collective participation, such as exchange of bridewealth, polygamy and widow guardianship. Polygamy was condemned as being incompatible with Christian faith. The church felt that it encouraged self-indulgence as well as lowering women's

dignity. It was also equated with committing adultery. The missionaries emphasized and even made it compulsory for the converts to enter monogamous marriages.

Procreation which was the essence of Isukha marriage was also undermined. The church contended that a childless marriage was valid and complete as long as there was conjugal love since companionship accorded to it had a higher value than procreation. The study noted that the missionaries also introduced the notion of the indissolubility of marriage through marriage certificates something which was unheard of in Isukha marriage. In addition, alien to the Isukha community was the idea of singlehood as a vocation worth equal respect like marriage.

The study has further established that the colonial administrators and missionaries did not relent when it came to the Isukha marriage institution. The colonialists and missionaries alike regarded bridewealth exchange as a mere economic transaction and discouraged it. Polygamy suffered the same fate as extra women whose husbands got converted were required to leave. Equally what the missionaries' referred to as "wife inheritance" ranked high on the list of Isukha customs which was condemned by the church. This lack of understanding, the study has observed, threatened the social and economic security of the widows, particularly those in Christian homes. In general, any native law and custom that did not conform to the European justice morality were repressed for good.

Given the difficulties of the colonial policies, particularly on taxation and the introduction of money economy Isukha marriage did not fail to respond. Bridewealth became difficult to procure and those men who could not get enough bridewealth found it difficult to convince the would be father-in-law to accept less bridewealth. The powers and authority of the kinship elders, which depended on bridewealth

exchange, deteriorated and eventually collapsed. Women who had taken in heading households equally started responding to those marriages in which they had been forced to enter as the colonial government also insisted on improving their status. The colonial period was thus characterized by a higher number of runaway women and independent women; women resisting arranged marriages, either instigated by difficulties in Isukha land or by father-in-law, demanding completion of bridewealth. Some women just reacted negatively to marriages, which they were not happy with while others just got bored and were seeking for happiness. The township offered new hopes not only for men but also for women. For the women it was in Kakamega town and other neighbouring towns where they could get employment opportunities. It's worth noting that despite the multiplicity of casual factors, economic factors dominated the whole process.

In continuing with community development initiated by the colonial government, the independent government under Jomo Kenyatta started self-help movement to facilitate the people in "pulling" resources for economic development. It is through this agenda that most of the women self-help groups in Isukhaland were stated from the 1960s. The women self-help groups were meant to satisfy gender-specific needs mostly in the social and economic realm. New modes of production, western education and gender equity in socio-economic opportunities led to a fair degree of independence of women and this greatly challenged the prescribed Isukha traditional roles and duties especially in the whole realm of division of labour along gender lines. Moreover, women's education, print and electronic media, led to change of customary attitude towards sex and marriage and emphasized on physical attraction, money and romantic love. Cash economy, on the other hand, not only led to commercialization of bridewealth, but also promoted individualism especially among the younger

generation and a fair degree of independence from extended family which formerly played a major role in marriage. This trend continued in post-colonial Kenya.

The peculiarities of the colonial political economy and legal system helped to create the context for and shaped the crisis in Isukha marriage. Very different were the political economy and judiciary of independent Kenya. The independent Kenya while not breaking radically from its colonial predecessor set about refashioning the legal landscape. Adultery and elopement were decriminalized in Government debates over marriages entering the public arena. The 1968 Commission of the Law of Marriage and Divorce came down against forced marriages, polygamy and bridewealth. Like colonial executive, however, Kenya parliament refused to challenge certain aspects of “traditional” marriage and did not write into laws all the commission’s recommendations. Similarly, while the judiciary released women from unwanted marriages it did not champion eloped women in “come we stay.” Less wealth to invest in bridewealth cattle, less land on which to put them decreased, polygamy homestead decreased, decreasing ability of fathers to support unmarried daughters were features that were witnessed in Isukha society in post-colonialism period. Bridewealth levels dropped, forced marriages and abduction declined and eloped couples were left alone in what came to be called “come we stay” unions. Women had thus worn the war over the importance of their consent to marriage. Women remained committed to bridewealth marriage but entrenched poverty and the acceptance of “come we stay” made bridewealth marriages harder to come by.

