

**ENGENDERING LAND ACCESS, CONTROL AND OWNERSHIP IN  
KISII COUNTY, KENYA 1895 - 1970**

**BY**

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**A Thesis Submitted to the School of Arts and Social Sciences, Department of  
History Political Science and Public Administration in Partial Fulfillment of the  
Requirements for the Award of the Degree of  
Doctor of Philosophy in History**

**MOI UNIVERSITY**

**2022**

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**DEDICATION**

This work is dedicated to Almighty God the creator and giver of all things and to the women out there who work so hard to make ends meet and inspire change in their families and the society at large.

## ACKNOWLEDGEMENT

First and foremost, I thank God for ganting me life and good health to pursue this PhD. I am indebted to Moi University for allowing me to undertake this D.Phil. Degree programme. I am obliged to register my sincere gratitude to my supervisors Professor Makana N.E. and Dr Tanui P. J. and my academic mentor the late professor Peter Odhiambo-Ndege who patiently and tirelessly guided me through the research thesis. Their immense wisdom, understanding and constructive advice were a great source of encouragement to me. I am appreciative of the academic contributions of my comrades especially Dr Mukhwana D. and Dr Kavulavu L. whose positive peer review and consistent structural criticism shaped my work. A special acknowledgement of my family: my sons Bruce and Larry and my daughter Teresia who permitted me a leeway off my parental responsibilities to concentrate on my work. To my husband Prof Akama J.S, am deeply indebted to your scholarly advice during my studentship and the parenting role you took up for our kids during my studies. I am equally grateful to the librarians of the numerous Universities I visited, and in equal breath to the Kenya National Archives. Lastly many thanks go to all other people out there who in their special ways contributed towards the accomplishment of this work.

## ABSTRACT

This study set out to investigate the effects of gendered land ownership, access, control and use with specific focus on the Gusii of Kenya. The study was thus problematized in terms of the imperative to seek an answer to the fundamental question; What accounts for the marginal position of women among the Gusii in relation to access, control and use of land? The objectives guiding the study were; to analyse the relationship between pre-colonial land tenure systems and gender relations, establish the effects of colonial land policies on gender relations and to examine gender rights in relation to land ownership. The study site was Gusiiland the current Kisii County, which is one of the 47 counties in Kenya in conformity with the new constitution of Kenya 2010 which created the devolved system of governance. The study targeted one hundred oral respondents aged sixty years and above. The study was conducted within the context of agency and property rights theories that permitted the historicization of the land question through the pre-colonial, colonial and post-colonial epochs. The historical research design was employed in the study. Consequently, the data informing the study derived from both primary and secondary sources. Primary sources entailed the conduct of oral interviews with target participants identified through snowball sampling technique. Individual views and perspectives were subject to an authentication process through group oral interviews and discussions. In addition, a wide range of documents derived from the Kenya National Archives constituted a key component of primary sources. These included district and provincial annual reports, quarterly reports and official commentary from the department of agriculture. The data derived from primary sources was used either to corroborate or critique information attributed to secondary sources such as books, dissertations and government publications. Such analysis of primary and secondary data yielded both quantitative and qualitative data thematically organized in a historical narrative. The study found out that the dynamics of Gusii societal organization during the pre-colonial period guaranteed greater security to women as pertains to land access, control and use. Conversely, it also emerged from the study that the onset of colonialism destabilized and distorted the workings of Gusii traditional structure, thereby occasioning the vulnerability of women in relation to land. The study also established that the consolidation of capitalist ethos wrought by the entrenchment of the market economy continuously exacerbated the marginalization and vulnerability of Gusii women in matters of land access and use. The study concluded that far from being reduced to mere passive victims of the resultant constricted economic space, Gusii women have always been positively responsive through the design of multiple coping strategies cumulatively empowering them to remain shapers of their own economic destiny.

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## CHAPTER ONE

### INTRODUCTION

#### 1.1 Background of the Study

Over the years, and in most of the colonial period, land issues have dominated the political arena. This was as a result of colonial land, labour and tax policies which affected the pre-colonial system of land ownership. Today, gender inequalities in access to productive resources, including agricultural land, continue to be an important concern, particularly in low-income countries. Many studies on gender relation and land rights tended to address the changes brought by European capitalism on African pre-colonial economies. This study focused on the interplay between gender relations and land rights, ownership, access and control from 1920 to 1970 with an aim of creating understanding of women's responses to gender inequality in land rights.

The Sustainable Development Goals (SDGs) adopted in 2015 recognize that to end poverty (Goal 1), it was necessary to ensure equal rights in ownership and control over land, as well as equal rights to inheritance of productive resources<sup>1</sup>. The SDGs also imply that to achieve gender equality and empower all women and girls (Goal 5), policies and legal reforms were needed to give them equal rights and access to ownership and control over land and other economic resources. In this study, gender issues on land rights were explored from the women's perspective.

Anseeuw, Wily, Cotula and Taylor<sup>2</sup> reports that globally, over the past three decades, gender issues on land ownership and control had gained prominence on development

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<sup>1</sup> United Nations, (2015). Transforming Our World: The 2030 Agenda for Sustainable Development. New York. Pg. 20.

<sup>2</sup> Anseeuw, W., L. Alden Wily, L. Cotula, and M. Taylor. 2012. "Land Rights and the Rush for Land: Findings of the Global Commercial Pressures on Land Research Project". ILC, Rome. Pg. 14

policy. Allendorf<sup>3</sup> asserts that women's land ownership was associated with increased bargaining power in the household, better child nutrition, and lower exposure to HIV/AIDS<sup>4</sup> and higher protection from domestic violence. Food and Agricultural Organisation (FAO)<sup>5</sup> reports that despite these efforts, women who comprised over half of the world's population, rarely owned any reasonable forms of property; did not have adequate access to the same, and did not even make major decisions pertaining to allocation and use of such property. However, FAO notes that the consequence of gender discrimination in land access and control was evident particularly in the developing world, since the pre-colonial and colonial period.

Ochieng<sup>6</sup> finds that before the colonial period, inward migration of communities defined land acquisition, ownership, and use. Communities settled in areas distinct to them today. The solution for a need for land was to expand into unoccupied areas. In other situations, some communities conquered others to occupy their land (inter-tribal wars). Even so, the conquered community could still relocate to another place and find new land.

Caline<sup>7</sup> adds that the first European settlers arrived in 1902 and in 1915, the Crown Land Ordinance recognized "native rights" in lands reserved for the Kenyans. Anderson<sup>8</sup> avers that in 1926, this was further defined by the creation of "African Reserves" for each of Kenya's "tribes," leaving the "White Highlands" for the Europeans, which consisted of large parts of Kiambu and Murang'a as well as areas

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<sup>3</sup> Allendorf, K. (2007). "Do women's land rights promote empowerment and child health in Nepal?" *World Development* 35(11): 1975–1988.

<sup>4</sup> Strickland, R. (2004). 'To Have and To Hold: Women's Property and Inheritance Rights in the Context of HIV/AIDS in Sub-Saharan Africa'. Washington, DC: International Center for Research on Women. Available at: [www.icrw.org/docs/2004\\_paper\\_haveandhold.pdf](http://www.icrw.org/docs/2004_paper_haveandhold.pdf)

<sup>5</sup> FAO. (2011). "Gender differences in assets". ESA Working Paper No. 11-12.

<sup>6</sup> Ochien W, R. (1985). *A History of Kenya*. Macmillan Press Ltd.

<sup>7</sup> Caroline E. (2005: 16). *Imperial Reckoning: The Untold Story of Britain's Gulag in Kenya*, Owl Books.

<sup>8</sup> Anderson, M, D. (2000) "Master and Servant in Colonial Kenya. *The Journal of African History*, Vol. 41, No. 3, pp. 459-485.

farther north around Nyeri and Nanyuki, and "great tracts of land in the Rift Valley, and far to the west on the plateaus beyond.

Lonsdale and Berman<sup>9</sup> revealed that the establishment of capitalist estate production depended upon the appropriation of African land. But this partial separation of Africans from their means of production did not have an immediate adverse effect upon their well-being save in the case of the pastoralists, who suffered immeasurably larger losses than the cultivators. On the contrary, African farmers enjoyed an enormous access of exploitable land, as both the British pax enabled them to use areas previously left empty for reasons of defence, and as white landownership made available to their tenants' hoes the acres which settlers could not yet afford to plough.

The British colonialists even made worse the land injustices in Kenya at the time. They came up with several laws and concessions, which included the Land Acquisition Act (1894), Crown Lands Ordinance (1902), Crown Lands Ordinance (1915), and the Kenya Native Areas Ordinance (1926) to alienate the coastal and mainland communities further from their land.

Ochieng<sup>10</sup> observes that in 1918, the Resident Native Ordinance was passed to demand that squatter payments were made in labour and not in kind or in cash. This was done to keep the squatter farms from competing with or even eclipsing settler farms. "Conditions for squatters began deteriorating from the mid-1920s, at first imperceptibly, then dramatically from the 1930s.

Ndege<sup>11</sup> notes that at any rate, British colonial economic policy in Kenya included; Land alienation for European settlers, African taxation, and African migrant/forced

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<sup>9</sup> Lonsdale, J. and Berman, B. (1979). 'Coping with the contradictions: The Development of the Colonial State in Kenya, 1894-1914,' *Journal of African History* 20.

<sup>10</sup> Ochien W, R. (1985). *A History of Kenya*. Macmillan Press Ltd.

<sup>11</sup> Ndege O.P. (2006). *Colonialism and its Legacies in Kenya*. Lecture delivered during Fulbright –

labour development of settler dominated agricultural production and peasant commodity production, export production, rail and road transport and communication, education and health.

Ochieng further notes that by the mid-1930s, about one-fifth of all usable land in Kenya was under the exclusive control of the settlers. In addition, the state provided the settlers and corporate capital with the necessary infrastructural, agricultural and marketing services and credit facilities. Land alienation and establishment of native reserves restructured the land tenure system, which was later perpetuated by African patriarchy. Ndeda<sup>12</sup> showed how colonialism was discriminatory to the African woman and how women were overburdened in the reserves in the absence of their labour migrant male folk. Women became the sole agricultural producers in the reserves. They planted, weeded, harvested, stored and managed their food harvests in the absence of men. Since then, World Bank<sup>13</sup> has noted that access, ownership and control over land, resources and benefits are determined by socio-cultural norms which have significant impacts on gender relations.

Anseeuw, Wily, Cotula and Taylor<sup>14</sup> noted that generally in Africa, women's insecure land tenure and property rights can be linked to a mix of economic and social pressures that have profoundly transformed social structures and land tenure systems. These include colonial and post-colonial private property legislation, an influx of investments, commodification of land, growth of land markets and rise in competition over land.

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Hays Group project abroad program: July 5th to August 6th 2009 at the Moi University Main Campus.

<sup>12</sup> Ndeda, J.M., (1993) *The Impact of Male Migration on Rural Women: A case Study of Siaya District c. 1894-1963*. Ph.D. Thesis, Kenyatta University

<sup>13</sup> World Bank. (2004). "*Gender Country Profiles*" Retrieved March 30, 2018 from [www.worldbank.org/afr/gender/countryprofile](http://www.worldbank.org/afr/gender/countryprofile).

<sup>14</sup> Anseeuw, W., L. Alden W, L. Cotula, and M. Taylor. (2012). *Land Rights and the Rush for Land: Findings of the Global Commercial Pressures on Land Research Project*. ILC, Rome.

Qvist<sup>15</sup> finds that in Egypt, laws and cultural background are highly predisposed by Islamic law. In theory, women and men had equal rights to land tenure in Egypt. Nevertheless, traditional structures continue to discriminate against women. In Ghana, women's access to land and usage is determined by men as a matter of patriarchal cultural tradition, where, higher tenure security for women reduces productivity losses on women's plots.<sup>16</sup> However, in Rwanda, regularization of women's land rights through titling programmes increased investment in land soil conservation in women's plots.<sup>17</sup>

Kenya which is dominated by patriarchal cultures in many cases, socio-cultural factors limited women's access to and rights over resources. Men as de facto heads of households have the largest role in decision making about resources at both the household and community levels, implying that women have disproportionately fewer rights to land and property.<sup>18</sup> Despite Kenya's efforts to promote gender equality, not much has been achieved and there are no equal rights in ownership, control over land and other productive resources.<sup>19</sup>

In the study area for instance, access to and control over means and benefits of production showed constraints in relation to gender. These inequalities made women more vulnerable to poverty than men in Gusiiland, therefore, the need for policy movement towards provision of gender-equitable land reform.<sup>20</sup> The significance of

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<sup>15</sup> Qvist, E. (1995). *Women's access, control and tenure of land, property and settlement*. Retrieved March 30, 2018 from [www.sli.unimelb.edu.au](http://www.sli.unimelb.edu.au)

<sup>16</sup> Goldstein, M. and Udry, C. (2008). "The Profits of Power: Land Rights and Agricultural Investment in Ghana." *Journal of Political Economy* 116 (6):981–1022.

<sup>17</sup> Croppenstedt, A.; Goldstein, M.; and Rosas, N. (2013). "Gender and Agriculture: Inefficiencies, Segregation, and Low Productivity Traps." *The World Bank Research Observer* 28(1):79-109.

<sup>18</sup> Doss, C. (2005). "The Effects of Intrahousehold Property Ownership on Expenditure Patterns in Ghana." *Journal of African Economies* 15(1):149–80.

<sup>19</sup> Davison J. (1988). *Land and Women's Agricultural Production: The Context in Agriculture, Women and Land the African Experience*. J Davison (ed), West view Press, Boulder and London.

<sup>20</sup> Lastarria-Cornhiel, S. (1995). Impact of privatization on gender and property rights in Africa. *World Development*, 25(8), 1317-1333.



land reform policies depends on ensuring gender equality both in practice and in principle.

Land gives social and economic power and the impact can be almost immediate. Therefore, giving women land means giving them power. It was not surprising that women have such a hard time obtaining control of this valuable asset. However, the research in Kenya conducted by Nzioki; Kameri-Mboti<sup>21</sup> confirms that land decides the economic well-being, social status and political power of individuals in a society. As Sarpong<sup>22</sup> points on the status of gender, land access and control, this study specifically examined gender, land access and control in the Gusiiland context, which as Moore<sup>23</sup> opines reflects gender disparity in land access, ownership and control happens in many African settings.

In Gusiiland, gender relations on land ownership, access and control is culture specific and characterized by differential relations of power between men and women. Power relations are continually being negotiated, contested and resisted in various ways. The focus of this study was on women and men's differentiated access to land, and the gender relations that both influenced and are affected by land ownership and control in Gusiiland. The study presented the findings based on Gusii people's gender relations in land tenure from the perspective of their history and culture between 1920-1970.

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<sup>21</sup> Nzioki, A. (2009). *The Effect of land tenure on women's access and control of land in Kenya*. Retrieved May 20, 2018 from [www.jstore.org/stable/151481](http://www.jstore.org/stable/151481)

<sup>22</sup> Sarpong, P. (1974). *Ghana in Retrospect: Some aspects of Ghanaian culture*. Accra: Ghana Publishing Company.

<sup>23</sup> Moore, D. (1996). Marxism, Culture and Political Ecology: Environmental Struggles in Zimbabwe's Eastern Highlands. In Peet, R. and Watts, M. (editors), *Liberation Ecologies: Environment, Development, Social Movements*. London: Routledge.

## 1.2 Study Area

The study site was Gusiiland of Kisii County, which is one of the 47 counties in Kenya courtesy of The Constitution of Kenya 2010 which created the new county system of governance. It shares common borders with Nyamira County to the North East, Narok County to the South and Homabay and Migori Counties to the West. The county lies between latitude 0 30' and 1 0' South and longitude 34 38' and 35 0' East. The county covers a total area of 1,332.7km square and is divided into nine constituencies namely: Kitutu Chache North, Kitutu Chache South, Nyaribari Masaba, Nyaribari Chache, Bomachoge Borabu, Bomachoge Chache, Bobasi, South Mugirango and Bonchari. It has 9 sub-counties and 45 Wards respectively. Population densities are high in areas with large proportions of arable land such as Kitutu Chache South (1348 people km square), Nyaribari Chache (1128 people km square), Bomachoge Borabu (992 people km square), Bomachoge Chache (992 people km square) respectively. Gusii also borders with Homa Bay County in the west and Migori County in the southwest.<sup>24</sup> The county is characterized by a hilly topography with several ridges and valleys and it is endowed with several permanent rivers which flow from East to West into Lake Victoria. Soils in the county are generally good and fertile allowing for agricultural activities.

The county has a highland equatorial climate resulting into a bimodal rainfall pattern with two rainy seasons, the long rains occurring between February and June and the short rains occurring between September and early December. This adequate rainfall, coupled with moderate temperature is suitable for growing of crops like tea, coffee,

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<sup>24</sup> Akama, J.S. and Maxon, R. (2006). *Ethnography of the Gusii of Western Kenya: A Vanishing Cultural Heritage*. New York: The Edwin Mellen Press.

maize, beans, and finger millet potatoes, bananas and groundnuts. This also makes it possible to practice dairy farming in the county.<sup>25</sup>

The area also consists of several escarpments, hills and mountains, like the Vinyo escarpment to the south west of the region which is bisected by a large gorge through which river Gucha flows into Lake Victoria. There is also the Manga escarpment in the North West which is broken by deep valleys that form the source of streams and rivers.<sup>26</sup> The most prominent rivers draining Gusii-land are the Gucha and Sondu. Gucha River has its source in North Mugirango and traverses Kitutu, Nyaribari, Bobasi, Machoge and South Mugirango locations on to Homa Bay where it drains into Lake Victoria.

The Sondu River starts in the Sotik/Borabu area and flows in the Northern parts of Gusii-land along the boundary with Kericho district. The river enters Nyakach and then drains into Lake Victoria. The region also possesses many swamps in valley bottoms like Sironga, Riamoni, Nyanturago and Chirichiro.<sup>27</sup> Blessed with fertile soils of volcanic origin, Gusii-land as a whole is an area of high agricultural potential. Relief, drainage and existing rock formations have thus influenced the soil formation in the area. The land is also quite ideal for the growing of a variety of crops such as coffee, tea, pyrethrum, maize and bananas.<sup>28</sup>

Gusii-land can be divided into two ecological zones based on the differences in altitude, rainfall, temperatures and soil distribution. These zones have over the years been recognized by the Gusii people who refer to the lower ecological zone in the west as Chache (west) and the higher ecological zone in the east as Masaba (east).

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<sup>25</sup> <http://www.kisii.go.ke/index.php/county-profile/vision-and-mission>

<sup>26</sup> Ibid

<sup>27</sup> Ibid.

<sup>28</sup> Government of Kenya (1984). *Kisii Development Plan*. Nairobi: Government Printer.