The study has clearly sustained the argument that polygamy was waning but the desire to marry more wives was still strong in many Isukha men. Christianity had however, promoted monogamy as ideal marriage. The peoples’ attitude towards polygamy was forced to change due to social and economic pressure. There was great

necessity to feed, clothe, shelter children and pay their fees to provide them with good education. Yet there was spiraling cost of goods that a polygamist with many wives and children could not maintain a large family decently. Socially, jealousy had increased among co-wives due to change from subsistence to monetary economy. Land sub-division also made land smaller and sometimes less productive, therefore a man with many wives lacked social prestige. All these factors combined to work against polygamous marriages.

Furthermore the study has shown that globalization has had far-reaching consequences for the twin institution of marriage and family in Isukha land. These include the weakening of the extended family system, decline of polygamy and the emergence of alternative family options which are designed to suit individual needs. The study has demonstrated that some of the new family arrangements have been influenced by globalization and are becoming increasingly more acceptable or more tolerated, or simply just ignored by the Isukha. Thus, the pattern that emerged is that of formal monogamy often practiced along delocalized, clandestine and informal polygamy involving “outside wives” and “outside children” who participate in a parallel programme and are usually condemned by the “inside wives” for messing up their lives. While some of the changes in Isukha family structures as discussed in chapter five of the study, have created new opportunities for some people to enjoy life and given them a great sense of optimism, in other respects they have had distinctly negative impacts, and became a major source of frustration for some men, women and children. Deleterious effects of divorce, single-parenthood, cohabitation and clandestine polygamy have led to the general perception that the social ecology in Isukha is being severely damaged by the systematic erosion of its fabrics, and that marriage is becoming an endangered institution.

6.2 Conclusion

In line with the objectives of the study, some concluding remarks can be drawn from the study's results. Before colonialism, there existed a stable marriage system among Isukha. Chapter two of this study illustrates this by presenting the main steps that were involved in marriage activities and its significance. Data generated from field research and literature reveals that the Isukha traditional marriage has been transformed by several factors initiated by the socio-political and economic environment within Isukha land. Colonial state, Christianity, western education and globalization have been cited as the main agents of change in the Isukha marriage system. Consequently, the study concludes that marriage in general is still an important analytical social category in understanding Isukha culture during the period of study since it operates at the social, political and economic cultural levels.

6.3 Recommendations

Based on the findings of the study, it has come out clearly that marriage in general among the Isukha is still valued. While it is true that some of these values are incompatible with Kenyan Constitution 2010 laws on marriage there is need to incorporate some traditional practices such as bridewealth payment, parent's involvement in family life education and communal interest in the choice of a partner among others which are harmless. This study has provided considerable evidence to show that most of the changes in the Isukha marriage have been borrowed. As such, Isukha marriage is a mixture of the old and new trends which are co-existing. Therefore, not all traditional aspects of marriage have been phased out. It is also clearly shown that the parental control on marriages has declined; mate selection, bridewealth payment and all the other aspects of marriage have been individualized.

Parents have been relegated to the role of advisors and not decision-makers. In fact even the parents' advice in most cases is not followed. On the basis of parental role, the study recommends that the traditional communal up-bringing of children should be re-addressed to ensure a moral community. Traditionary, elders were always available to correct children, listen to them and offer guidance at times of crisis. It was uncommon for young people to fail to listen to their elders, be they their parents or those of their parent's age. Similarly, the youth today need to be taught about marriage values and be corrected though with convincing reasons and facts.

The study contends that the engagement process should be allocated more time at least not less than a year so that the spouses to-be try to understand each other interests, character, family background, likes and dislikes while at the same time attending instructions on marriage this will help to reduce their differences and make them part and parcel of each other. In particular, parents ought to be involved in the choice of a partner not only because they can form very good judgment but also because they will help the marriage partners much more if they have approved the marriage from the beginning. The study noted that cases of incest among Isukha are rising and this is due to lack of awareness among the youth on socialization. On the basis of this implication, therefore, the study recommends that parents however, should not go beyond their responsibility by for instance forcing their children to marry or get married to particular individuals selected by the parents but should rely on persuasion and unselfish concern while expressing their views on their children's intended marriage.