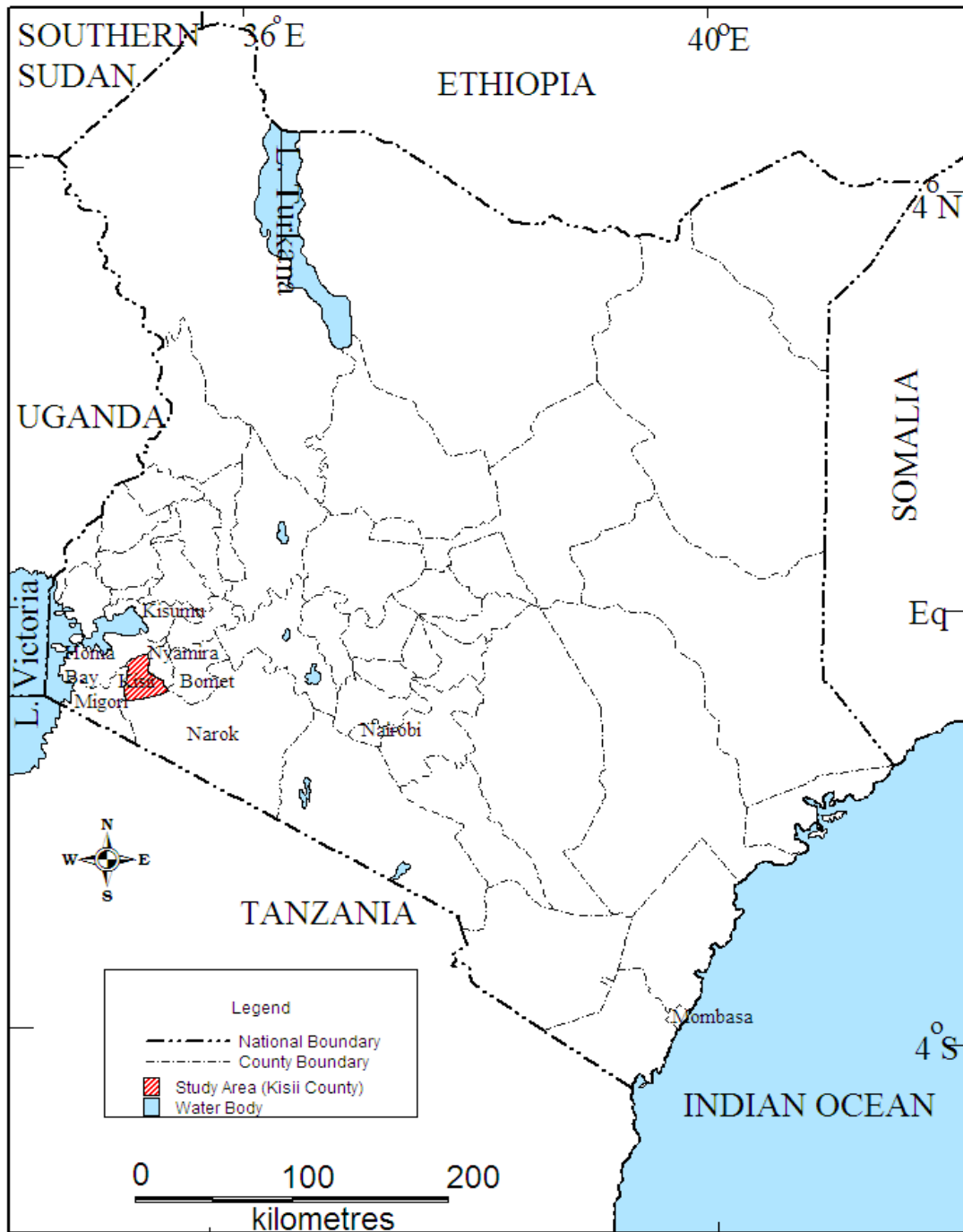
These ecological differences have also influenced land use patterns and population distribution differences.<sup>29</sup>

Apart from agriculture, the Gusii community practiced various economic activities such as traditional crafts production, various forms of trade, subsistence hunting and embroidery. The region is particularly well endowed with diverse natural resources and minerals such as traces of iron ore, salt, copper, soapstone, wood and papyrus. These resources enabled the Gusii people to undertake various industrial production activities to produce various goods that they needed for their sustenance.<sup>30</sup>

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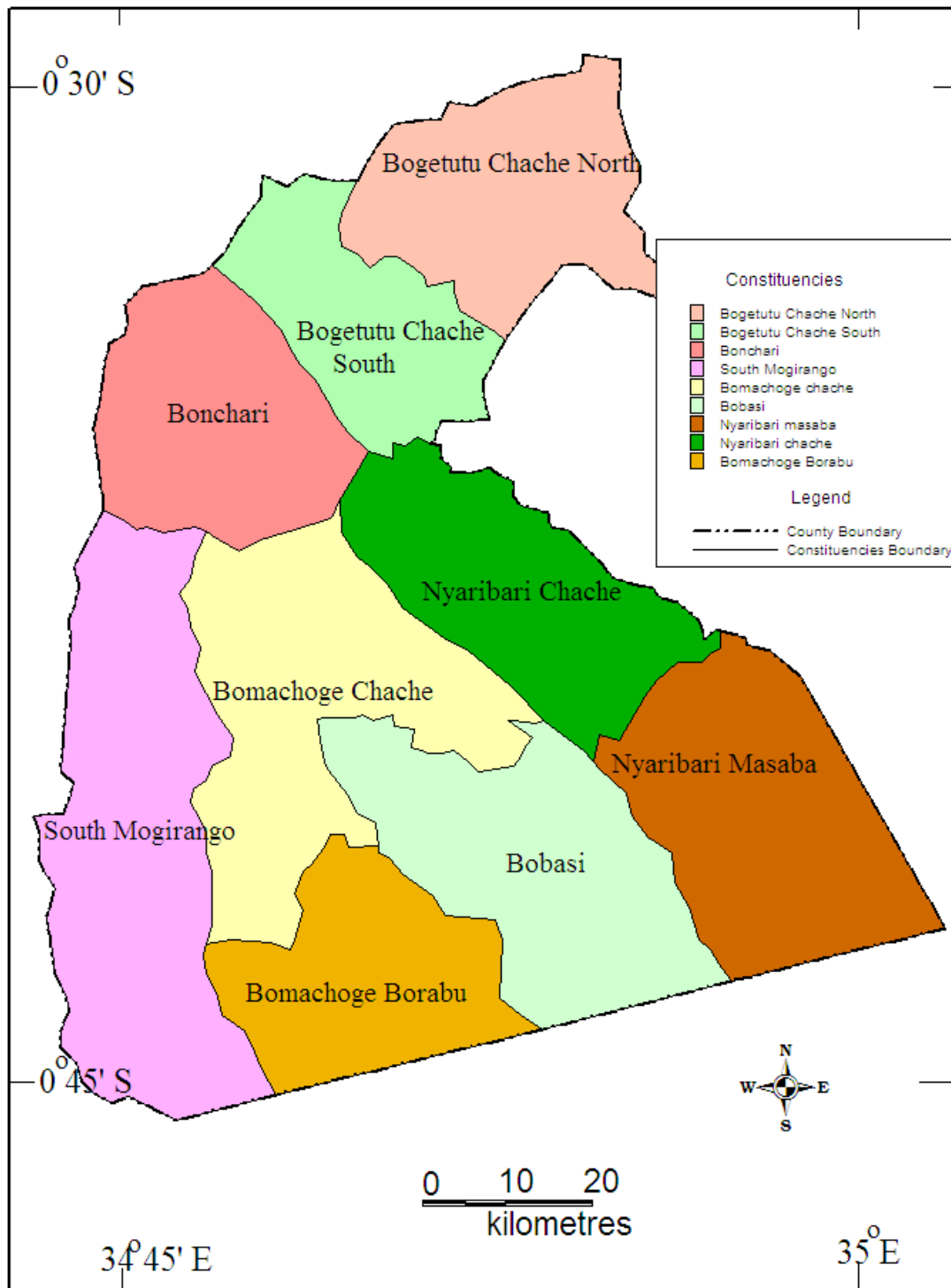
<sup>29</sup> Ibid.

<sup>30</sup> Ibid.



**Figure 1.1: Map of Kenya Showing Location of Kisii County**

Source; Geography Department; Moi University, 2019



**Figure 1.2: Map of Kisii County showing the nine constituencies**

Source; Geography Department; Moi University

### **1.3 Statement of the Problem**

Gender relations and land tenure issues have been of concern during the pre-colonial, colonial and post-colonial periods globally. In Africa and by extension Kenya, the assumption was that land was majorly a patriarchal issue and women were on the periphery and passive recipients on acquisition, access, control and usage. This study was mainly concerned with three issues namely: gender relations, colonial and post-colonial land policies on property rights, and ownership. Not much has been done on the relationship between these three issues. It is on this basis the study sought to examine women's responses over time on land access, ownership, control and usage with a particular focus in Gusiiland. The study was thus problematized around the fundamental issue of the extent to which differentiated access, control and ownership of land has impacted on women in Gusiiland.

The study specifically examined existing underlying historical patterns and evolution of gender relations and how they affected the utilization of land in Kenya between 1920 and 1970. The study for example sought to establish the relationship between indigenous land tenure systems and gender relations; establish the effects of colonial land policies on gender relations, and examine gender rights in relation to land rights and ownership in the post-colonial period in Gusiiland.

### **1.4 General Objective**

To establish the impact of colonial and post-colonial land policies on gender relations, property rights and land ownership in Gusiiland.

### **1.5 Specific Objectives of the Study**

- i. To analyse the relationship between pre-colonial land tenure systems and gender relations in Gusiiland

- ii. To establish the effects of colonial land policies on gender relations in Gusiiland
- iii. To examine gender rights in relation to land ownership in the post-colonial period in Gusiiland

### **1.6 Research Questions**

- i. What was the relationship between pre-colonial land tenure systems and gender relations in Gusiiland?
- ii. What were the effects of colonial land policies on gender relations in Gusiiland?
- iii. How did gender rights in relation to land rights and ownership in the post-colonial period affect women in Gusiiland?

### **1.7 Scope and Periodization of the Study**

The study covers the period between 1895 and 1970 in Gusiiland. The year 1895 marks the reception of the colonial era. However, chapter two tackles a section of the precolonial period specifically from 1850 to 1895 a period that beacons the precolonial land tenure as a basis for comparison with the colonial land tenure. The year 1970 marks the endpoint of the study and is conceptualized on the first development plan of independent Kenya to enable assess the continuity and change in independent Kenya.

### **1.8 Limitations of the Study**

The study was geographically limited to the delimitations of Kisii County as the Constitution of Kenya 2010 courtesy of the unique land dynamics of land scarcity in the area. Historically, the study is limited by the study period between 1895 and 1970. Besides these, the study was limited in its analysis to gendered issues of land control,



ownership and access in the study area.

## **1.9 Literature Review**

Concerns about women in relation to ownership and control of land have been raised over the years at different but inter-related levels. Land resources are central to the lives of people living in countries whose economic development and subsistence depends on the resources. This section reviews the literature that is pertinent to this study. The literature review deepens the concepts of gender relations in ownership and control of land in developed and developing countries, and analyses traditional land tenure and gender relations.

The literature further describes the impact of colonial land policies on Gusii and gender land relations. In addition, the literature review also investigates issues of land tenure in relation to gender in the post-colonial period. It also shows what has been done in previous research and clarifies the meaning of concepts used in this research in order to build theoretical departure points. It also identifies research gaps to be filled by this study.

### **1.9.1 Tenure Systems and Gender Relations**

This section focuses on the interplay between indigenous land tenure systems and gender relations from 1920 to 1970 with an aim of creating understanding of women's responses to gender inequality in land rights. According to Gyekye,<sup>31</sup> globally, indigenous land tenure systems were governed by cultural customary law of the people, deeply rooted in communal land tenure systems, which assured community members access to land. Land tenure systems consist of the social relations that are established around natural resources, particularly land, water, and trees; they

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<sup>31</sup> Gyekye, K. (1998). *African Cultural Values: An Introduction*, Accra, Sankofa Publishing Company, Ghana.

determine who can use what resources and how they are to be used. However, Lundika<sup>32</sup> on land rental markets in Malawi opines that existing socio-cultural institutions do not all the time provide secure tenure equally to women and men in communities.

Giovarelli, Wamalwa, and Hannay<sup>33</sup> argue that access to and control of property, whether customary, statutory, or religious, provide economic entry for women to key markets and social access to non-market institutions at household- and community-levels of governance, where they contribute to decision making. Without land, FAO<sup>34</sup> notes that in societies where there is a high degree of gender inequality, women's secondary status, lower socialization, undervalued productive work, and illiteracy often make women's opportunities difficult to attain.

As observed in Macedonia and Uzbekistan, daughters do not inherit any land, in spite of Muslim norms that entitle them to inherit some family land. Daughters concede their rights to brothers to avoid conflict and maintain support from the extended family. Wives and daughters may not insist on having their names included on the title to household land because of potential conflicts with husbands or their family. In Brazil, few women are aware of whose name is on the land title and do not request that joint titles be issued. In Bolivia, Giovarelli and Renee<sup>35</sup> reveals that some men were titling land in their sons' names, stripping their daughters and wives of legal land rights.

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<sup>32</sup> Lundika, R. W. (2010). Land Rental Markets, Investment and Productivity Under Customary Land Tenure Systems In Malawi; PhD Thesis, Norwegian University of Life Sciences

<sup>33</sup> Giovarelli, R., Wamalwa, B and Hannay, L. (2013). Land Tenure, Property Rights, and Gender: Challenges and Approaches for Strengthening Women's Land Tenure and Property Rights. Property Rights and Resource Governance Briefing Paper #7. DC. Washington: U.S. Agency for International Development.

<sup>34</sup> FAO, (2010). Gender and Land Rights Database. Rome: FAO.

<sup>35</sup> Giovarelli, R. (2006). "Overcoming Gender Biases in Established and Transitional Property Rights Systems." In Land Law Reform: Achieving Development Policy Objectives, ed. J. W. Bruce, 67–106. Washington, DC: World Bank.

In Asian societies, due to socio-cultural constructs in the patriarchal mind-set prevalent, women's land right is still an issue on the margin of the mainstream development agenda. Consequently, policy and laws are not gender-sensitive and failed to take differentiated impact on women and men into consideration. In rural China, women are equal under formal law. However, because rural land is owned by collectives which gave a 30-year use rights to individuals, women (who usually relocate to their husbands' native villages upon marriage) often effectively do not have rights to land.<sup>36</sup>

In the Indian context, marriage plays a crucial role in the socio-economic status of women. A woman's life is almost always divided into pre-marriage and post-marriage status. The problem arises when a woman becomes a widow. There is no question of re-marriage or owning the husband's property. Back to her home, she is treated merely as a burden and not a co-owner of the property. Hence, in these countries, due to structural and cultural violence, women with no or insecure land rights are more likely to suffer from acts of gender-based violence, social stigma and isolation, rape and killings. In some countries, widows are forcefully evicted by in-laws.<sup>37</sup>

In Africa, indigenous/customary land tenure remains the predominant model of landholding in rural contexts and land the cornerstone of rural livelihood security. Improving land tenure security is often equated with integration of customary land law into the modern statutory law of the state. As Payne<sup>38</sup> rightly puts it, land rights were, derived from membership of the community and traditionally, no cash payment was made for such rights. Instead, a token payment was often made. This token

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<sup>36</sup> <https://www.landes.org/what-we-do/china/>

<sup>37</sup> Fryer, R. G. (2010). The importance of segregation, discrimination, peer dynamics and identity in explaining trends in Racial Achievement gap. In: Benhabib J, Mathew AB and Jackson O (eds) Handbook of Social Economics. Amsterdam: North-Holland, pp. 165–1192.

<sup>38</sup> Payne, G. (1997) Urban Land Tenure and Property Rights in Developing Countries: A Review, Intermediate Technology Publications, London.

payment is referred to as ‘drink money’ in Ghana and ‘cattle or beer money’ in some other countries in the sub-region.

Raymond,<sup>39</sup> however, notes that as pressure on traditional property rights in land increased with increasing population and urbanisation, this token payment has tended to increase to the extent that it approximates to open market values. Though Raymond’s study is significant, it does not indicate the place of women in land rights, ownership and control, hence the need for the current study.

Kameri-Mbote<sup>40</sup> finds that land ownership rights are often vested in a community or other corporate structure such as a lineage or clan. A significant proportion of the land is not controlled by individuals but rather by a group and managed according to community rules. As noted by, Raymond<sup>41</sup> under most systems of customary law, women do not own or inherit land, partly because of the perception that women are part of the wealth of the community and therefore cannot be the locus of land rights’ grants. The above studies are significant as they point out the need for women empowerment in land rights, ownership, usage and control. However, they fall short in including women responses in land rights, ownership, control and usage.

Corroborating Kameri-Mbote’s findings, Ingunn Ikdahl<sup>42</sup> and colleagues aver that for most women, access to land is via a system of vicarious ownership through men: as husbands, fathers, uncles, brothers, and sons. Customary rules, therefore, have the effect of excluding females from the clan or communal entity.

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<sup>39</sup> Raymond, N. (1987). "Land rights systems and agricultural development in sub-Saharan Africa". The World Bank research observer. Vol 2, no. 2 (July 1987), pp. 143-169.

<sup>40</sup> Kameri-Mbote, P. (2005). "Inheritance, Laws and Practices affecting Kenyan Women." In Makumi Mwangi (ed.), African Regional Security in the Age of Globalisation. Nairobi: Heinrich Boll Foundation.

<sup>41</sup> Ibid

<sup>42</sup> Ingunn Ikdahl et al. (2005). Human rights, Formalisation and Women’s Land Rights in Southern and Eastern Africa. Studies in Women’s Law No. 57. Institute of Women’s Law, University of Oslo.

A study by Makura-Paradza<sup>43</sup> in Zimbabwe on women's land rights vulnerability concluded that the role of patriarchy was sometimes overemphasised in studies of women's land rights vulnerability in the developing world. Another study by Chigbu<sup>44</sup> in Nigeria showed that the land challenges women face are sometimes as a result of "actions and inactions" of women. These studies are important to the current study as they illustrate why patriarchy is only one of several institutions governing land access along with governance structures and institutions. In this study, the research investigated whether patriarchy was still an impediment to women's inclusion in land ownership, usage and control.

Feder & Noronha<sup>45</sup> categorize African indigenous land tenure systems into three types: countries that allow the acquisition of individual titles, although some rights of title-holders may be restricted; countries that recognize different types of tenure including individual property rights, customary tenure and public lands; and countries that vest land ownership in the state and grant individuals only use rights. Given these variations, the data from household and farm surveys on ownership may represent very different rights in different countries, depending on the existing customary and statutory legal frameworks. Though this study focuses on African land tenure system, its broad focus denies a particular attention to women responses to land rights, ownership, control and access. Therefore, understanding ownership rights and gender relations in the context of Gusii community where much of the land ownership took place under customary tenure systems is paramount.

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<sup>43</sup> Makura-Paradza, G. (2010). *Single Women, Land and Livelihood Vulnerability*; Wageningen Publishers: Wageningen. The Netherlands.

<sup>44</sup> Chigbu, U.E. (2019). Masculinity, men and patriarchal issues aside: How do women's actions impede women's access to land? Matters arising from a peri-rural community in Nigeria. *Land Use Policy*, 81, 39–48.