At any rate bridewealth should not be condemned in itself because of its acknowledged abuse. Bridewealth should not be linked to commercialization of women to deny them right to own property. The abuse should be countered by sound

teachings on the meaning of human behavior and of marriage. Bridewealth should be accepted as a cultural practice that helps in creating a certain stabilizing influence in marriage. In addition it is worth mentioning that its traditional role as a token to the girl's family has to be appreciated and encouraged if the idea of indissolubility of marriage is to be understood by Isukha millenials.

In order to realize the potential positive impact of Isukha values, it is recommended that decision- makers in Non-governmental Organizations (NGOs), community based organizations (CBOs) and the Government of Kenya, establish an environment that enables the participation of the Isukha people themselves in a search for sustainable solutions to challenges facing the Isukha. This can be done by providing relevant personnel with the capacity to deal with traditional values. It will be difficult to choose which areas to concentrate on but many of the modern and traditional marriage practices can be combined to create an Isukha community that is culturally strong while also participating in the contemporary Kenyan situation.

Kenya has strived to expressively incorporate laws relating to ownership and acquisition of matrimonial property into the Kenyan Constitution 2010. The constitution also points out the two types of marriages; monogamous marriages and polygamous marriages that are to be registered.⁷⁶⁴ This is geared to ensure that all celebrated unions are registered in order to protect the matrimonial rights of the parties to the union. With this information, the study noted that many Isukha couples do not have any certificate and that traditional marriages were more acceptable and practiced thus, a fairly large population are in marriage by cohabitation. This might

⁷⁶⁴The Constitution of Kenya was promulgated on 27th August, 2010. Retrieved from http://www.kenyalaw.org/klrfileadmin/pdfdownloads/Acts/Constitution_of_Kenya_2010.doc. Section 39(1) of the marriage Act stipulates that... the registrar, minister for religion, Kadhi, priest or other person to whom the marriage is contracted or celebrated, as the case may be, shall forthwill register it.

complicate property ownership upon death of the spouse as women will be faced with the dilemma of proving the existence of a union without any legal documents. The study recommends the need for sensitization of knowing basic constitutional provisions and knowledge on matrimonial property in Isukha to enable easy understanding of the term within its context. This will also underline matrimonial rights available to spouses.

6.4 Suggestion for Further Research

1. It has emerged from this study that Isukha traditional marriage has been challenged by several factors initiated by colonial state, Christianity, western education and globalization. There is need to for a study that will explore ways of integrating Isukha marriage values in this new situation. This should facilitate integration of Isukha marriage values with Christianity, western education and the ever changing socio-economic and socio-cultural situation.
2. The rapidly changing concept of marriage and its significance in the society needs to be given attention. This calls for a study on the importance of marriage as an institution for the preservation and propagation of cultural values.

REFERENCES

Primary Sources

1) Oral Interviews

List of Participants

S/No	Name	Gender	Marital Status	Approx. Age	Place of Interview	Date of Interview
1	Lena Khakhuya	F	Widow	104	Isukha North	25/12/2017
2	Nathan Timboi	M	Married	78	Isukha North	25/12/2017
3	Sara Shitambatsi	F	Widow	87	Isukha North	27/12/2017
4	Joseph Mahero	M	Married	73	Isukha North	27/12/2017
5	Laban Shikuku	M	Married	52	Isukha North	27/12/2017
6	Joseph Shikundi Mbalilwa	M	Widower	90	Isukha Central	30/12/2017
7	Thomas Shikundi	M	Married	87	Isukha Central	30/12/2017
8	Andrew Mulima Shirandula	M	Married	75	Isukha Central	31/12/2017
9	Jacob Luseno	M	Married	68	Isukha Central	31/12/2017
10	Paul Mulima	M	Married	58	Isukha Central	31/12/2017
11	Peter Lubelela	M	Widower	86	Isukha South	02/01/2018
12	Philip Shiholo Nabwangu	M	Married	90	Isukha South	02/01/2018
13	David Kwasira	M	Married	88	Isukha South	02/01/2018
14	Elizabeth Wendo	F	Married	55	Isukha South	02/01/2018
15	Flora Kuhola Shimwati	F	Widow	59	Isukha South	03/01/2018
16	Jennifer Ayosta Aluvala	F	Married	65	Isukha South	03/01/2018
17	Margaret Mukasia Shiverenga	F	Widow	64	Isukha South	03/01/2018
18	Francis Meja	M	Married	76	Isukha East	04/01/2018

19	Hezron Ngaira	M	Married	78	Isukha East	04/01/2018
20	Kenneth Shisimba	M	Married	53	Isukha East	04/01/2018
21	Monica Mkatili	F	Widow	72	Isukha East	04/01/2018
22	Dinah Shilazi	F	Widow	96	Isukha East	06/01/2018
23	Peris Kavukha	F	Widow	83	Isukha East	06/01/2018
24	Elizabeth Ngaira	F	Widow	72	Isukha East	07/01/2018
25	Helen Linakha	F	Married	75	Isukha East	07/01/2018
26	Jennifer Mutumiri	F	Married	60	Isukha East	07/01/2018
27	Mary Meja	F	Married	60	Isukha East	07/01/2018
28	Rebecca Mtumbuza	F	Widow	75	Isukha East	07/01/2018
29	Pastor Simon Osiango	M	Married	54	Isukha East	07/01/2018
30	Eunice Afande	F	Married	48	Murhanda	08/01/2018
31	Joy Makhangu	F	Widow	50	Murhanda	08/01/2018
32	Joyce Alivisa	F	Widow	50	Murhanda	08/01/2018
33	Ziporah Ayuma	F	Widow	50	Murhanda	08/01/2018
34	Esther Busolo Bulinda	F	Married	74	Murhanda	09/01/2018
35	Timona Burinda Khamalia	M	Married	80	Murhanda	09/01/2018
36	Agness Ruth Ishenye	F	Widow	57	Murhanda	11/01/2018
37	Angelina Lichina	F	Married	70	Murhanda	11/01/2018
38	Agelina Murandisi	F	Widow	60	Murhanda	11/01/2018
39	Bernard Mukhaya Khamaliya	M	Married	72	Murhanda	11/01/2018
40	Charles Musame Madegwa	F	Married	66	Murhanda	11/01/2018
41	Elizabeth Acheisa Mukabwa	F	Widow	61	Murhanda	11/01/2018

42	Jedida Ahebirwa Musava	F	Widow	64	Murhanda	11/01/2018
43	Angelina Muhinja	F	Married	59	Isukha West	16/01/2018
44	Christine Muhatia	F	Widow	75	Isukha West	16/01/2018
45	Edward D.C. Konzolo	M	Married	61	Isukha West	16/01/2018
46	Pricilla Indimo	F	Widow	62	Isukha West	16/01/2018
47	Gilbert Shigami	M	Bachelor	35	Isukha East	16/01/2018
48	Janet Mboshi	F	Married	48	Isukha East	16/01/2018
49	Danston Konzolo	M	Married	42	Isukha West	18/01/2018
50	Hezron Ingaria Alumasa	M	Married	78	Isukha East	21/01/2018
51	Joseph S.C.Makatiani	M	Widower	82	Isukha East	21/01/2018
52	Andrian Ingachi	M	Married	62	Isukha East	22/01/2018
53	Clement Chivolo	M	Married	69	Isukha East	22/01/2018
54	Ass. Chief David Ashimosi	M	Married	59	Isukha East	22/01/2018
55	Geli Muyore	M	Married	58	Isukha East	22/01/2018
56	Nancy Ingonga	F	Divorcee	40	Isukha East	22/01/2018
57	Samuel Makomele	M	Married	64	Isukha East	22/01/2018
58	Everlyne Makona	F	Married	43	Isukha East	24/01/2018
59	Martha Yadudo	F	Married	48	Isukha East	24/01/2018
60	Silvester Imbugwa	M	Divorcee	43	Isukha East	24/01/2018

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APPENDICES

Appendix 1: Scheduled Oral Interviews

Interview schedule guideline for Elders of Isukha Community

Interview Date:

Name _____

Clan _____

Age _____ Marital status _____

Gender _____

Sub-County _____ Ward _____

Level of education _____ Occupation _____

A) Origin and Early Relation

How long have you lived in Isukha? _____

Which homeland did the Isukha originate from? _____

Who are the Isukha founding ancestor? _____

Were the Isukha related to any other ethnic group strongly in the beginning? _____

b) Describe the relationship? _____

What people did the Isukha encounter during the early times that is their neighbor?
How did the Isukha relate to them in:

a) Language? _____

b) Customs? _____

B. Traditional family and customs

What was the basic ideal form of marriage among the Isukha?