<sup>45</sup> Raymond, N. (1987). Land rights systems and agricultural development in sub-Saharan Africa". *The World Bank research observer*–2(2): 143-169.

In Ethiopia for example, Kebede<sup>46</sup> avers that the Ethiopian law puts it clear that land is officially owned by the state and Ethiopians only have land use rights. These use rights, which can be certified, allow alienation through inheritance, renting out or division between spouses in the case of divorce. However, regional land laws further influence who is able to use the land. In some regions, inheritance rules require that household members who inherit land live in rural areas and participate in agricultural work. Some regional laws also restrict how much of the holding can be rented out and whether land use rights can be used as a collateral. This study is significant to this study as it will elucidate how such land laws influence land ownership, access and control in the case of women in Gusiiland.

In Tanzania, Namubiru-Mwaura<sup>47</sup> revealed that four land tenure systems coexist. Village land rights are held collectively by the villages and can be communal or individualized, and can also be registered and certified. Customary rights of occupancy are given for village land that is governed by customary laws. The rights are perpetual and may be transferred through bequest and sale, including to those outside of the community with the consent of the village council. Statutory laws allow equal land ownership rights for men and women but they do not protect women against discriminatory customary practices. From the above case, it is not clear whether the same happens in Gusiiland, therefore, the study will investigate how customary land rights affected women's access to land, ownership, use and control.

In Uganda, two main types of tenure are recognized: customary and leasehold. Most rural land is under customary tenure (75-80%) and only about 15-20% of rural people

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<sup>46</sup> Kebede, B.; Land Tenure and Common Pool Resources in Rural Ethiopia: A Study Based on Fifteen Sites; *African Development Review*; 14(1):113–149; 2002.

<sup>47</sup> Namubiru-Mwaura, E. L., Knox, A., and Hughes, A. (2012) Customary Land Tenure in Liberia: Findings and Implications Drawn from 11 Case Studies. Liberia Land Policy & Institutional Support (LPIS) Project (USAID).

have land that is formally registered. Owners of customary land are able to obtain certificates for the land they occupy and to convert this certificate to a freehold title. The constitution of Uganda protects women from discrimination on the basis of sex, protects their rights to own property, and protects the rights of women during and after the disillusion of marriage. However, customary laws are discriminatory against women, although the extent of the discrimination varies by region. This study is significant in that it will supplement finding from Gusiiland, which also manifest customary laws that are discriminatory against women in relations to land rights.

In Malawi, USAID<sup>48</sup> found that under the constitution, women and men have equal rights to own land but there are no laws governing matrimonial property. Moreover, when it comes to land ownership, it is traditional norms and customs that dominate. Under patrilineal traditions prevalent in the north, women cannot own or inherit land and obtain access to land through male family members. Matrilineal customs, which are found in the central and southern regions, are more egalitarian and often give women more land rights. This study contradicts other studies, which have found that women neither have rights to own land nor control it.

In Nigeria, Peterman, Quisumbing, Behrman, and Nkonya<sup>49</sup> note that the 1978 Land Use Act nationalized all land in order to remove the customary tenure system, and Nigerian women and men could apply for two types of land use certificates-customary and statutory-both of which were for a fixed term. In general, they could not be transferred, even within the lineage, without government approval. While statutory laws state that men and women have similar inheritance rights, the law only applies to women married under statutory law. In Northern Nigeria, Islamic law guides

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<sup>48</sup> USAID. (2010). Country Profile Property Rights and Resources Governance-Malawi.

<sup>49</sup> Peterman, A., Quisumbing, A., Behrman, J., & Nkonya, E. (2010). Understanding gender differences in agricultural productivity in Uganda and Nigeria.

inheritance practices and, women inherit only half of what their brothers inherit and often, under social pressures, relinquish even that land. Customary laws also discriminate against women and women can only obtain use rights to the land through their husbands. Furthermore, land is almost exclusively registered in men's names.

Yet on the other hand, Feder and Noronha<sup>50</sup> writing on land rights systems and agricultural development in sub-Saharan Africa project slightly different findings. They argue that almost half of plots owned solely by a woman were obtained as a gift; this may be land that they acquired from their husband or the community at marriage. It is noteworthy that they claim to own this land, since they are not allowed to own land under customary laws and they obtain access to land through their husbands.

As Levin<sup>51</sup> points out, there is considerable ambiguity surrounding the legal definition of Swazi Nation Land. In his study on land tenure in Swaziland, he charts a history of depressed peasant farm production, exploitation-particularly of women-and forced removals on Swazi Nation Land, with the tacit support of those in power. He argues that, while in abstract, 'communal tenure' may have allowed for democratic involvement, in the tribal context, it has proved a misnomer because it conceals the power relations which underlie it and control land use and allocation.

From the above review, the myriad forms of land tenure systems in Africa complicate the notion of land ownership and make land ownership statistics difficult to compare across, and even within, countries. However, the predominance of patriarchal systems relegates women and children to minority positions, ensuring that women only have

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<sup>50</sup> Feder, G., & Noronha, R. (1987). Land rights systems and agricultural development in sub-Saharan Africa. *The World Bank Research Observer*, 2(2), 143–169.

<sup>51</sup> Levin, R. (1997). *When the sleeping grass awakens: Land and power in Swaziland*. Johannesburg: Witswatersrand University Press.



access to land and related natural resources through their spouse or male relatives.<sup>52</sup> Central to the understanding of gender relations, is a focus on the ways that development, the market, the state, culture, global forces and multiple regimes of property rights affect land use practice and access to land.<sup>53</sup>

The weakness of women's property rights in Kenya has been noted in the past as a problem rooted in both statute and customary law. “The position of women in relation to matrimonial property is also extremely weak. Customary law in relation to property rights of women seems to be out of step with the present economic structure and this has the effect of weakening the economic power of women”<sup>54</sup>, and there is a common theme that cuts across cultures: women are socially, economically, and politically excluded from structures that enable them to assert equal rights to food security.<sup>55</sup> From the above review, there is a knowledge gap with regards to the historical and cultural understanding relating to gender and land use in Kenya. Therefore, this study attempted to establish the extent to which women’s land rights were secure among the Kisii.

Eniola and Akinola<sup>56</sup> tackling the issues of “the social legitimacy land rights, posit that customary traditions are a stumbling block in realizing women’s property rights, as women are seen to being incapable of exercising control over landed property. Based on the above principle, devolution of property is patriarchal. Land ownership

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<sup>52</sup> Adamo, A. (2005). *Globalization, Gender and Land Tenure in the South: A Literature Review*. DRC: Ottawa.

<sup>53</sup> Carney, J. (1996). Converting the Wetlands, Engendering The Environment: The Intersection of Gender Within Agrarian Change in Gambia. In *Liberation Ecologies: Environment, Development and Social Movements*, Peet, R. and Watts, M. (Editors), London and New York: Routledge.

<sup>54</sup> Elin H & Sandra F. J. (2009). On the Edge of the Law: Women's Property Rights and Dispute Resolution in Kisii, Kenya. *Law & Society Review* 43(1): 9-60.

<sup>55</sup> Ikdahl, I. (2005). Human Rights, Formalization and Women's Land Rights in Southern and Eastern Africa. In *Studies in Women's Law*. Oslo: Institute of Women's Law, University of Oslo.

<sup>56</sup> Eniola B., Akinola A. O. (2019). “Women rights and land reform in Africa: Nigeria and South Africa in comparison,” in *The Trajectory of Land Reform in Post-Colonial African States: The Quest for Sustainable Development and Utilization* eds Akinola A. O., Wissink H., editors. (Cham: Springer International Publishing.

follows the blood line and is based on the belief that men as permanent members of the family will perpetuate the father's dynasty while women are expected to marry and cease to be members of their father's family.

Despite the enactment of gender-free laws in many African states, women have been consistently denied access to land in many parts of the continent, particularly in the rural areas. Gender roles are manifested in social rights and entitlements in a form which denies women equal economic and political empowerment and, in particular, the right to own land. The consequence of gender discrimination in land ownership is women's lack of access to land which constitutes a major source and means of wealth creation and economic empowerment, hence women's vulnerability to marginalization or poverty.

Cagatay<sup>57</sup>'s study on trade, gender and poverty' explicates that women are more vulnerable to poverty due to lack of ownership and control of land, access to credit and income earned through work in the labour market. However, he does not identify the relationship between gender discrimination in land ownership and women's poverty. Besides, the study lacks base on how traditional beliefs and cultural practices, gender discrimination is also encouraged by statistical discrimination or social identity susceptibility in ways that some studies have noted influence women productive outcome. The discriminatory regime affects not only the structure of opportunities open to a social group discriminated against, like Nigerian women, but also that social meanings and status are assigned to those groups as their identities.

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<sup>57</sup> Cagatay, C. (2001) Trade, Gender and Poverty' United Nations Development Programme. Washington DC: UNDP Project.

According to Loury<sup>58</sup>, discriminatory regimes not only categorize individuals and establish category-specific rules, they also invest in those categories with social meaning and create narrative to justify the discrimination. The social identities created consequently influence behaviour which remains persistent even if efforts are made by legislations and policies to attenuate their effect. The discriminatory regime in the context of this article is the traditional beliefs and cultural practices which nurture gender discrimination in the life of the girl-child until womanhood.

In her work analysing the correlation between gendered land ownership and the gendered path of agrarian transition in South Asia, Agarwal<sup>59</sup> finds that women's limited access to ownership and control of property contributes to the gender gap in economic well-being, social status and empowerment.<sup>60</sup> She further demonstrates that women's ownership of land serves as a prevention against domestic violence. Agarwal further avers that, women's ownership of land leads to improvements in women's welfare, productivity and economic empowerment. And this has been reiterated by studies commissioned by Kieyah, Joseph and Nyaga.<sup>61</sup> As noted by United Nations Habitat<sup>162</sup> owning land assets improves women's productivity and ability to earn a living, women's ownership of landed assets contributes to economic development and well-being. Studies of Agarwal and others<sup>63</sup> in other regions also reveal that women's exclusion from landownership puts women at a greater risk of health, poverty and violence.

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<sup>58</sup> Loury, M. (2002). *The Anatomy of Racial Inequality*. Cambridge: Harvard University Press.

<sup>59</sup> Agarwal B. (1997) Bargaining and gender relations: within and beyond the household. *Feminist Economics*, 3(1): 1–51.

<sup>60</sup> Agarwal, B. (2003). Gender and Land Rights Revisited: Exploring new Prospects via the State, Family and Market. *Journal of Agrarian Change*, 3: 184–224.

<sup>61</sup> Kieyah, Joseph and Nyaga. (2009). Land Reform and Poverty in Kenya. GDN\_UNDP\_ KIPPRA Working Paper 17.

<sup>62</sup> United Nations Centre for Human Settlements (Habitat), Nairobi. 1999. Women's Rights to Land, Housing and Property in Post-Conflict Situations and During Reconstruction: A Global Overview.

<sup>63</sup> Ibid

In Kenya like many other African and Asian countries, social conflicts arise from competition for status and resources between social groups, such as ethnicities, clans and communities. As land is a key resource, which provides social status to those who own it, the competition for land in Kenya often takes the form of social conflict, rather than competition between individuals. This is because land and social relationships arising from it are closely connected to kinship and identity. Therefore, contested ownership of land or rights to use land is often propagated in terms of lineage, clan affiliation and ethnicity.

Pre-colonial Kenya had a system of customary land tenure in which land was owned by clans according to culturally and socially accepted hierarchies and rules of access/use. Any disputes were resolved by dispute resolution fora in which the elders would apply rules that had been handed down from previous generations.<sup>64</sup> The customary rules on land gave women secondary access to land, dependent on their relationships to male relatives. Therefore, they could not inherit land in their own right.<sup>65</sup> This implies that customary systems of land tenure only remain viable for as long as there are members of the community who recognized and observed them.

On the position of women in agricultural production, Omwoyo<sup>66</sup> asserts that they played a central role but the recognition of their importance declined with time. In the pre-colonial period he points out, women played an important role in food production hence enjoying a proportionate measure of autonomy in agricultural production. His argument is that, colonialism, capitalist exploitation and European ideas about appropriate economic and domestic roles for women destroyed the economic

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<sup>64</sup> Ojienda, T. (2008). *Conveyancing; Principles and Practice*. Nairobi, Kenya: Law Africa (K) Publishing Ltd.

<sup>65</sup> Hakijamii, GI-ESCR and FIDA, (2016). Joint Shadow Report to the United Nations Committee on Economic, Social and Cultural Rights, 57<sup>th</sup> Session.

<sup>66</sup> Omwoyo, S.M. (1997) "The Colonial Transformation of Gusii Agriculture" M.A.Thesis, Kenyatta University: Nairobi

independence and traditional forms of social authority exercised by women. Omwoyo has shown that the female gender cannot be ignored especially when investigating the interaction between the systems in precolonial, colonial and post-colonial societies.

Gender relations in the ownership and control of land, with specific reference to the Gusii homeland, are important as a focus of study because women in Gusii have less social capital than men and are therefore more vulnerable to infringement upon or loss of their property rights in conflicts regarding land. Women's property in East Africa has been identified in past literature as particularly vulnerable to expropriation.<sup>67</sup>

In their study on the edge of the law: women's property rights and dispute resolution in Kisii, Henrysson and Joireman<sup>68</sup> suggested that customary systems are a better avenue for resolving women's legal disputes over land ownership, due to women's negative experiences with formal dispute resolution systems. However, Rose<sup>69</sup> finds that the most positive assessments of women's property rights in customary ownership systems note the necessity for women to negotiate their social relationships in order to sustain access to land through changing life circumstances. As Lastarria-Cornhiel<sup>70</sup> points out, difficulties in ensuring women's access to and control over land have been noted as a problematic feature of customary institutions of dispute resolution, though this study does not highlight women responses on their access to land, ownership and control. Hence, the need for this study.

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<sup>67</sup> Joireman, S.F. (2007). Enforcing New' Property Rights in Sub-Saharan Africa: The Ugandan Constitution and the 1998 Land Act. *39 Comparative Politics*, 463-80.

<sup>68</sup> Henrysson, E. and Joireman, S.F. (2009). On the Edge of the Law: Women's Property Rights and Dispute Resolution in Kisii, Kenya. *Law & Society Review* 43(1), 39-60.

<sup>69</sup> Rose, L.L. (2002). Women's Strategies for Customary Land Access in Swaziland and Malawi: A Comparative Study. *49 Africa Today*, 123-149.

<sup>70</sup> Lastarria-Cornhiel, S. (1997). Impact of Privatization on Gender and Property Rights in Africa. *World Development*, 25: 1317-1333.

Ndege's<sup>71</sup> study on evolving land tenure and agricultural systems says that when the Gusii people arrived in their current cold, wet, highland home, they set about clearing the dense forests for cultivation. This was done by kinship groups known as *Amasaga*. As the land was hilly and shaped into ridges divided by river valleys, each *Amasaga* would occupy a ridge or a series of neighbouring ridges, and so the basis of land ownership was communal, determined by the *Amasaga* that a person belonged to.<sup>72</sup>

In indigenous Gusii land tenure, gender has always been a factor in land ownership and use. Traditionally, the irony is that although women actually cultivated the land and tended the crops, doing the hardest work on the land, they had the fewest rights to land control and ownership.<sup>73</sup> Relations between family members, including gender relations, were governed by a strict code of conduct called *chinsoni*. This operated within each homestead, headed by the family patriarch, *omogaka bwa omochie*, subordinate to him were his wives and children, including married sons and their wives and children. Each wife of the patriarch had her own house, yard, and adjacent land for cultivation. This meant that married women had access and control over small pieces of land within their husbands' homesteads, as it was a wife's duty to cultivate the land and to feed her husband and children. *Chinsoni* was strictly hierarchical, with the father at the top and his wives and children in subsequent levels of authority. It was unthinkable for a wife to disobey her husband in any matter. Likewise, children would obey both their parents. Indeed, even the arrangement of houses within a Gusii homestead was intended to reinforce this hierarchy.<sup>74</sup>

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<sup>71</sup> Ndege, T.M. (2006). Evolving land tenure and agricultural systems, in J.S. Akama and R. Maxon (2006). *Ethnography of the Gusii of western Kenya: A Vanishing cultural heritage*. Lewiston, NY: Edwin Mellen Press.

<sup>72</sup> Ibid.

<sup>73</sup> Hakansson, T. (1998). *Bridewealth, Women and Land: Social Change among The Gusii of Kenya*. Uppsala studies in cultural Anthropology. No. 10. Uppsala: Amquiast and Wilsell International.

<sup>74</sup> LeVine, S. (1979). *Mothers and Wives: Gusii Women of East Africa*. Chicago: Chicago University Press.

As Nyanchoka<sup>75</sup> puts it in her study on the law of succession act and Gusii customary law of inheritance, despite the hard work that Gusii women performed on the land, contributing to the food security of their families and clans, their status in Gusii society remained subservient to men, condemned to a life of hard labour. This was further reinforced by polygamy, which ensured that men were at the top of the social hierarchy. As Gusii women could not own land, they were under complete control of the “owners” of the land, the men. Their subjugation was total, as land was the entirety of the Gusii mode of life: it provided food, shelter, goods for trade, and status. Monyenyerere<sup>76</sup> also found that a woman's access to land in Gusii society ultimately depended on her relation to the man who controlled the land, and by extension to the kinship group that owned it. Ochieng,<sup>77</sup> found that under the Gusii communal land ownership system, land tenure rules were based on kinship. These rules were universally understood, and obeyed by everyone, to the extent that no one dared to interfere with land that was temporarily left fallow. The key rules in Gusii land ownership were: respect for ancestral spirits, fencing, and eyewitness testimony of elders. As the Gusii are a patriarchal society, it was crucial for the male line of succession to remain unbroken. Women's claims to land were entirely based on their matrimonial links to families and lineages.

Women in Gusiiland, like most African women in customary tenure systems, have only secondary or use rights to their husband's land. Different from the above studies, this current study aims at understanding how women responded to such kind of subordination. Additionally, the foregoing literature is vital to the researcher as it

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<sup>75</sup> Nyanchoka, J. (1984). *The Law of Succession Act and Gusii Customary Law of Inheritance*. M.A. Thesis. Nairobi: University of Nairobi.

<sup>76</sup> Monyenyerere, S. (1977). *The Indigenous Education of the Abagusii People*. M.A. Thesis. Nairobi: University of Nairobi.

<sup>77</sup> Ochieng, W. R. (1974). *A Pre-colonial History of the Gusii of Western Kenya, c. 1500-1914*. Nairobi: East African Literature Bureau.

provides knowledge of how land was administered in the pre-colonial period. However, it is evident that in indigenous tenure system women have been invisible, but little attention has been paid to women's responses to their land access rights, use and control.

### **1.9.2 The Impact of Colonial Land Policies on Gender Relations**

This section focuses on the impact of colonial land policies on gender relations from 1920 to 1970 with an aim of creating understanding of women's responses to land rights, ownership, access and control in Kisii. Njoki<sup>78</sup> maintains that African women in the past and even, to a significant extent, the present were and are responsible for finding water, sowing seeds, tilling, harvesting, caring for the animals, keeping the home in order, feeding the family, caring for the children and so on. When colonialists moved into Africa from Europe, they claimed the land that had been cared for and cultivated by these women. The women were suddenly alienated from what had, for so long, defined them and their role in society. This had huge impacts on their economic situation as well as their access to food. However, more than this, it also made these women more dependent on the men in their society, which led to a sense of male supremacy and dominance, and a loss of the female identity, to some extent.

Musalia's<sup>79</sup> study on gender relations and food crop production in Kiambu district Kenya, 1920-1985 found that the colonial control of the land meant a limited access to available terrain, which implied that women had less diversity in terms of the types of soils available and the crops that could be cultivated. The amount of land made available to them was drastically less than before, limiting their agricultural yield significantly. Musalia found out that the colonial government was biased against

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<sup>78</sup> Njoki, W., (2003). Embu Women, Food Production and Traditional Knowledge (online) Available at [www.amazon.com](http://www.amazon.com)

<sup>79</sup> Musalia, M. W. (2010). Gender relations and food crop production: a case of Kiambu district Kenya, 1920-1985



African women because it had a pre-conceived idea of what an African woman was supposed to do, because they were guided by the Victorian ideology that relegated women into the domestic domain. It is this preconceived idea of the place of women that made colonial authorities ignore African women's role in active economic production. Further, the colonial government also wanted women to continue to engage in domestic production to subsidize or cater for the rural reproduction of male labourers.

During the colonial period, the states formulated economic policies that had differential effects on various categories of men and women and, therefore, had implications on gender relations. The African and European forms of patriarchy intermingled to form a new system of patriarchy.

Tignor<sup>80</sup> in his study on colonial transformation of Kenya, found that 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. The newly introduced individual land tenure system destroyed women's access and young men's rights of land inheritance. Land consolidation reduced landholding that could be put under cultivation. This in turn affected the sector of food crop production greatly altering gender relations of production. The independent government did not deviate from the colonial policy on agricultural production. It continued to give attention to exportable products, for instance coffee and tea, but with continual scarcity of land, Kikuyu of Kiambu moved into horticulture. All these agricultural developments impacted on gender relations. The gender analysis here is

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<sup>80</sup> Tignor, R. L. (1974). *The Colonial Transformation of Kenya: the Kamba Kikuyu and Maasai from 1900-1939*. Princeton: Princeton University Press.

thus paramount in this study as it will help in giving most appropriate theoretical perspective to the study.

Colonialism and capitalism became sources of women's oppression especially in economic production. In his study, Throup<sup>81</sup> examines the economic and social origins of Mau Mau paying particular attention to Kikuyu agriculture after the Second World War. The author argues that problems associated with agriculture especially land ownership and deteriorating soil fertility contributed significantly to the outbreak of Mau Mau. However, Throup did not give gender relations considerable attention. It is, however, the contention of this study that policies introduced during the war and in fact the whole of colonial period had differential impact on men and women not only in Kiambu District but also in Gusiiland, which is the focus of this study.

Trinh and Minh-ha<sup>82</sup> posited that the gendered division of labour in developing countries is the outcome of a long history of colonialism. Under colonialism, women's traditional contributions to food production were undermined in favour of exportable crops, such as coffee, and the extraction of raw materials, such as minerals. Men workers were favoured in this work, but they were paid barely enough for their own subsistence. Women family members had to provide food for themselves and their children, but with good land confiscated for plantations, they also lived at a bare

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<sup>81</sup> Throup, D. (1988). *Economic and Social Origins of Mau Mau 1945- 1953*. London: James Currey.

<sup>82</sup> Trinh, T. Minh-ha. (1989). *Woman, Native, Other: Writing Post-coloniality and Feminism*. Bloomington: Indiana University Press. This led to an intensification of domestic patriarchy, reinforced by colonial social institutions. The first socio-political effect of colonialism was the concept of the Victorian woman which the colonisers brought with them. The colonialists came with the belief that women were to remain creatures of the private domain. Women were to preoccupy themselves with domestic issues and leave the 'real work' of ruling and running the nation in terms of politics and economics in particular to the men. Male migration profoundly affected women especially in rural areas.

survival level. However, African women employed their own agency and initiative against any measure that was oppressive,<sup>83</sup> and hence transformed gender relations.

Trinh and Minh-ha further noted that women were affected by the alienation of land experienced by most Africans. Nonetheless, women appear to have been more economically dependent on men. In Tanganyika, male migrancy nearly halved the male population such that there were nearly twice as many women as men. The removal of males from African society led to the destruction of the African family. Households no longer had father, brother, uncles and nephews thus leaving a void where the male used to reside. Male participation in their traditional roles in ceremonies, rites and rituals was distorted.

As colonialism progressed, African patriarch's and the colonial government to a certain extent, attempted to restrict movement of women in a bid to control their sexuality. As Zeleza<sup>84</sup> explains, 'colonial policy pushed men into migrant labour leaving women stranded in the rural areas with an increasingly onerous workload. These women had little chance of waged employment in town where opportunities to earn money existed.' As a result, more women migrated to urban areas but were met with stiff opposition in the form of disapproval of African patriarchs in particular. Both the patriarchal system and colonial officials disliked female migration because they felt it came with collateral responsibilities.

Walker<sup>85</sup> avers that the bias against African women was generally in British Africa, because the British viewed women from a European perspective. In particular, the British were influenced by the Victorian idea of an "ideal" woman as one confined at

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<sup>83</sup> Presley, A. C. (1986). Labour Unrest Among Kikuyu Women in Colonial Kenya in *Women and Class in Africa* (eds.) Robertson Claire and Berger Iris New York, London, Africana Publishing Company.

<sup>84</sup> Zeleza, T. (1992). The colonial Labour system in Kenya. *An Economic History of Kenya* (eds.) Ochieng' W.R. and Maxon R M.

<sup>85</sup> Walker, C. (1990). *Gender and the Development of Migrant Labour System c. 1850-1930*. Walker Cheryl (ed) *Women and Gender in Southern Africa to 1945*. London: James Currey.

home with little or no participation in production. African patriarchs were particularly concerned with controlling women's movement and thus, sexuality for a number of reasons. Firstly, they wanted to retain the purity of their clan. When women moved away from home, the patriarchs had less control over whom the women married or cohabited with. Thus, African males wanted to keep women under their noses so as to ensure endogamous marriage by the women.

Secondly, African patriarchs discovered that if women left home and got married in new areas of residence, the groom often did not pay the bride-wealth. Since there was no social pressure on couples in urban areas to pay bride wealth, African patriarchs began losing a great deal of income in the form of unpaid bride wealth. Therefore, African patriarchs became preoccupied with controlling female mobility. The colonial administration also became concerned because some African men left their employment early due to domestic problems that arose in the form of accusations of adultery and wives leaving them for other men. This caused the colonial administration to assist the African patriarchs (initial) mutual benefit.

In Zimbabwe, McClendon<sup>86</sup> found that the administration passed Ordinances and Laws such as the 1926 adultery ordinance which applied to married women and the 1929 Native Affairs Act, which applied to prostitutes, in an attempt to, 'assist the kraal native to control their women'. However, it must be noted that the colonial administration was not very serious in their attempts to control the movement of women due to the observation that the men were more productive when he had his wife or a female companion around. Nonetheless, rural women's mobility was constrained thus, limiting the social freedom they used to enjoy. In the past women

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<sup>86</sup> Thomas V. M. (1995). Tradition and Domestic Struggle in the Courtroom: Customary Law and the Control of Women in Segregation-Era Natal. *The International Journal of African Historical Studies* Vol. 28, No. 3, pp. 527-561.

had participated in activities that required quite a bit of movement. Colonialism caused some women to lose the freedom they once enjoyed.

In Tanzania, Hyden<sup>87</sup> observes highlight that in 1963, the role of traditional chiefs was abolished, clearing the way for the rural revolution vijiji, which saw two-thirds of the rural population resettled via administrative fiat into nucleated villages. However, the collapse of the rural economy in early the 1970s led to the formulation of the New Agricultural Policy in the 1980s, and the Economic Recovery Programme, heralding a process of liberalization. Despite these changes, women were not given priority in the formulated land policies, hence the need for the current study to fill this gap.

Due to the Victorian concept of women held by the colonialists and embraced by the African male, women were excluded from the new political and administrative system. In the past, most African societies had a dual sex political system which allowed for substantial female representation and involvement in governance and administration. The position of Queen mother seen across Africa in Ghana among the Akan, Egypt, Uganda, Ethiopia and Rwanda to name but a few, gave women prominent and visible political authority in running the nation.

However, the chauvinist and misogynistic colonial officials made no provisions in the initial administrative design. It is often only with women protests as was the case of the Aba women's war and the actions of Mekatilili wa Menza, that a meagre number of woman's positions were created in the colonial set up. This marginalisation of women led to an erosion in the position and influence of women in society. As this new status quo was maintained, African men actually began to believe that women were incapable of leading the nations. This erroneous opinion is still held by many

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<sup>87</sup> Hyden, G. (1980). *Beyond Ujamaa in Tanzania: Underdevelopment and an Uncaptured Peasantry*. London: Heinemann.

Africans to this day and is reflected in the meagre number of appointments women receive to parliament and ministerial positions.

In Kenya, the Government <sup>88</sup> pointed out that there was need for sovereignty over land occupied by indigenous Kenyans and legislation of laws to protect their expropriated interests whereas destroying the customary arrangements. This came in three phases; first the colonial government on December 13, 1899 expropriated all productive land not formerly held by the Sultan Arabs. This was followed by the colonial government promulgating an ordinance in 1908 in the ten mile coastal strip formerly held by the Sultan Arabs requiring individuals with interests in this land to make a claim thereof. Lastly the colonial government created native reserves to facilitate simpler and more efficient control and administration of ‘natives’.

For instance, some parts of Laikipia, Rift Valley, and Mau Escapements were apportioned to the “White Settlers” by the colonial Government for industrial farming activities on the theory of “waste land”. Some of the indigenous communities (the natives) that were living on such lands were consequently turned into squatters through some technical resettlement schemes. Lots of persons that lost their lands were forced to live in designated locations with home-guards that would ensure that former would not create any undesirable disturbances.<sup>89</sup>

1954 saw the ‘Swynnerton Plan’ to ensure ‘Intensification of Agriculture’ to destroy African land tenure systems and ensure conversion to systems of individualised tenure arrangements.<sup>90</sup> Its effect was the delegitimisation of the customary land order, legal systems and structures. The Plan also introduced individualized and absolute title to

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<sup>88</sup> Government of Kenya, (2002). Report of the Commission of Inquiry into the Land Law System of Kenya on Principles of a National Land Policy Framework, Constitutional Position of Land and New Institutional Framework for Land Administration. Government Press, Nairobi, Kenya.

<sup>89</sup> Ibid.

<sup>90</sup> Swynnerton, R. J. M. (1955). A Plan to intensify the Development of African Agriculture in Kenya. Nairobi, Kenya: Government Printer.

land.<sup>91</sup> The Plan placed the women in a precarious economic state. For instance, men were accorded absolute rights over land through the registered land statutes. Particularly, the Registered Land Act, which actualized the Swynnerton Plan, insulated the rights men gained through the adjudication, consolidation, and registration process by vesting them with absolute ownership of the land. Consequently, the proposed policy failed to acknowledge even the derivative rights of women to land.

The establishment of absolute ownership was validated by the Registered Land Act (RLA), which destroyed a married woman's ability to claim and protect her interests or rights to matrimonial property.<sup>92</sup> While in communal land tenure systems, women had significant indirect access and rights to use communal resources through their roles as household managers, they were further excluded when land tenure was individualized and invariably adjudicated and registered in the name of heads of households or men. Without legal and social/communal protection, women were at risk of suddenly becoming landless. The wars for independence were caused by the question of rights over land<sup>93</sup> which had been unjustly apportioned to the "White-Settlers" by the colonial regime. The British did not take sufficient regard of customary land tenure and particular rights to land proprietorship meant for the African population.

Esese,<sup>94</sup> focusing on the role of social economic, ecological and political factors in agricultural production among the Wanga, with attention to the role of land tenure

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<sup>91</sup> Ibid.

<sup>92</sup> Okoth-Ogendo, H. W. O. (1989). Some Issues of Theory in the Study of Tenure Relations in African Agriculture, 59 Africa 6.

<sup>93</sup> Newsinger, J. (1981). Revolt and Repression in Kenya: The "Mau Mau" Rebellion, 1952-1960. 45 Science & Society 159.

<sup>94</sup> Esese, D. (1999) "Kenya's Economic Policy Since 1945" in Aseka, M. (Ed.) (1999) The Political Economy of Transition: A Study of Issues and Social Movement in Kenya Since 1945. Nairobi: eight Publishers.

system in agricultural production and change, analyzed land ownership, crop production and livestock keeping through an integrated approach. Although his work ends in 1945, it is vital to this study for it gives information on the type of lands in Wanga which will be compared to the type of lands in Gusiiland.

The interplay between the system of land ownership and crop production cannot be well analysed while ignoring gender and labour relations in a given society. Since gender relations are the distinctive social relations between men and women, research works in gender relations during the colonial and post-colonial period can therefore not be ignored in this study. Stichter<sup>95</sup> found that among the Abagusii, it is women who were primarily responsible for food production, household management and the nurture of children.

Ndeda<sup>96</sup> has shown how colonialism was discriminatory to the African woman and how women were overburdened in the reserves in the absence of their labour migrant male folk. Women became the sole agricultural producers in the reserves. They planted, weeded, harvested, stored and managed their food harvests in the absence of men. Her work offers more insights in gender relations within the Gusii context on how gender labour relations have impacted on the system of land ownership, access and control.

Omwoyo<sup>97</sup> analysed the organization and transformation of agriculture among the Gusii of Western Kenya in the colonial period. He demonstrated that the dynamism and innovativeness of Gusii indigenous agriculture showed its efficiency and productiveness. He further demonstrated how the colonial penetration modified and

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<sup>95</sup> Stichter, S. (1975-76). Women and Labour Force in Kenya, 1895-1964. In *Rural Africana* 29

<sup>96</sup> Ndeda, M. (2002) *Women and Development since Colonial Times* in Ochieng, R (Ed.) *Historical Studies and Social Change in Western Kenya*. Nairobi: East African Educational Publishers

<sup>97</sup> Omwoyo, S. M. (1992) "The Colonial Transformation of Gusii Agriculture" M.A.Thesis, Kenyatta University: Nairobi.



marginalized the Gusii land's indigenous agriculture. Nonetheless, he attributes this transformation to colonialism. His work is relevant to this study in that it recognizes the impact of land ownership on crop production from gender lenses. Moreover, Omwoyo<sup>98</sup> points out that the women in Gusii land adopted several approaches to counter the impact of coffee production on labour relations. First, they deliberately intensified their own labour. As they were forced to undertake duties of their absent husbands, offer their labour in coffee farms, and perform their own domestic chores, women had no alternative other than to work a little more and longer than before. Secondly, they used the working parties more than before. The working parties went around soliciting for jobs to do in rich farmers' coffee holdings with an intention of being paid cash.

Thirdly, they sought for employment locally in the rich men's coffee Shambas as individuals. This meant working for their employer in the morning hours and working on their own holding late in the afternoon. The fourth strategy employed by the women to cope with their continued marginalization from the cash crop economy was to increase production of profitable crops within their reach. Such women established vegetable gardens and were often seen selling vegetables in market places on appointed market days. Lastly, women formed small scale cooperatives or merry-go-rounds to raise the required capital. The present study benefits from this work when investigating gender relations and labour changes during the colonial period.

Maxon<sup>99</sup> notes that private land ownership was brought to Gusii in the early 20<sup>th</sup> century, by the British colonial administration. It was a consequence of the colonial administration's own unequal land policies, in which the settlers expropriated land by

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<sup>98</sup> Omwoyo, S. M. (1997) 'Women and Agricultural Production among the Gusii c. 1875-1963, *The Eastern Africa Journal of Historical and Social Sciences Research*, Vol .2 No.1.

<sup>99</sup> Maxon, R. (2003). *Going Their Separate Ways: Agrarian Transformation In Kenya, 1930-1950*. London: Associated University Presses.

force, to the detriment of Africans, and designed to facilitate European modes of production (for commercial purposes). He further postulates that the effect of this on women's economic status was to move them from a position of self-sufficiency to one of relative dependency resulting in the loss of their socio-economic power. As more land was reserved for cash crops, women became increasingly reliant on cash to buy food they could no longer produce and turned their labour to cash crop production, the monetary benefits of which were reserved for men.<sup>100</sup>

Nasimiyu<sup>101</sup> assessed the change in land tenure, innovations and the introduction of cash crops in Bungoma between 1902 and 1960. Her argument is that the changes brought about by agricultural innovations, introduction of cash crops and changes in land tenure and crop production reduced women to a state of dependency on men. She further adds that women ended up becoming the providers of labour with no security. Her work establishes that women continued to perform their traditional agricultural chores and at the same time participated in the new colonial system of production. Although her work tackles the pre-colonial and colonial period, she majored on the production process while this study deals with both the system of land ownership and crop production.

Fortmann and Riddell<sup>102</sup> lament that colonialism had profound effects on African tenure systems by introducing the notions of individual and state ownership of land in a bid to promote economic development. Okoth-Ogendo<sup>103</sup> claims that the Torrens title system based on statutory registration and ownership of individually demarcated

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<sup>100</sup> Nasimiyu, R. (1985). Women in the Colonial Economy of Bungoma: Role of Women in Agriculture, in G.S. Were (ed.) *Women and Development in Africa*, 56-73.

<sup>101</sup> Nasimiyu R. (1985). Women in the Colonial Economy of Bungoma: The Role of Women in Agriculture 1902-1960. *Journal of Eastern Africa Research and Development* No. 15.

<sup>102</sup> Fortmann, L. & Riddell, J. (1985). *Trees and Tenure: An Annotated Bibliography*.

<sup>103</sup> Okoth-Ogendo, H. W. O. (1989). Some Issues of Theory in the Study of Tenure Relations in African Agriculture, *59 Africa* 6.

plots was introduced to replace pre-existing customary notions of land ownership. However, still men dominate in land rights, and women had no place. This current study aims at examining women's responses in regard to this.

Leys<sup>104</sup> asserts that the latter have, however persisted and have been informed in practice by the introduced system. Thus, Bentsi-Enchill<sup>105</sup> avers that the defects of African systems of land tenure have arisen from the fact that these systems have been left to informally adapt to changed circumstances.

Tanui<sup>106</sup> observed that land reform was also seen as a strategy through which the political status quo would be preserved and enforced. The agitation for land among the African population had challenged the cornerstones of colonialism by calling for the restoration of stolen lands. Land consolidation and registration was therefore seen as an asset that could be used to reward the loyalists and to punish the agitators. She further noted that the adjudication process itself was premised on the patriarchal nature of African societies and on the customary practices of land ownership and inheritance which did not allow women to own or inherit land.