Comment on the nature of familial structure in this area before the coming of colonialism? _____

Why was marriage an important institution/practice among the Isukha? _____

What were the main steps involved in a marriage? _____

Why were these steps important? _____

What were the types of marriages practices among the Isukha? _____

What was likely to happen if parties to a marriage did not keep the principles of the marriage? _____

What responsibilities were expected of a married person?

How were these roles different for someone who was not married?

What privileges does unmarried person enjoy?

Do you agree that giving birth to children was the most important thing in a marriage and if there were no children there was no real marriage?

b) Why?

Were there any taboos related to marriage among the Isukha?

Did divorce occur in Isukha marriage?

b) If yes, under what circumstance?

c) What were the implication?

What was the economic activity by the Isukha during the pre-colonial period?

During the pre-colonial period did both the women and men have a right to access land?

What was the place of women in regard to land ownership in the pre-colonial period?

In case of violation of these rights, how was justice established?

B) Colonial policies and practices**a) Labour Policies**

Comment on the coming of colonialism to this area? _____

Which activities were colonialist involved in?

What were the people's reactions towards them?

Were men from this locality conscripted for labour in the colonial plantations and towns?

If so where? And how did this affect their family?

While away, who took care of their wives?

Comment on remittances?

Are there men who left never to be seen again?

Comment on the migration of women to towns and colonial plantations?

Were there restrictions to this migration?

b) What was its nature and impact on women?

Were there some form of labour that the colonial administration only required women, girls and children?

c) If so, how did this affect women and girls?

To what extent did the absence of men for a long time affect the whole institution of marriage?

Which kind of women migrated to townships?

Comment on the reaction of colonial administrators, male elders and kinship heads to this mobility?

Which strategies did women take to survive?

If the informant was mature during the World War two, ask the following questions:

Do you remember what was happening during the Second World War?

Where were you living?

How did the World war disrupt the family organization in terms of division of labour?

Who among the men and women did more work to grow the food crops during the war period and why?

What kind of changes can you identify that took place in the Isukha marriage during the colonial era?

b) Taxation

Comment on the various taxes levied on the people of this area?

What was the means and mode of payment?

Were there difficulties faced by the people in paying these taxes?

How were tax defaulters dealt with?

Were widows paying taxes?

What were some of the initiatives taken by men and women to survive during this period?

c) Land policies

Comment on the whole process of land consolidation in this region?

Who took care of the plots belonging to migrant labourers?

How did the whole process affect women?

Who was the head of the family? Note if the respondent says it was the woman: ask the role the men played in the function of household.

How did the onset of colonialism impact on women ownership of land in Isukha.

ii) In your opinion did colonialism hinder or enhance women's rights to land?

Marriage

Comment on the marriage process in this region before the coming of colonialism?

How was it affected by colonial administration?

Which factors were responsible for the rising bridewealth in this area during colonial period?

b) Were there attempts to stabilize bridewealth?

Comment on the run-away women and divorce cases in this areas before the establishment of colonialism?

Comment on some of the traditional dances in this area? How were they responsible for the rising cases of vulnerable diseases during colonialism?

d) Bridewealth

Is bridewealth necessary for marriage?

If yes, why is it necessary?

If No, why not?

If married, how many cows were usually paid for bridewealth?

What else is given as bridewealth?

Why that particular number?

How many goats?

Can bridewealth be given back to the parents of the man?

What are the major causes of divorce?

C) Encounter between Isukha and missionaries activities

Comment on some of the missions in this region during the colonial period?

What kind of activities were they involved in?

How did their activities affect families?

Was their special assistance the mission gave to women? What about widows and widowers?