In addition, she investigated the impact of changing relations in access to resources due to negative political, cultural and social factors which influenced gender relations of production in Kenya and Nandi district in particular. Her study has shown that political, social and ideological factors interacted in a complex manner and over time influenced gender access to land, control over labour and produce in the Nandi society. This study benefits from her work by investigating women's response during land consolidation in the study area.

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<sup>104</sup> Leys, C. (1975). *Underdevelopment in Kenya: The Political Economy of Neo-colonialism 1964-1971*. Nairobi: East African Education Publishers.

<sup>105</sup> Bentsi-Enchill, K. (1966). Do African Systems of Land Tenure require a Special Terminology? *9 J. AFR. L.* 114-139.

<sup>106</sup> Tanui, P. (2005). 'The Impact of Differential Gender Access to Resources in Agricultural Production: The Case of Nandi District, 1954-2000. Ph.D. Thesis, Kenyatta University.

The colonial government had passed the Forfeiture of Lands Ordinance, 1953; its invocation resulted in many Mau Mau fighters and supporters being forced to forfeit their land as a punishment for their allegedly terrorist activities. The reforms came via the recommendations made by R.J.M. Swynnerton<sup>107</sup>:

“Sound agricultural development is dependent upon a system of land tenure which will make available to the African farmer a unit of land and a system of farming whose production will support his family at a level ... comparable to other occupations. He must be provided with such security of tenure through an indefeasible title as will encourage him to offer it as security against such financial credits as he may wish to secure.”

The gist of land reform was the individualization of title. The process would start with adjudication in which ownership of fragmented parcels of land would be ascertained. Downs<sup>108</sup> studied the Kenya land tenure reform particularly misunderstandings in the public creation of private property. He affirmed that land reform adversely affected women's land rights. Women were neither represented in the adjudication committees nor did they participate in the adjudication committee meetings.

Further, Okoth-Ogendo<sup>109</sup> found that the patriarchal setting overlooked the strong socio-economic status and positions of power that women enjoyed in traditional African societies by giving precedence to individual ownership of land vested in male heads of households without reserving any rights for women. These literature gives the researcher an understanding of how women were undermined in the land usage rights, but also their responses to oppression by men.

Among the Taita of Kenya, the system of tenure and agrarian reforms introduced in the late colonial period and continued under independence legitimizes and makes

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<sup>107</sup> Swynnerton, R. J. M. (1955). *A Plan to intensify the Development of African Agriculture in Kenya*. Nairobi, Kenya: Government Printer.

<sup>108</sup> Downs, R. E. (1988). The Kenya Land Tenure Reform: Misunderstandings in the Public Creation of Private Property, in *Land and Society in Contemporary Africa*, 98.

<sup>109</sup> Okoth-Ogendo, H. W. O. (1975). The Adjudication Process and the Special Rural Development Process. Unpublished Occasional Paper no. 12, Institute of Development Studies, University of Nairobi.

permanent existing inequities in land distribution with the effect that women's ability to make independent decisions in agriculture has been jeopardized.<sup>110</sup> The registration of title in men's names almost exclusively ensured that women did not participate in any credit or loan facilities owing to their lack of collateral and had to rely on their husbands for money to invest in food crop production. Finally, the destruction of African institutions like the *ahoi*, *athami* and the *jodak*, which ensured that everybody had access to land, and the deliberate efforts of the colonial administration to create a landless class through individualization of titles not only adversely affected the rights of women to land ownership but also vicariously affected the rights of women to access to land.

Downs<sup>111</sup> found that the wives of the landless, having no traditional social organizations to rely on for access, found themselves sorely dependent on limited cash resources for their survival. With the introduction of cash crop farming, a money economy was brought into play and land use patterns and objectives were transformed. Increasingly, it became more profitable in terms of acquiring money, to grow cash crops instead of food crops. The weakness of this study is, it doesn't show how women benefited in this context.

Leys<sup>112</sup> reports that in the Sessional Paper No. 4 of 1981, the Kenya government acknowledged that the country was facing serious food shortages after experiencing famine in the late 1970s and early 1980s. Despite the fact that domestic production was viewed as the best way forward, specific policy was not formulated on how to approach the main food producers-women. Moreover, the government did not

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<sup>110</sup> Flueret, A. (1988). Some Consequences of Tenure and Agrarian Reform in Taita, Kenya, in R.E. Downs & S.P. Reyna (eds.). *Land and Society in Contemporary Africa*.

<sup>111</sup> Downs, R. E. (1988). The Kenya Land Tenure Reform: Misunderstandings in the Public Creation of Private Property, in *Land and Society in Contemporary Africa*, 98.

<sup>112</sup> Leys, C. (1975). *Under-development in Kenya: The Political Economy of Neo-colonialism 1964-1971*. Nairobi: East African Education Publishers.

concede to the fact that both men and women contributed differently in food production. The government also continued to give more focus to grains especially wheat and maize ignoring other food crops.

It can be argued that this policy was tantamount to a continuation of the colonial policy. It will be noted that the colonial government was keen on expanding maize production both for export and subsistence while ignoring traditional food crops since they did not have a market value that could boost the colonial economy. It was only after spells of food shortage that Africans were encouraged to grow drought resistant crops like cassava. The present study seeks to find out if the women in Kisii waited upon the government's encouragement to produce food.

Agrarian land tenure reforms facilitated further limitations to land access as land previously used for food crops was planted with cash crops. Women therefore, lost the right of ownership of land and also lost access in terms of control of land use. The reforms therefore, resulted in the deterioration of women's land rights. They destroyed the social structure through which women's economic power and stability were guaranteed and maintained and introduced a new structure which neither reserved nor guaranteed any rights for women in return for what they had lost. From the above analysis, the researchers do not show the significance of women in the agrarian sector and land tenure reforms. Furthermore, Maxwell and Wiebe<sup>113</sup> affirm that it is on this basis that there is lack of gender sensitive and integrated research on land tenure and food security. Therefore, there is an increasing interest to investigate the implications of gender relations in land tenure systems with a particular focus on Gusiiland.

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<sup>113</sup> Maxwell, D. and Wiebe, K.; Land Tenure and Food Security: Exploring Dynamic Linkages; Development and Change; 30(4):825–849; 1999.

Kitching's<sup>114</sup> class and economic change in Kenya with attention on Central and Nyanza provinces advances the argument that both ownership of land and access to off-farm income caused differentiation. He concludes that increased women's agricultural labour was significant in the agricultural expansion in Kikuyuland. Kitching's work is significant to the current study for he examines the impact of colonial economic policies on what was Central Kenya.

Kitching argues that both ownership of land and access to off-farm income caused differentiation. He concludes that increased women's agricultural labour was significant in the agricultural expansion in Kikuyu land Kitching's work is significant to the current study since he examines the impact of colonial economic policies on land ownership and access in Central Kenya. A similar study with gender interest will be explicated in Gusii land.

In Western Kenya, Makana's<sup>115</sup> metropolitan concern, colonial state policy and the embargo on cultivation of coffee by Africans in colonial Kenya: the example of Bungoma District, 1930–1960, revealed that the widespread involvement of African peasant households in the cultivation of a high-value cash crop-coffee-in Kenya dates back only to the mid-1950s. However, this late inclusion of African households in coffee cultivation did not imply their lack of enthusiasm to cultivate the crop from an earlier date. On the contrary, European settlers and some officials of the Department of Agriculture, thwarted the aspirations of African households regarding their being permitted to cultivate coffee. The overall view was in favour of the continued imposition of an embargo on African coffee cultivation. Makana demonstrates that

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<sup>114</sup> Kitching, G. (1980). *Class and Economic Change in Kenya: the making of an African Petite Bourgeoisie*. New Haven and London: Yale University Press.

<sup>115</sup> Makana, N. (2009). Metropolitan Concern, Colonial State Policy and the Embargo on Cultivation of Coffee by Africans in Colonial Kenya: The Example of Bungoma District, 1930–1960. *History in Africa*, 36, 315-329. doi:10.1353/hia.2010.0007

when colonial state policy shifted due to metropolitan and local pressure in favour of African household involvement in coffee cultivation, the African peasants proved themselves to be efficient cultivators of the crop. The major weakness of this study is that it does not show how both men and women were involved in coffee production, thus, the need for the current study.

Throup<sup>116</sup> finds that the population explosion that took place in Gusiiland, which is the focus of this study during the colonial and post-colonial periods, resulted in increased land fragmentation. Before independence, in the late 1950s, a single household's (12 people) plot of land was less than 2 hectares (2 ha) and maize replaced finger millet as the main staple crop. The increasing popularity of cash crops also contributed to the decline of food production, to the extent that by the end of the 1960s, food crops only accounted for 25% of cultivated land in Gusii.

There is no hesitation that colonial periods dramatically transformed the gender relations in land. The resolution imposed by the colonial system aimed at intensifying agriculture and introducing cash crops with emphasis upon male controlled agriculture was a primary determinant of Gusii women's loss of status and power in land and agriculture. The end result of colonial private enterprise was the restructuring of gender roles. The introduction of cash crops for export brought about greater gender segregation in labour tasks with men increasingly becoming agricultural managers. It is essential to understand that given the labour division, Gusii women were the backbone of rural farming.

The foregoing literature on colonial land policies and their impact on issues relating to gender were useful to this research as it enabled the researcher to compare the

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<sup>116</sup> Throup, D. (1987). "The construction and destruction of the Kenyatta state," in *The Political Economy of Kenya*. Michael G. Schatzberg ed: Praeger



traditional land tenure system with the modern land tenure system and as a consequence interrogate how the land laws introduced during the colonial periods impacted on gender in ownership and control of land.

Gutto posited that women had virtual control and monopoly of crop production which led to them having rights to land they controlled for maintenance of their households.

<sup>117</sup> It is obvious that women's status in their agricultural productive tasks was secure under traditional land tenure system until the Colonial Land Policies introduced legislative programmes designed to replace the traditional land tenure system. One may cautiously conclude, therefore, that land tenure systems in Sub-Saharan Africa particularly Gusii land cannot be blamed for the Agrarian crisis.

In spite of these result, pressure is still being mounted on the countries of Africa to pursue land tenure reforms. In the meantime, little attention is being paid to the gender consequences, including the disruption of social order, that accompany these reforms. Most studies on land continue to focus on implications of the reforms for agricultural production and ignore gender relations to land rights and ownership. Most of the above studies ignore gender struggles around the control of land and their relation to changing tenure systems. It is this gap in literature which this study was designed to fill by focusing on gender in relation to land ownership and control in Gusii land. This study takes a standpoint that land is only significant in so far as it lends itself to human use and presents certain opportunities for human utilization. It sought to demonstrate a fresh approach to disposition of land, and women the main players, within the individualized tenure system in Gusiiland, Kenya between 1920 and 1970.

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<sup>117</sup> Gutto, S. B. O. (1975). Gutto, Land and property rights in modern constitutionalism: Experiences from Africa and possible lessons for South Africa in Wanjala.

### 1.9.3 Land Tenure in Relation to Gender in the Post-Colonial Period

This section focused on gender rights in relation to land and ownership in the post-colonial period with an aim of creating understanding of women's responses to gender relations and land rights. Chigbu, Paradza, and Dachaga<sup>118</sup> on differentiations in women's land tenure experiences and implications for women's land access and tenure security in Sub-Saharan Africa, aver that the study of gender is essential for grasping tenurial and structural transformation and the organization of land rights globally, as gender relations shape women's tenure security status.

After the colonial period, Lele and Meyers<sup>119</sup> found that in the post-independence period in most African countries including Kenya there were substantial increases in agricultural productivity, especially in the smallholder sector. Agricultural GDP grew at annual rates between 5.4% in 1967-1973 including land tenure reform. Adoko and Levine<sup>120</sup> posit that land distributions, formalization of individual land rights, and subsequent land transactions frequently vested titles to land in the head of the household only. These were most often men, according to patrilineal custom, and this vesting shifted the traditional concept of what it means to have rights to land. Therefore, the man as an individual, rather than as the responsible representative of his family, has become the person with all the authority to use, sell, and control land.

In countries such as Nigeria, Zimbabwe and Ghana, national laws and policies were formulated to empower women in land ownership, access and tenure security.

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<sup>118</sup> Chigbu, U, Paradza, G and Dachaga. W. (2019). Differentiations in Women's Land Tenure Experiences: Implications for Women's Land Access and Tenure Security in Sub-Saharan Africa.

<sup>119</sup> Lele, U and Meyers, L. R. (1989). Growth and Structural Change in East Africa – Domestic Policies, Agricultural Performance and World Bank Assistance, Washington D.C., World Bank. Managing Agricultural Development in Africa (MADIA) Discussion Paper No. 3

<sup>120</sup> Adoko, J, & Levine, S. (2005). "A land market for poverty eradication? A case study of the impact of Uganda's Land Acts on policy hopes for development and poverty eradication." Land and Equity Movement in Uganda.

However, in Nigeria, report by Federal Government of Nigeria<sup>121</sup> documented that the Land Use Act and National Gender Policy were formulated, and while advocating for women property rights failed to identify differences in women. These laws, which are central to land and women's issues in the country, ignored the different circumstances under which women experience land tenure insecurity.

In Ghana, the Draft Land Bill<sup>122</sup> was criticized for not containing clauses that explicitly protect women's customary and spousal land rights, especially where customary rules discriminate against women tenure rights. A simple search for the term "women" in the Ghana National Land Policy<sup>123</sup> and the Draft Land Bill<sup>124</sup> returns no results, let alone providing for differentiations in women land issues.

Yemisi and Aisha<sup>125</sup> opine that women in colonial and post-colonial periods contribute tremendously to agricultural output but unfortunately they hardly, until recently, benefited from agricultural incentives and innovation because of economic suppression and social and traditional practices which undermine the constitutional provisions on the equality of men and women. The authors further lament that gender discrimination, rather than ignorance, is the reason for the lack of women participation in agricultural programmes and projects.

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<sup>121</sup> Federal Government of Nigeria (2008). National Gender Policy Strategic Framework-Implementation Plan) Federal Republic of Nigeria 2008–2013; Federal Republic of Nigeria: Abuja, Nigeria.

<sup>122</sup> Government of Ghana. (2016). Draft Land Bill. National Land Policy; Government of Ghana: Accra, Ghana.

<sup>123</sup> Ekejiuba, F. (1995). Down to the Fundamentals: Women Centred Hearth-Holds in Rural West Africa. In *Women Wielding the Hoe: Lessons from Rural Africa for Feminist Theory and Development Practice*; Bryceson, D., Ed.; Berg: London, UK,; pp. 47–61.

<sup>124</sup> Gray, L.; Kevane, M. (1999). Diminished access, diverted exclusion: Women and land tenure in sub-Saharan Africa. *Afr. Stud. Rev.* 42: 15–39.

<sup>125</sup> Yemisi I. O., & Aisha M. A. (2009). Gender issues in Agricultural and rural development: The role of women. In *Humanities and Social Sciences journal*, 4(1): 19-30.

Boserup<sup>126</sup> maintained that food production is mainly done by women in subsistence agriculture, with little contribution from the men. This notion is buttressed by Pala<sup>127</sup> who observed that the percentage of work done by women farmers far outweighs that of men in Kenya. Similarly, in Ghana, for instance, smallholdings kept by women provide about 80% of the total food production in the country. Despite this recognition, women are not given any consideration in land rights, ownership, access and control. The current study therefore fills this gap by seeking women's responses on gender relations and land rights in Gusii land.

In Zimbabwe, Mushunje<sup>128</sup> noted that the 1999 Draft National Land Policy of Zimbabwe sought to address gender issues in the country's reform, but with little success. It also failed to cater for women's differentiation in land issues. In all of these countries (Ghana, Nigeria, and Zimbabwe), the failures to address differential problems in women's land tenure lie in the fact that these laws (and policies) address land tenure inequalities from the perspective of men-and-women differences, while ignoring inter-gender differences in land tenure. This is the reason why this study focused on women responses to land rights, ownership, access and control.

Chigbu, Paradza and Dachaga<sup>129</sup>'s study in three sub-Saharan African countries confirmed that women are highly differentiated groups in their land access and tenure security experiences. This implies women are highly differentiated in their land tenure experiences within any system or sub-system of a society. Makura-Paradza<sup>130</sup> on women's land rights vulnerability in Zimbabwe concluded that the role of patriarchy

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<sup>126</sup> Boserup, A. (1970). *Women's Role in Economic Development*, London: George Allen and Unwin.

<sup>127</sup> Pala, A. O. (1976). *The role of African women in rural development research priorities*. Discussion Paper No. 203.

<sup>128</sup> Cousins, B, Winer, D & Amin, N. (1992). *Social Differentiation in the Communal Lands of Zimbabwe*. *Rev. Afr. Political Econ.*, 19, 5–24.

<sup>129</sup> Chigbu, U, Paradza, G & Dachaga. W. (2019). *Differentiations in Women's Land Tenure Experiences: Implications for Women's Land Access and Tenure Security in Sub-Saharan Africa*

<sup>130</sup> Makura-Paradza, G (2010). *Single Women, Land and Livelihood Vulnerability*; Wageningen Publishers: Wageningen, The Netherlands.

was sometimes overemphasised in studies of women's land rights vulnerability in the developing world. Chigbu<sup>131</sup> on Nigeria showed that the land challenges women face are sometimes as a result of suppression of women. In creating the Sustainable Development Goals (SDGs) agenda, the global community envisaged the critical role that secure land rights for women would play in the pursuit of gender equality and ending poverty in the world. However, this will be somehow difficult to achieve in Sub-Saharan Africa without an adequate grasp of women responses to land tenure security.

Staudt<sup>132</sup> in studying women and labour in agricultural production acknowledges that agricultural production has its historicity of change and gender relations of production. Using a gendered approach to study agriculture, she focuses on the implications of labour differentiation, incentives and struggles over resources for agricultural development. She argues that while many factors are attributed to the decline in food production in Africa, it is impossible to understand the food crisis without understanding the demands on women agricultural labour and women's stake in securing some return for that labour. Staudt further argues that male out-migration places more work on the rural women without individual access to the productive resources affecting production. She states that political arrangements favour men at the expense of women even though they are the majority of the food producers. Her arguments are enriching to this study. The impact of political arrangements on women's accessibility to land, ownership, control and usage was examined.

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<sup>131</sup> Chigbu, U. E. (2019). Masculinity, men and patriarchal issues aside: How do women's actions impede women's access to land? Matters Arising from a Peri-rural community in Nigeria. *Land Use Policy*, 81: 39–48.

<sup>132</sup> Staudt, K. (1976). *Agriculture Policy, Political Power and Women Farmers in Western Kenya*. (PhD. Michigan University).

On the Akan of Ghana, Tsikata<sup>133</sup> states that women labour was used both in colonial and independent period to transform Ghana into a cash crop producing state. She argues that pre-capitalist gender relations did not change with the introduction of capitalism, but increased interests of certain groups of African men. The assertion here is that there is a complex historical linkage between capitalism, patriarchy and the state, which needs to be understood. This argument on the linkage is relevant to the study of Gusii land especially in relation to the attempt by Gusii men to control women's movement during the colonial period.

Carney and Watts<sup>134</sup> work on rice growing among the Mandinka of Senegambia traced subtle and accumulative change in the domestic household relations. The expansion of rice growing by the government caused intra- household struggles over access and control over land and labour. Due to high demand for rice as the staple food, women were forced to put more labour into its production. Stress was further put on labour with the introduction of groundnut as a man's cash crop since it made men neglect the growth of millet and sorghum, crops they previously grew to complement their subsistence in their households. The introduction of groundnuts as a cash crop, therefore, transformed gender division of labour from task to crop-specific gender roles. They further argue that any state programme aimed at increasing rice production among the Mandinka ignited struggles over access and control over household resources including land. Carney and Watts, maintain that gender-based struggles over property labour and conditions of work were significant in the debate over agricultural intensification.

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<sup>133</sup> Tsikata, D. (1997). Gender Equality and the State in Ghana: Some Issues of Policy and Practice. *Engendering African Social Science* (ed). Ayesha M.Imam, Amina Mama, Fatou Sow, Codesria Book Series.

<sup>134</sup> Carney J. & Watts, M. (1991). Disciplining Women? Rice mechanization and the Evolution of Mandika Gender Relations in Senegambia. *Signs* vol. 16 (4).

Over the years, such struggles not only in Ghana but also in all colonial Africa shaped, and continue to shape, the character and the trajectory of gender relations in land access, use and control. The study of the Mandika shows that there was a correlation between gender relations and food crop production. Accordingly, changes in food crop production impacted on gender relations and at the same time, the changes in gender relations continue to affect food crop production. The findings of this study supplemented the current study by examining women responses on gendered decision regarding food crop production in Gusiiland. They further assert that household relations, especially conjugal, are affected by outside factors. For example, the organization of household around patriarchal power derives support from the state both through the bureaucratic demands of the state organization and through the devolution of power to men by state-run development schemes. Borrowing from the authors, this study examines how external factors influenced gender relations within the household. The issue of Gusii patriarchal power as it colluded with European patriarchy is discussed.

Bryceson<sup>135</sup> discusses the dynamic interaction between peasant food production and commodity production under conditions of increasing penetration of capital. The author asserts that increased commodity production had a direct link to the serious food shortage and even famines experienced in colonial Tanzania. Decline of food production was, therefore, a consequence of colonial policies that were aimed at restructuring African economies, to boost the colonial economy. The study of Gusii land examined the effects of gender relations in land rights and ownership to ascertain whether women's responses were considered in decision making processes.

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<sup>135</sup> Bryceson, D. F. (1980). Changes in peasant food production and food supply in relation to the historical development of commodity production in pre-colonial and colonial Tanganyika. *The Journal of Peasant Studies*. 281-311. Routledge

Bryson<sup>136</sup> (1981) asserts that though African women are the major food producers, they have been excluded from land ownership in the post-colonial period. He argues that ignoring women's land rights only worsens the food situation. Consequently, a historical investigation on individual access to land is imperative for proper understanding of one's ability in land access, control, ownership and usage.

Gellen<sup>137</sup> shares the same sentiments and sees this problem to be rooted in history and the oppression of women that was “reinforced by discriminatory ideological and systematic practices inherent in development policies”. Therefore, he calls for an examination of land policies both in colonial and post-colonial periods to ascertain their influence on gender relations to land access, control, ownership and usage, which is the focus of this study.

Mackenzie<sup>138</sup> examines agriculture in Murang'a District and pays attention to what she calls the politicization of soil conservation as a means of isolating Kikuyu agriculture from the wider political economy. He argues that changes that occurred in agriculture were not only class based but also gendered. The study is essential because it is based on the same academic interests in gender, a factor that encouraged interaction of information between the two regions.

Like Mackenzie, Davison<sup>139</sup> argues that gender relations to land in Africa have been modified over time by internal conquest and power struggles and by major intrusions from abroad. Studying land registration in Mutira and Chwele divisions in former Central and Western Provinces respectively, Davison asserts that the implementation

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<sup>136</sup> Bryson, J. C. (1981). Women and agriculture in sub-Saharan Africa: Implications for development (an explanatory note). *Journal of Development Studies*, 17: 29-46.

<sup>137</sup> Gellen, K. (1994) “Unleashing the Power of women Farmers. Africa’s Vast, Hidden Resource holds key to development” *African Farmer*, April.

<sup>138</sup> Mackenzie, F. (1990). Gender and Land Rights in Murang'a District, *Kenya Journal of Peasant Studies*, Vol. 17(4).

<sup>139</sup> Davison, M. J. (1987). Without Land we are nothing. The Effect of Land Tenure Policies and Practices upon Rural Women in Kenya, *Rural Africana*, 27.



of the Swynnerton Plan from the mid-1950s affected food production and caused tension in gender relations especially at the family level. This was because land registration negatively impacted on food crop production, which was a woman's sphere. Further, the household was impacted as the unit of production specifically addressing land policies and how they affected women's usufruct rights. She maintains that women's rights to land have been compromised over time by land policies that tend to favour men. Changes in the land tenure system influenced mechanism of decision-making in terms of the amount of land to be put under food crop cultivation. Davison maintains that the less the land an individual had, the more it was devoted to food crops and the bigger the land one had, the less was devoted to food crop production. Davison's study concurs with Tanui's study on the impact of differential gender access to resource on agricultural production in Nandi district - 1954-2000.

Njiru<sup>140</sup> dwelt on the effects of tea production on women's work and labour allocation in Embu district. She examined the sexual division of labour and its impact on gender relations among smallholder tea farming households of Embu district, and her study found out that, agricultural activities before the adoption of commercialized tea production in the area initiated social economic differentiations among households. These differentiations have been intensified by tea production. Consequently, labour prioritization to livestock, food production and other household activities is in acute competition with that directed to tea production. She found that, although tea production has increased women's workload generally, it has brought some advantage for some; most tea producing households have relatively more incomes than before,

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<sup>140</sup> Njiru, E. (1990). Effects of Tea Production on Women's Work and Labour Allocation in Embu District. M.A. Thesis, Nairobi University: Nairobi.

better housing, clothing and other amenities in their houses. Her work is vital when assessing gender differentiations after land reform.

Njogu<sup>141</sup> points out that most of the farmers in the tea producing areas devoted most of their land to tea production at the expense of food. In this research done in Kirinyaga, she found that tea producing households gave first priority to food whenever they received their money. The reason is that these households did not get enough food through home production and therefore had to purchase from the market. These changes in crop production that are a result of diminishing sizes of farmland can be understood intensively if the interplay between the system of land ownership and crop production can be put under intense examination.

Njoki<sup>142</sup> on Embu women food production and traditional knowledge, noted the participation of Embu women in the food cycle, their traditional techniques of food processing and how the techniques were informed by indigenous knowledge. She focused on the involvement of women in food crop production. The study indicates that, Embu women are involved in the food cycle all year round. The activities included clearing the land, planting, weeding, harvesting, food preservation, distribution, cooking and storage.

Among the Embu, crop cultivation was organized by gender. Men cultivated cash crops such as sugar cane, yams, and bananas. Women grew several kinds of potatoes, cassava, millet, vegetables, and legumes, such as cowpeas, pigeon peas, garden peas, kidney beans, white beans, and lentils. Women cultivated maize when it was used for home consumption. However, when maize was cultivated as a commercial

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<sup>141</sup> Njogu, E. (2002). Household Food Security and Nutritional Status of Children in Tea and Non- Tea Producing Households in Ndia Division Kirinyaga District. Unpublished Thesis: Kenyatta University.

<sup>142</sup> Njoki, W. (2003). Embu Women, Food Production and Traditional Knowledge (online) Available at [www.amazon.com](http://www.amazon.com)

commodity, it became a "male" (cash) crop and as such, both husband and wife cared for it. Njoki's study is valuable to the present one for it deals with the issue of women and food production in Embu. It, however, does not deal with the interplay between gender relations and the system of land ownership access and control, which the current study covers.

Bulow<sup>143</sup> is perhaps the only study that comes closer to the present study. He examines changes in gender relations among the Kipsigis of Kenya and argues that both men and women have different cultural ideas about gender, and this subsequently transforms production relations. He maintains that to understand how gender relations are transformed and how production relations are influenced, there is need to understand the pre-colonial setting. She asserts that complementarity and reciprocity between men and women that existed among the pre-colonial Kipsigis society has been replaced by women's structural economic dependence on men the latter's fear that women may try to be bigger than men. Bulow presents gender as an important category that helped structure production relations among the Kipsigis in the pre-colonial period.

Heyer<sup>144</sup> notes that both matrilineal and patrilineal systems reflected the culturally embedded norms, which give men land entitlements not generally open to women. This may be seen not only in inheritance, but in the division of labour, decision-making, control of income, livestock, and access to credit.

In post-colonial Kipsigis society, the gender division of labour made men and women mutually dependent regarding the exchange of products like labour and other services.

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<sup>143</sup> Bulow V. D. (1992). Bigger than Men? Gender Relations and their changing meaning in Kipsigis society, Kenya. *Africa* 62 (4).

<sup>144</sup> Heyer, J. (1975). The Origins of Regional Inequalities in Smallholder Agriculture in Kenya, 1920-1973" *Eastern Africa Journal of Rural Development* 8, 143.

However, colonialism brought change in the gender division of labour and hence production relations with regard to the introduction of maize as a cash crop. Women not only lost male labour inputs, but as the main producers of food crops, they no longer worked as autonomous producers but rather as unremunerated family labourers on their husband's farms. Bulow's work is of significance to this study because it gives a departure in examining the changing gender relations and land rights and ownership relations and how they have been affected in the post-colonial period in Gusiiland.

Kanogo<sup>145</sup> demonstrates Kikuyu women's understanding of their environment in an effort to meet their day-to-day subsistence needs. She argues that the colonial policies marginalized women especially with the alienation of land. Kanogo found that women have over time lost rights to land access. She does not, however, show how this has altered gender relations in food crop production or what has been the response of women.

Abbot<sup>146</sup> in her study of the socio-cultural and economic change of Kikuyu community in Kagongo in Nyeri District in the 1950s found that household relations had been affected. She concentrates on the effects of cash crops on women but omits the issue of gender relations in land rights and ownership. The extent to which gender relations are considered in land rights and ownership and control is necessary not only in Gusiiland but to the rest of the country.

Muchoki<sup>147</sup>, on the other hand, writes on the organization and development of Kikuyu agriculture in Kiambu between 1880 and 1920. He investigates the internal dynamics

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<sup>145</sup> Kanogo, T. (1989). Kenya and the Depression, 1929-139 in Ochieng' W.R. (ed) A Modern History of Kenya 1895-1980 Nairobi: Evans Brothers (Kenya) Limited.

<sup>146</sup> Abbot, S. (1974). Full-time Farmers and Weekend Wives: Change and Stress among Rural Kikuyu Women. (PhD, Thesis, North Caroline University).

<sup>147</sup> Muchoki F. M. (1988). Organisation and Development of Kikuyu Agriculture 1880-1920. (M.A. Thesis, Kenyatta University).

and innovative changes that characterized Kikuyu agriculture in that period. He analyses how the Kikuyu agricultural system functioned in order to understand how it was transformed during the period under study. Muchoki's study is valuable to the present one for it deals with the issue of pre-colonial agriculture in Kiambu. It, however, does not deal with gender relations of production which the present study targets. Muchoki's study ends in 1920 when Kenya became a British colony. It is certain that great historical change in gender relations of production was experienced with the entrenchment of colonial economy especially between 1920 and 1970.

It is thus evident from the three clusters of literature reviewed above that while a number of studies have addressed Gusiiland gender relations and land rights, none has specifically dealt on women responses and the changing gender relations in Gusiiland. Therefore, there is need to examine how gender relations have been altered and what effect this has had on land rights, ownership and control. Specifically, what changes have occurred with regard to gender relations and land access, ownership control and usage as an important aspect in women empowerment because previous historical studies have not tackled gender as an important analytical category. The study is equally important to gender studies bearing in mind that they are not well grounded in Kenya's academia.

## **1.10 Theoretical Framework**

### **1.10.1 The Property Rights Theory**

Furubotn and Pejovich<sup>148</sup> assert that property rights define the nature of sanctioned human behavior. Such sanctioned behaviors allow people the right to use resources within the 'class of non-prohibited users. Property rights are 'the rights of individuals to the use of resources supported by the force of etiquette, social custom, ostracism,

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<sup>148</sup> Furubotn, E. G. & Pejovich, S. (eds) (1974). *The Economics of Property Rights* (Cambridge, MA: Ballinger).

and formal legally enacted laws supported by the states' power of violence or punishment'. Barzel<sup>149</sup> distinguishes economic concepts of property rights from legal concepts of property rights, viewing the more relevant concept of property rights to be the economic rights. The foundation for the property rights theory was also formed by Coase.<sup>150</sup> The 'classical' form of the property rights theory focuses on the historical and institutional context that shapes and changes property rights. In the study, the focus was given to how the theory was applicable to women land rights and control. The theory asserts that when rights are well defined and the cost of transacting is zero, resource allocation is efficient and independent of the pattern of ownership.

Rights in land include more than the right of ownership, but also the utilization. Property rights have important economic implication that many different people are able to hold parts of the rights to a property. The actor who owns a part of the property rights of a resource is called the residual claimant. All economic activities including trade and production are exchanges of bundles of property rights.<sup>151</sup> Attributes to which rights are not assigned by formal or informal contract or resources, with unclear property rights, are said to be in the public domain.

Kim and Mahoney<sup>152</sup> attempt a balanced theoretical approach in considering the economic aspects of property rights as a complementary concept within the legal framework that allows such property rights legal protection and third-party enforcement. In relation to this study, property rights theory provided the basic economic incentive system that shaped resource allocation. Different specifications of

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<sup>149</sup> Barzel, Y. (1994). 'The Capture of Wealth by Monopolists and the Protection of Property Rights,' *International Review of Law and Economics*, 14(4), pp. 393-409.

<sup>150</sup> Coase, R. H. (1960). The problem of social cost. *Journal of Law and Economics* 3: 1-44.

<sup>151</sup> Farjoun, M. (1998). The independent and joint effects of the skill and physical bases of relatedness in diversification. *Strategic Management Journal*, 19: 611-630.

<sup>152</sup> Kim and Mahoney (2005). Resource-based and property rights perspectives on value creation: the case of oil field unitization. *Managerial and Decision Economics*, 23: 225-245.

property rights arose in response to the economic problem of allocating scarce resources, and the prevailing specification of property rights affects economic behaviour and economic outcomes.<sup>153</sup>

Property rights here is a social construction, essentially a system of relationships, which implies that a number of perspectives and interpretations of what constitutes property exist at a particular time. Land tenure arrangements for instance, shape and are shaped by relationships among people and between people and the physical world. The meanings that people assign to property are constantly changing, primarily in terms of what the dominant classes expect of property and what their fellow citizens consider to be allowable uses of property.

The research on women and property tends to privilege the instrumental value of access to property for women as a pathway to the economic autonomy that is an enabling condition for social and political agency. In securing access to and control of property, this becomes an asset that is tradable for access to social and political capital in decision-making by effectively enhancing the bargaining power of the individual with property, at the household, community or wider society level.

In this study the theory was used to analyse the relationship between indigenous land tenure systems and gender relations in Gusiiland; establish the effects of colonial land policies on gender relations in Gusiiland; and gender rights in relation to land right and ownership in the post-colonial period in Gusiiland. Despite its utilitarianism in explaining property rights, this theory is biased toward men's power and authority to control resources, and it is silent on women response to land rights, access and control, which occasioned by the employment of the Agency theory for complementarity.

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<sup>153</sup> Ibid

### 1.10.2 Agency Theory

The agency theory was propounded by Stephen Ross and Barry Mitnick<sup>154</sup>. Ross is responsible for the origin of the economic theory of agency, and Mitnick for the institutional theory of agency, though the basic concepts underlying these approaches are similar. The agency theory is a presupposition that explains the relationship between principals and agents in business. Agency theory is concerned with resolving problems that can exist in agency relationships due to unaligned goals or different aversion levels to risk. Agency theory is concerned with analysing and resolving problems that occur in the relationship between principals (owners) and their agents.<sup>155</sup> The theory rests on the presumption that the role of an institution such as the family is to maximize the wealth of their owners (family members)<sup>156</sup>.

The agency theory however, holds that most institutions operate under conditions of incomplete information and uncertainty. The agency theory advocates that the purpose of the principal agent relationship is to minimize the potential for agents to act in a manner contrary to the interests of owners.<sup>157</sup> Similarly, in agricultural arrangements, where the agents receive a share of the crop (sharecropping or share tenancy) are inefficient, as agents only get a fraction of their production, which demotivates them and discourages them from exerting greater effort.<sup>158</sup>

According to the theory, the productivity gap in agriculture can also result from differences between men and women in their capacity to exercise ‘agency’, that is to

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<sup>154</sup> Mitnick, B. M. (1975). *The Theory of Agency: A Framework* (1975). In: Barry M. Mitnick, *The Theory of Agency* Cambridge University Press.

<sup>155</sup> Eisenhardt, K. M. (1989). Building theories from case study research. *Academy of Management Review* 14(4), 532–550.

<sup>156</sup> Blair, M. M. (1995). *Ownership and Control*, Washington: The Brookings Institutions.

<sup>157</sup> Jensen M.C. & Meckling, W. H. (1976). Theory of the firm: Managerial behavior, agency costs and ownership structure. *Journal of Financial Economics* 3(4), 305-360.

<sup>158</sup> Marshall, A. (1890/1956). *Principles of Economics*. 8th ed. London: Macmillan.



make effective choices and transform these choices into desired outcomes<sup>159</sup>. It has been established that there can be a negative correlation between property rights and women's agency. An analysis of intra-household labour allocation suggests that female household members devote disproportionately more time to diversified farming than men, who focus on less timeconsuming crop storage and marketing activities.