5. Were there women and men living within mission centres? If so for what reasons?

6. What were the mission attitude towards traditional African marriage customs like polygamy, wife inheritance, forced or arranged marriages and baptism?

What was the difference between the Isukha traditional family and the teaching of Christianity regarding marriage and families?

How did the Isukha respond to these new family organization especially regarding polygamy

Are there any preaching that Christianity preached against Isukha marriage?

What was the Isukha reaction?

Did the educated Isukha agree or disagree with the Isukha traditional marriage?

Did mission provide some special training for women and girls? Comment on the nature and the impacts of these trainings?

What was the perception of men to the women training?

What about the colonial administration?

**Appendix II: Interview scheduled guideline for Focus Group Discussion in
Isukha Community**

Interview

Date: _____

Name _____

Clan _____

Age _____ Marital status _____

Gender _____

Sub-County _____ Ward _____

Level of education _____ Occupation _____

What is marriage?

What makes Isukha marriage valid?

Where are marriages held?

What are the main steps in a Isukha marriage?

Describe the main activities that take place during Isukha marriage?

b) What is the significance of each activity? _____

Generally how long does it take to prepare for marriage?

What items are used to conduct marriage?

What is likely to happen if parties to a marriage do not keep the principles of the marriage?

What responsibilities expected of a married person?

Why is marriage an important institution/practice in Isukha?

Is Isukha marriage seen to be incomplete in a definite period of time?

b) Why are these steps important? _____

Do you agree that giving birth to children is the most important thing in a marriage and if why?

Between what ages is Isukha boy and girl expected to marry?

b) Why is that age considered important? _____

What privileges does an unmarried person enjoy?


What privileges come to man who is married?

b) What privileges come to a woman who is married?


Appendix III: Research Permit

CONDITIONS

1. The License is valid for the proposed research, research site specified period.
2. Both the Licence and any rights thereunder are non-transferable.
3. Upon request of the Commission, the Licensee shall submit a progress report.
4. The Licensee shall report to the County Director of Education and County Governor in the area of research before commencement of the research.
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REPUBLIC OF KENYA



National Commission for Science, Technology and Innovation

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Serial No.A 18858

CONDITIONS: see back page

THIS IS TO CERTIFY THAT:

MS. LEEN KAVULAVU
of MOI UNIVERSITY, 16334-20100 NAKURU, has been permitted to conduct research in Kakamega County


on the topic: CHANGING PATTERNS OF MARRIAGE AMONG THE ISUKHA OF KAKAMEGA COUNTY KENYA 1894-1995

for the period ending: 25th May, 2019

Permit No : NACOSTI/P/18/90403/22379

Date Of Issue : 25th May, 2018

Fee Received :Ksh 2000



Leen Kavulavu

Applicant's Signature

Palena

Director General
National Commission for Science, Technology & Innovation

Appendix IV: Letter From NACOSTI



NATIONAL COMMISSION FOR SCIENCE, TECHNOLOGY AND INNOVATION

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P.O. Box 30623-00100
NAIROBI-KENYA

Ref. No. **NACOSTI/P/18/90403/22379**

Date: **25th May, 2018**

Leen Kavulavu
Moi University
P.O. Box 3900-30100
ELDORET.

RE: RESEARCH AUTHORIZATION

Following your application for authority to carry out research on *“Changing patterns of marriage among the Isukha of Kakamega County Kenya 1894-1995,”* I am pleased to inform you that you have been authorized to undertake research in **Kakamega County** for the period ending **25th May, 2019**.

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

Kindly note that, as an applicant who has been licensed under the Science, Technology and Innovation Act, 2013 to conduct research in Kenya, you shall deposit a **copy** of the final research report to the Commission within **one year** of completion. The soft copy of the same should be submitted through the Online Research Information System.

GODFREY P. KALERWA MSc., MBA, MKIM
FOR: DIRECTOR-GENERAL/CEO

Copy to:

The County Commissioner
Kakamega County.

The County Director of Education
Kakamega County.

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CHANGING PATTERNS IN MARRIAGE AMONG THE INDIAN
PEOPLE OF KALAMBAJA COUNTRY, KENYA, 1994-2014

LEEN KAVULAVU