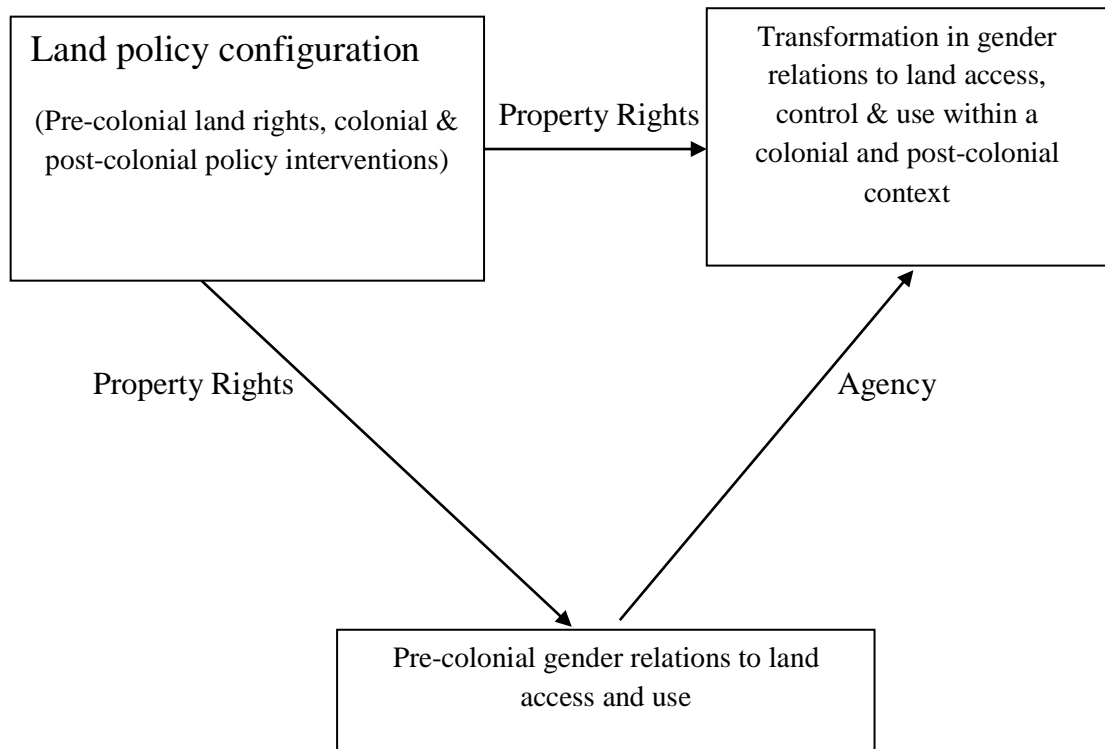
Kabeer<sup>160</sup> argues that agency is the ability of a woman to define her goals and act on them. The woman may not actually act, or create an underlying shift in power relations, but is able, through direct decision-making processes or indirect means, to step out of routine behaviors to try to change her environment or outcomes. In this study, agency theory was used to examine women responses in relation to gender, land ownership and control under the indigenous land tenure systems and gender relations in patrilineal societies in Gusiiland. The study further sought to explore women responses on the effects of colonial and post-colonial land policies in relation to gender land relations. The interface among the variables of land policies, gender relations and land access/utilization over the pre-colonial, colonial and post colonial periods is summarised by the following conceptual framework.

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<sup>159</sup> World Bank. (2012). World Development Report: Gender Equality and Development. Washington, DC.

<sup>160</sup> Kabeer, N. (1999). "Resources, agency, achievements: reflections on the measurement of women's empowerment." *Development and Change*. 30(3): 435-464.

## Conceptual Framework



**Figure 1.1 Conceptual Framework**

Land policies as an independent variable influences gender relations in terms of access, control and ownership of land in Kisii. Hence, alterations in land policies significantly impact gendered land access, ownership and control. That in turn triggers multiple transformative responses from Gusii women.

### **1.11 Justification/Significance of the Study**

Despite the positive relationship between secure land rights and an increase in agricultural productivity, and the fact that women play a significant role in agricultural productivity, interventions programs designed to formalize land rights may weaken, rather than strengthen, the land rights of women<sup>161</sup>. This study therefore, is important in many ways. First, it brings to our attention to the change in the attitude of Kenyan society towards the ownership and control of land by women by analysing the policies and other frameworks. Second, the research depicted the situation of Gusii women and their land access by assessing their responses to land tenure, ownership and control process of land law enforcement through time to 1970. Third, it deliberated on the effects of gender relations at the local level in helping rural Gusii women to achieve ownership and control of land. Fourth, the study widened our horizons about the plight of Gusii women and their ownership of land rights by highlighting the interaction between the state-initiated rural land law and the traditional/customary law in Gusii.

### **1.12 Research Methodology**

This section contained the methodology and procedures used in conducting the research. This included research design, area of study, target population, data gathering methods and tools; sampling and sampling procedures as well as data analysis.

#### **1.12.1 Research Design**

This study was based on historical descriptive design method and its related multi-method qualitative approach in order to facilitate cross-checking of data and to, increase reliability. This was done to solicit views, opinions and comments on the

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<sup>161</sup> Samman, E & Maria E. S. (2009). *Agency and empowerment: A review of concepts, indicators and empirical evidence*. Oxford Poverty and Human Development Initiative.

gender relations in ownership and control of land in Gusii land. This ensured the studied community was the subject of the research but not to be used merely as passive objects of the study because most study communities seem to be tired of being passive objects of discussion.

The study analysed both primary and secondary data. Primary sources included archival and oral interviews. The Kenya National Archives in Nairobi was the main archive that was consulted. Various documents including district annual reports, land reports, ownership and control, handing over reports for both colonial and post-colonial periods were analyzed. These documents provided historical data on land tenure and land policies and gender relations. The pre and post-independence development plans, sessional papers and statistical abstracts were another source of primary data. These highlighted the official position regarding gender relations in general and gave valuable data on ownership and control of land in Gusii. Data from the archives was complemented and corroborated with data derived from oral interviews and secondary sources.

To extract oral data, interviews were conducted with the help of a questionnaire guide that was divided into various sub-themes on gender relations in ownership and control of land in Gusii land during the period of study. Besides the oral interviews, case studies were conducted for selected informants. This was to capture the voices of the informants on the changing gender relations in ownership and control of land between 1920 and 1970. The collection of oral data involved the use of various sampling procedures. In the study area, purposive sampling was used. The County had nine electoral constituencies: Bobasi Constituency, Bonchari Constituency, Bomachoge Borabu Constituency, Bomachoge Chache Constituency, Kitutu Chache North

Constituency, Kitutu Chache South Constituency, Nyaribari Chache Constituency, Nyaribari Masaba Constituency that were sampled purposively.

Moreover, the age bracket of oral informants was taken into account. Informants were both women and men from the age of 60 years and above. The researcher identified the respondents through snowball sampling technique. The use of contact persons was crucial to the researcher because some respondents were not free to talk on issues of land to strangers. To conduct the oral and semi-structured interviews open ended guiding questions were applied to some of the respondents. Oral interviews were used on specific women with land ownership related problems identified through snowballing and focus group discussions. The researcher recorded the information using a tape recorder and notes.

In the interview, the researcher used probing question for clarification or even seeking more explanation. At the end of each day, the researcher organized the data collected according to themes and periods. The use of tape-recorder was used with informants consent, especially with regard to issues of land ownership and gender relations. Where informants were reluctant to indicate the acreage of their land, during the oral interviews direct observation was adopted to determine gender relations in ownership and control of land. This was to ascertain some of the issues raised particularly with regard to the dwindling gender relations in ownership and control of land.

Secondary data is the other category of evidence used in this study. This includes published accounts by early foreign travellers, missionaries and colonial administrators. Other sources of secondary data included journal articles, books, theses, seminar and conference papers, magazines and newspapers. These secondary data was gathered from various libraries. Moi Library (Kenyatta University), Institute

of Development Studies, Institute of African Studies. The British Institute in Eastern Africa (IBEA) in Nairobi.

The secondary data gave various interpretations of scholars on gender relations in ownership and control of land not only in Kenya but also Africa. The secondary data was used to corroborate the primary data. This helped to fill the gap on relations in ownership and control of land that the study intended to fill. Collected data was analysed qualitatively. In addition, some basic simple descriptive tables were used to show the numerical data in distributions of the respondents. Thematic and chapterization of the finding validated the accuracy of this piece of historical work. The data was classified according to their content, and the specific historical timeframes within which events and developments took place. This was important because historical inquiry requires the establishment of the historical specificity of social phenomena in terms of its constituent elements and of the relations between these elements over time. Since gender studies are contemporary, corroborating information with the past was essential to retain the historical significance, therefore, historicizing gender. The reliability of the collected data was through triangulation of data from both primary and secondary sources while the researcher validated the data through corroborating archival material with oral data and secondary data.

### **1.12.2 Ethical Considerations**

All prerequisite ethical considerations were executed before, during and after the research. National Commission for Technology and Innovation granted the researcher the research permit to carry out the study. Moi University through the department of History, Political Science & Public Administration provided the introductory letters to relevant authorities. The research obtained authority from local administration in Kisii

County. While in the field, the researcher sought consent from the respondents before the interviews and confidentiality where it was needed was guaranteed.

### **1.13 Conclusion**

Chapter one was the research preparatory chapter as it laid the foundation of the study by setting the objectives of the study and identifying the existing gap through related literature review which occasioned the theories to be applied. The chapter defined the study area while operationalising data collection, analysis and interpretation process. The chapter periodises how the study will be laid out in subsequent chapters with chapter two laying the background foundation by review the precolonial land tenure usufruct and control with the utilisation coming out explicitly. The chapter will further examine the establishment of colonial rule and how the initial land policies impacted on gender land relations in Kisii.

## CHAPTER TWO

### GUSII INDIGENOUS LAND PRACTICES, INITIAL COLONIAL LAND POLICIES AND THEIR IMPACT UPON GENDER RELATIONS IN PRE-COLONIAL PERIOD 1850-1920

#### 2.1 Introduction

This chapter discusses indigenous land tenure and gender relations in Gusii land and the impact of initial colonial land policies on gender relations. In an attempt to understand the relationship between indigenous land tenure and gender relations, the chapter details various aspects of indigenous land tenure systems, the interaction between gender and land tenure, and how these interactions shaped land reform and tenure in Gusii specifically and Kenya in general. The chapter further examines the concept of land among the Gusii, modes of land acquisition as well as the customary land tenure systems in relation to gender relations of production.

The chapter argues that indigenous land tenure system among the Gusii was flexible and dynamic. This dynamic nature provided for a relatively egalitarian access to land by both men and women during the pre-colonial period. The indigenous land tenure system was anchored on the principle that land was owned communally and was handed down from the ancestors to the present and future generations. Therefore, although men remained the custodians of the land, there existed clearly laid down customary laws and norms that guided how land was handed down to the next generation. Rules and regulations equally guided the community on women access to land which ensured that women were able to utilize the land to produce food that fed their families.

The chapter further argues that customary land tenure systems and norms provided avenues of resolving critical land use issues. For instance, childless women or those



women without sons were not disinherited from family land since there existed special arrangements that allowed them to access and use the land. Land issues were resolved through the Council of elders either at village or clan level. This chapter thus lays the historical foundation against whose backdrop the analysis of the effects of colonial land policies on land access, control and ownership in Kisii County is undertaken in subsequent chapters.

## **2.2 The Gusii Concept of Land**

Land tenure in any society should address three-pronged issues concerning the owner(s) of the land, their interests in the land, and the land that holds the interests.<sup>1</sup> Therefore, land tenure is the interest that people have in possession, utilization and transfer of the land. It is also the concept of people, time and space with regards to land. However, this concept was not strictly defined, and consequently there may be occasions in which it overlapped, such as when different people contested possession of the same space of piece of land at the same time.

In Gusii land, the rights which an individual had over land were not absolute because they had to be balanced with the rights of others, and the individual's own obligations to the broader society. For example, the temporal aspect of tenure determined the duration of one's rights over land, and; one individual could only exercise ownership and utilization rights to land over a specific period of time, exercised over a definite physical space. However, due to the overlapping aspects of land tenure, it was possible for different persons to exercise different rights over the same space at different times as observed by Musa Ondiba<sup>2</sup> and supported by Louis F. and James R.

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<sup>1</sup> Okoth-Ogendo, H.W.O. (1991). *Tenants of the Crown: Evolution of Agrarian Law and Institutions in Kenya*. Nairobi: African Centre for Technology Studies (ACTS Press).

<sup>2</sup> Musa Ondiba 85, Nov.2019

<sup>3</sup> who maintain that it is possible for different persons to exercise different rights over the same piece of land both at the same time and/or at different times.

Consequently, in the Gusii community as is the case in other African communities, land ownership entailed various community interests and indigenous land was frequently held by different persons simultaneously. However, while most customary laws recognised a measure of individual control over the broader interests, the paramount title was vested in the society. Thus, the rights one person had to the land were subordinate to community rights.<sup>4</sup>

Persistent struggles over land were often symbolic, and were constituted within the realm of cultural values, norms and perceptions that were embedded in the ideas of morality and patriarchy, that in turn shaped material resource struggles over land.<sup>5</sup> Understood this way, land had multiple meanings that went beyond the understanding of it as being only a material resource which sustained people's livelihoods. Land was an important symbolic cultural resource which was characterized by diverse socio-cultural dimensions, and in most societies as demonstrated by the Gusii, it was always bound up in patriarchal ideology.

Symbolic meanings of land were socially constructed and manifested themselves as cultural norms, idioms and stigmas that were meant to perpetuate gendered identity and inequitable gender relations. These cultural values were constitutive forces that had real influence in "ordering" life, including gendered property relations and gendered struggles over land.

Among the Gusii, as was the case with most other agrarian communities in Africa,

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<sup>3</sup> Louis, F & James, R. (1985). *Trees and Tenure: An Annotated Bibliography*

<sup>4</sup> Krishan M. Maini. (1967). *Land Law in East Africa*. Nairobi: Heinemann.

<sup>5</sup> Moore, D. (1993). Contesting Terrain in Zimbabwe's Eastern Highlands: Political Ecology, Ethnography and Peasant Resource Struggles, in *Economic Geography* 69, 380-401.

land was the sole source of livelihood. It is from the land that people got food, and sustained their livestock and other livelihood activities. Among the Gusii, mixed farming practices-oriented land to be divided into two spheres; crop growing land (*endemero*) and grazing land (*oborisia*). It was for this reason that all those who moved to new land had to clear the forest and make the land habitable for use in mixed farming. Land was also an area of residence. It was in the occupied land that various families and clans made homesteads. Existing land or homesteads were either identified with families or clans. Thus, land was identified with family patriarchs such as o'Nyakundi (Nyakundi's land or home), bw'Orang'o (Orang'os land or home). Alternatively, land was also identified by clan names such as Bomachoge or Bobasi (the land of machoge or land of Babasi clan) respectively. In this regard, no one was to occupy another person's land or another clan's land except when allowed by family or clan heads, also except in cases of attacks or conquests where families and clans were forcefully evicted by enemy groups from other clans.<sup>6</sup>

Land was and still is the residence for the ancestral spirits. It was generally believed that ancestral spirits dwelled in the areas where they were buried. This justified the fact that the land belonged to the ancestors who had handed it over to the contemporary community. It is no wonder therefore that communally owned land was also referred to as ancestral land (*oboremo bw'echisokoro*). In this regard, the Gusii had special places or territories where ancestral spirits dwelt. As Orang'o<sup>7</sup> explains it was the duty of the living to take care of the ancestral land and hold it in custody for future generations. All the patriarchs in the community therefore held the land as custodians because it had been handed down to them by their ancestors, and they were supposed to hand it to the next generation.

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<sup>6</sup> Moronya Omaore; 85, October 2019

<sup>7</sup> Musa Orang'o ; 90, November 2019

It is from the land that the community derived a sense of property ownership. If one considered himself wealthy, then he had to have specific tracts of land that were under cultivation. The more land one had under cultivation, the richer he was perceived to be. This was also related to the many wives and children a man had who provided labour that enabled him to cultivate large pieces of land. The polygamous wealthy owners of large pieces of land gained considerable prestige, and were the very people who were made clan elders and community leaders

Land among the Gusii, like most African communities was seen as a territory or jurisdiction belonging to the clans and communities. These were areas that the community had total control over and jealously fought to protect against any intrusion, conquest or destructions. Clans therefore kept fighting off enemies from forceful occupation of their territory. As group discussions in Kitutu Chache and Nyaribari put it, the clans kept fighting and displacing each other in the process of expanding their territory. For instance, the people of the Nyaribari clan were evicted from the current Kitutu territory to their current homeland. The interviewees from the Kitutu and Nyaribari clans ascertained:

The fore-fathers of the Abanyaribari were originally living together with the Abagetutu and the two clans formed part of the bigger Gusii clan of Abasweta that had moved from the Kano Plains and settled at Marani-Nyagesenda area in the current Kitutu Chache region. However, the patriarchs of Kitutu and Nyaribari had a major altercation as the elder wife of Nyaribari had abused and degraded the patriarch of the Kitutu. It was an abomination for a woman to abuse a patriarch. A fight ensued and the Nyaribari people were driven out. They ran away and eventually took refuge in the current Nyanchwa-Ekerore area near the present Kisii Town. The vanquished Nyaribari men came together and started clearing the virgin land in the new area. The Nyaribari eventually spread and occupied empty lands in Nyaura and Nyabitunua in the present Nyaribari Chache Constituency.<sup>8</sup>

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<sup>8</sup> Group discussion at Nyaribari and Kitutu, December 2019

From the interview, the Gusii are naturally patriarchal and the patriarch decided in the public domain matters appertaining to land. Despite Abagetutu and Abanyaribari being brothers, land as being ancestrally determined drove them into separation and the ancestors guided the Abanyaribari to not only a land that they were to settle in, but also a land that would accommodate their expansion. However, the interview revealed the traditional/ancestral position of women in matters of land as being subordinate to that of men especially in the public domain.

Among the Gusii, the concept of gender relations in land tenure was shaped by their history and culture. For instance, it is evident that when the Gusii moved from the Kano Plains to the cold, wet Gusii highland region, their herds had already been depleted by Maasai cattle rustlers. Furthermore, the remaining livestock could not survive the cold weather conditions. Also, the dense forest in the highland region meant that there was less open grassland on which to graze the livestock. However, notwithstanding the changes in environmental and climatic conditions, Monyenye<sup>9</sup> indicated that the Gusii continued practising mixed farming which included the rearing of livestock and growing of subsistence crops such as finger millet and sorghum. A point Akama agrees with when he noted;

The people migrated to their present homeland, the Gusii Highland region, from the Kano Plains. However, despite the change in landscape, many features of the Gusii people's ownership and usage of land remained. In the flat Kano Plains, the Gusii were majorly cattle keepers, which was their main source of livelihood, and also represented a measure of socio-economic status. Gusii people continued to keep cattle, alongside subsistence farming. They also continued to regard cattle a main source of wealth and prestige, and were highly regarded particularly in the payment of bride price.<sup>10</sup>

The gender matrix in the social land equation as demonstrated by Akama while

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<sup>9</sup> Ernerst Monyenye (Age 67; 20, December, 2019)

<sup>10</sup> Akama, J. S. (2017). *The Gusii of Kenya: Social, Economic, Cultural, Political and Judicial Perspectives*. Canada: Nsemia Publishers.

emphasising the aspects of mixed farming, was the introduction of the parameter of the utilization of livestock not only as a measure and store of value, but also as a means of acquiring wives through dowry. In return, the women were to prove their worth of the livestock they were traditionally exchanged for by working on the land for subsistence production and being biologically productive. Therefore, at marriage, Gusii patriarchs transformed their livestock (measures/stores of value)<sup>11</sup> into forces of production and reproduction on the clan land.

In essence, in the high potential highland region, a unit of land could support a much higher population than the same amount of land in the Kano Plains where the Gusii had moved from. Equally, the variable ecological conditions enabled the people to practice mixed farming. The production of crop and animal products helped in framing the household through (marriage/dowry then reproduction) and improving nutrition (women and their children working on the family land) in the households. With improved nutrition, women reproductive span lengthened and strengthened as Nyanchama indicated “due to improved nutrition, the age at which women got married went down and the number of children they gave birth to went up. This led to increased demand for wives and children to provide requisite labour.” This reaffirmed the silent but dominant place of women in Gusii land tenure, traditionally relegated to the periphery. Neigus David<sup>12</sup> argued that it was economically unprofitable not to have more children to fulfil existing cultivation to extend cultivation onto fertile unoccupied land.

In this social and ecological context, the Gusii needed more labour (the Gusii woman stamping her authority in matters of land tenure) to cultivate and produce more food

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<sup>11</sup> Miriam Nyanchama; 89, Nov 2019

<sup>12</sup> Neigus, D.L (1971). Conflict over Land; A study of Expansion and Inversion in Gusii Society. Thesis, Harvard College

in two seasons per year; at the beginning of the year, long rains (*omwaka*) and the last half of the year, short rains (*omwobo*). The two growing seasons were made possible due to highly reliable rainfall in most parts of the year. Furthermore, the main subsistence crop *wimbi* (finger millet) required intensive women labour in weeding, harvesting and threshing<sup>13</sup>. In this context, men were traditionally tasked to marry many wives to increase the size of their families and thus human labour for farm production.<sup>14</sup> According to Monyenye<sup>15</sup> the economic competitiveness of wives eventually brought down the average age at which women were married in the Gusii community. The tender age at which the women got married is interpreted as dual; first, the women longed to get out of their families and family land where they were regarded as daughters in order to be freed from their brothers conditionalities in exercising their silent land rights of access through their husbands. Second, the Gusii men knew that the younger the lady the more energetic she was and therefore, the more productive she would be on the land. Equally, the younger the woman was, the higher the chances of bearing more children compared to the older women. More children in turn translated to more hands to work on the family land. From this perspective, maximization of lineage became an important social factor and indeed one of the ideological principles fostering rapid growth and expansion of the Gusii community.

In addition, environmental and economic conditions promoted the development of social institutions that were consonant with the accelerated rate of population growth in light of the highly productive and unoccupied land in the highland region. Thus, the surplus production of food was invested in population growth and increased

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<sup>13</sup>South Kavirondo Administration Report, KNA DC/KSI/1/4 1933-1938

<sup>14</sup> Ongaro, W. A. (1988). *Adoption of New Farming Technology: A Case Study of Maize Production in Western Kenya*. Ekonomiska Studier 22. Department of Economics. Gothenburg School of Economics, Gothenburg.

<sup>15</sup> Ernest Monyenye (Age, 67; 20, December, 2019 )

consumption. As Nyabaro<sup>16</sup> noted, “It was economically unprofitable not to have more wives and children to fulfil the human labour requirements of existing cultivation in expansive land and to extend cultivation into fertile and unoccupied lands” His views are also shared by Coontz<sup>17</sup> in his book, *Analysis of population theories and economic interpretation*. This in essence echoed the productive and reproductive core of women in the Gusii community.

With many wives and children to provide labour, the people expanded the area under cultivation so as to retain a high per capita productivity and consumption level. As the demand for more productive land for cultivation grew, clans and sub clans clashed in the continual struggle to secure more land while maintaining control over land already held.<sup>18</sup>

Over time, due to increasing population, the pressure on land escalated exponentially. With the passage of time, most of the cultivatable land was brought under use and the increase in population led to rapid reduction of the amounts of land available to each family. Onyangore asserted:

Usually clan land is located on ridges and is divided into strips, with each strip of land running from the top of a ridge to the bottom of a valley (where streams are often found). Such land strip would contain several homesteads. The land usage within such a strip was and is still based on the principle that every male had hereditary rights over farmland. However, due to increasing population there was more demand for land, leading to conflicts and out migration.<sup>19</sup>

Although every patriarch struggled to secure more labour through polygamous marriages and having more children, the residual effects were largely visible in the heredity of the family land by the sons of the family. With the exponential population

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<sup>16</sup> Okioma Nyabaro (Age,57; 10, December, 2019)

<sup>17</sup> Coontz, S. (1957). *Population Theories and Economic Interpretation*. London: Routledge and Kegan Paul.

<sup>18</sup> Hakansson, T. (1988). *Bridewealth, Women and Land: Social Change among the Gusii of Kenya*. Uppsala Studies in Cultural Anthropology No. 10. Uppsala: Amquiast and Wilsell International.

<sup>19</sup> Thomas Onyangore; 59 10<sup>th</sup> Dec 2019



increase among the Gusii, the available land could not match the needs of the population and this caused concern in families. As documented by Neigus<sup>20</sup>, an individual wealthy polygamist had a great deal of influence in the community. He would be among the first members of the clan to experience land pressure on his large family and to instigate action to gain more land with support from numerous sons who made a great part of the warrior force. The foregoing attitudes of the Gusii about land during the pre-colonial period, coupled with the intervening variables informing these attitudes generated multiple modes of land acquisition as described below.

### **2.3 Modes of Land Acquisition**

It should be noted that to a certain extent some aspects or manner in which the Gusii acquired land have already been touched on. However, specifically, the Gusii had three major modes of traditional land acquisition, namely; occupation, capture and inheritance. Acquisition of land by occupation and capture were the most involving and taxing as it at times cost people's lives. In the early days of Gusii settlement in the area, occupation as a traditional mode of land acquisition involved clearing the forest and setting up of a new homestead or homesteads. However, as population density escalated, this option only remained operational on frontier and marginal lands, particularly the areas between the Gusii and their neighbouring communities such as the Luo, the Kipsigis and the Maasai.

The earliest form of land acquisition was through occupation. This happened, when men went hunting or grazing animals and discovered new fertile lands which doubled up with abundance of pasture and reliable rainfall. They then schemed on how to occupy their newly found land. During occupation, a number of kinship groups (*Amasaga*) would collaborate on a venture, to hold, clear, settle and cultivate the

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<sup>20</sup> Neigus, D. L. 1971, Conflict over Land, 172

fallow lands. In this mode of traditional land acquisition, Gusii women played a pivotal role in occupation of new lands by clans or families as narrated by Omaore;

There was this concept of *egiateko* (that is upheavals such as famine, disease or attack) then, people could move to new places. The settled land was divided by rivers and people occupied different ridges. Land was acquired by occupying unsettled land (*oborabu*). Men built houses and settled, and then called other relatives for security purposes. They married wives to settle and give birth to more children. Such mode of land acquisition gave special status to men.<sup>21</sup>

As evidenced by Omaore's narrative, when *egiateko* struck, the most affected were the women and their children. As such, the women induced the pressure into the men for the need for a new place for settlement which was a frontier they had probably seen in the course of their daily duties like fetching firewood. This happened because they were the ones who worked on the land and therefore, they had the knowledge of which land was productive and would cushion their children and family from *egiateko*. In addition, when Omaore, talks of the land being acquired by occupying the unsettled land, it follows that in traditional Gusii culture, a place could only be considered occupied and habitable if women were present and working on the land, thereby creating the concept of a home which intricately nested in the woman among the Gusii. This, however, happened under the guardianship of men as evinced when Omaore rightly observed that men only constructed houses. As Onyango narrated in agreement;

Some kinship groups occupied existing bushy and forested land, and placed boundaries by planting indigenous trees such as *emeroka*, *emetagara* or *ebirachuoki*. They could then build houses that were grass thatched and constructed fences around them using thorny tree branches. This was for defence from marauding wild animals and probable adversaries. They regularly kept monitoring any intrusion on boundaries. In case of any intrusion, the people fiercely defended their boundaries using traditional weaponry such as bows and arrows, knives and spears. They used iron hoes (*ebisiri* – plural or *egesiri* – singular) for cultivation. The forests were cleared by men through *risaga* (cooperative work) over beer (*ebusa*) and other

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<sup>21</sup> Peter Maangi Omaore. 84, Machoge Nov 2019

inducements, while the women did the tilling of the virgin land.<sup>22</sup>

The centrality of women in the land occupation was well underscored by Onyango in his verbatim submissions when he indicated that other than constructing the grass thatched houses, the remaining responsibilities were the preserve of women. If men were to help women with taxing responsibilities like forest clearing, they would do so upon being corrupted by their wives through what Onyango terms as inducements. The study noted that the fences constructed as Onyango puts it, were to ward off animals both wild and /or otherwise from the subsistence plots put in place by their wives.

In addition, new land would occasionally be discovered in the process of undertaking other livelihood activities such as during fetching firewood, grazing of livestock or during hunting expeditions. According Omandi

Land was acquired through occupation. Men went hunting and on their way they could get good land and occupy it. They would then build houses and construct fences on the land. After that they could call their neighbours and show them the boundaries and subdivisions using land marks such as special trees and unique landmarks. Any intruders from the broader kinship would be stopped by witnesses who were mostly neighbours. Those who persisted could fight and whoever won took over the land. People could then identify the most fertile land and clear the forest using the labour of strong men. They also used fires to clear the chaff. They made hoes out of iron that women used to plough the land.<sup>23</sup>

The forested fertile lands identified by men during grazing and hunting as explained by Omandi, were to be corroborated by the women on firewood fetching missions. It therefore follows that in the land occupation acquisition mode, the occupants were women and more so, marked their presence through subsistence agriculture and reproduction in the Gusii community. Furthermore, misfortune would make people

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<sup>22</sup> Musa Onyango, 79, Oct 2019

<sup>23</sup> Kepha Omandi, 62, Dec 2019

move to new frontiers as articulated by Ombogo.<sup>24</sup> Whenever people were attacked by diseases, they moved in order to occupy new land. Those with grown up sons could invade those without sons and forcefully evict them. Also, whenever people quarrelled, they would disperse and settle in new places. In addition, people sometimes occupied land by ceding some of the grazing land. Thus, wherever people grazed their livestock, that area could eventually become their land. Fear of attacks from hostile neighbours made people belonging to the same kinship to come together and occupy a specific piece of land as a group.

Capture was the second model of traditional land acquisition in Gusii land. The capture process of acquiring land, often, involved the use of force against the neighbouring communities and men were at the forefront in this form of acquisition. Therefore, men got full rights to the land they captured, while women were treated as tenants<sup>25</sup>. Further, as explained by Maobe,<sup>26</sup> in acquiring land through capture, one had to be strong to take over the land and be able to defend it. Land boundaries were marked using indigenous trees, sometimes rivers and ridges made natural boundaries. The owners had to defend their land boundaries from intruders such as members of the other clans. In this socio-economic situation, the weaker groups were only to get unproductive and rocky places where nobody was interested or they would be pushed away to look for alternative land. For instance Ababasi were pushed by Abanyaribari and machoge to the hilly part of Gusii they currently occupy because they were unable to defend themselves against the aggressive clans.

Once settlement of the captured land was established, people could acquire specific

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<sup>24</sup> Ernest Ombogo (Age, 75; 28, January, 2020)

<sup>25</sup> Ndege, T. M. (2006). Evolving land tenure and agricultural systems, in J.S. Akama and R. Maxon (2006). *Ethnography of the Gusii of western Kenya: A Vanishing cultural heritage*. Lewiston, NY: Edwin Mellen Press.

<sup>26</sup> Joshua Maobe; 70, 22, December, 2019

strips of land (*ekenyoro*) which they sub-divided among themselves. This account concerning the processes of land capture and settlement is also shared by Bosire<sup>27</sup> who noted that land was acquired by young men who would attack and capture the land of neighbouring kinships or clans on the advice of elders. After the land had been acquired by the men, it was the responsibility of the women to till the land and grow crops for the sustenance of their households. As a consequence, the initial acquisition of land qualified the men to be its sole owners. Hence it was taboo for a woman to acquire land through capture. Even when a woman was widowed, she was supposed to be allocated land by men of her husband's lineage. However, young widows with sons were protected while in most cases those without sons didn't qualify to get land for cultivation. Apart from the individual wife's land, a man kept for himself a special plot called *emonga* for his personal production. This was particularly used for security in times of hunger.

Inheritance was the last model of traditional land acquisition in Gusii land. Under this model, land was acquired through capture or occupation was simply passed down by clan members to their male descendants, as expounded by Moseti Omandi;

The Gusii acquired land according to clans, and settlement was done according to kinship ties. People moved in groups for security purposes, so that in case of attack, they could defend themselves. The clans that settled in an area could also be sub-divided to sub-clans and families all occupying the clan land. The regions that were occupied had specific patriarchs that were the custodians of the land. The patriarchs could then hand over the land to younger generations of men mostly at family level.<sup>28</sup>

Deductively, land inheritance was an elaborate but clear process in the Gusii community. This ran from the clan to the sub-clans to the patriarch to the household to the family and to the male siblings as demonstrated by Moseti Omandi. This lineage

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<sup>27</sup> Samwel Bosire; 75, November 2019

<sup>28</sup> Moseti Omandi, 79, Dec 2019

was punctuated by the land sub-divisions which guided the principle and purpose of inheritance. In particular, among the Gusii, territorial land or specific clan units were the basis of political, social and economic organisation. Clan elders were charged with the responsibility of ensuring that every member of the clan had access to land as well as ensuring that there was law and order in the processes of land acquisition, ownership and usage. In these indigenous legal processes, the elders usually selected one leader from among themselves as their spokesman. Where territoriality and kinship coincided, one may characterise the kinship or the lineage system as constituting a specific mode of production. In such cases, the lineage or kinship groups were the corporate land owning groups. Such groups held unified territories and new lineages grew as a result of population growth. Over time and as need arose, the existing lineages could further expand their land holdings through conquest or absorption of weaker or smaller lineages.<sup>29</sup>

Land inheritance was well structured as the Gusii were/ and still are a patriarchal society. Land was/still is passed to the next generations as younger men inherit land from their fathers. When the sons inherited the land from their fathers, they were expected to follow a well-defined set of customary land laws. Group discussion with the broader Bonchari clan revealed that the sons who inherited the land also inherited the rights of access and control over the land that were previously enjoyed by their fathers. In this manner, men retained dominance over land, from generation to generation, since ownership and control of land were essential to earning a livelihood in agrarian societies. This mode of land acquisition was well described by Onyango using his personal inheritance as he narrated;

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<sup>29</sup> Kitching, G. (1980). *Class and Economic Change in Kenya: the making of an African Petite Bourgeoisie*. New Haven and London: Yale University Press.

This land where I live with my family was acquired through inheritance from my father and grandfather. It was my late father who gave me the land before he died, and I have lived here for many years. My father had informed me that the whole land where we are currently living with my brothers plus members of the extended family was originally owned by his grandfather and other members of their lineage. The grandfather and members of his kinship had moved from the current Sengera Manga region and traversed all the way to acquire the land here at Riokindo where we are now living. They had to clear the bushes and trees to make it habitable and suitable for crop production. After clearing the land and constructing houses, my grandfather eventually allocated his portion the kinship land among his sons including my father. It is important also to note that my grandfather, my father, and many of the older members of my lineage died and are buried in this very land and as such the spirits of my departed ancestors are domiciled here. As tradition demands I am holding this land in trust for my sons and grandsons, and this ancestral land cannot be sold to outsiders.<sup>30</sup>

The evidence by Onyango reveals that control of land in Gusii was centred on the family and clan level, and individuals like Onyango did not have exclusive rights to control, dispose or allocate land in their individual private capacity. More importantly, every person within the family had a right to use the family land, and competing rights of usage were mainly determined within the family or within the wider kinship set up. As represented by Onyango, land was allocated through inheritance to the male head of each household. The patriarch could then allocate the land to different 'houses' within his homestead (each house constituted of a wife and her children).

Upon the death of the patriarch, his sons would inherit the land, based on the amount that had been allocated to each wife for cultivation, during the life of the patriarch. Therefore, land belonged to the father, yet it was transmitted to the sons through the patriarch's wives. However, when a patriarch died among the Gusii, his wives would act as trustees of the land on behalf of their sons, especially if the sons were young and/or were not married. Thus, the sons themselves only obtained control and use of

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<sup>30</sup> Zachariah Onyango, 70. Dec 2019

the land upon marriage, which was considered a sign of maturity. It was noted that the firstborn and lastborn sons were allocated comparatively larger pieces of land; the firstborn because he automatically became the head of the household upon the death of his father, and often took care of his younger siblings if they were still minors. Equally, the lastborn son would receive a larger portion because it was culturally expected the lastborn son cared for his parents during their old age.<sup>31</sup>

As stated earlier, the land that was acquired and/or inherited was settled by the members of the kinship. The patriarchs always sub-divided the kinship land among each other, and the women were allowed to cultivate the land and grow crops for family sustenance in their husband's share of the land. Thus, each wife of the patriarch was given land where she grew crops that were harvested and stored in her specific store. Orang'o narrated:

Women did most of the digging, weeding and harvesting, as well as preparing crops for storage, whereas men built stores for their wives to store food and feed their families. Lazy women were discouraged and made to abandon such unbecoming behaviour through ridicule and proverbs such as "*Moserengeti ore eero, ngetiro ke mogondo*" (The lazy talk a lot in the sitting room but farm work is an uphill task for them). Men also fenced the land and sometimes undertook farm work on a specific need basis, such as virgin land that required energetic and muscular men to till.<sup>32</sup>

In Gusii it was the responsibility of the women to participate in the tilling, weeding and harvesting of food crops. The festivity seasons aside, Gusii women were first required to contend with the demanding tasks of harvesting food crops through the processes of drying, threshing, sorting, winnowing and storing the final product.<sup>33</sup> However, some of the harvested food was stored in the patriarch's special store and was used in times of need. Each wife was supposed to contribute a percentage of their

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<sup>31</sup> Ibid.

<sup>32</sup> Joseph Orang'o, 85. Nov 2019

<sup>33</sup> KNA DC/KSI/1/6, South Kavirondo District Annual Reports, 1944



harvest to the patriarch's special store. They respected the patriarch's word and this helped solve family disputes including disagreements in the sharing of available food during times of famine. Also, the younger wives respected the senior wife of the homestead because she was considered as the matriarch of the home and the age mate of the family patriarch.

Sometimes there were elements of envy between wives especially if the husband favoured one wife over the others. This caused a lot of friction in the family. Such disputes were settled by kinship elders who were also polygamous, therefore, were able to understand such delicate matrimonial situations as explained by Omaore Moronya<sup>34</sup>. However, according to traditional law, the senior wife was given slightly bigger land than the other wives. Also, men made sure that they did not marry from a lazy family *abanyancharachara* (people or families that are associated with hunger). This explained why before marrying, a man's family sent a 'spy' (*esigani*) to investigate about the kind of family they intended to marry from to ensure that it was a family of hard workers. In addition, some women were generally hard working but were extravagant and misused their farm produce. Such women did not command much respect in the homestead and in the whole kinship.

Monyancha<sup>35</sup> noted that unmarried daughters used to be taken care of by their families but were not given land which was a reserve for the sons. Women who had bad character such as being always rude or disrespectful to their husbands were usually unaccepted in the whole family or clan. Furthermore, when sharing land among wives, husbands sometimes gave a troublesome wife unproductive land to till. This was supposed to 'keep her busy.' Hence the saying; "*Mokungu omobe aegwa boremo bo kenyambi nabwo akorema k'obwata omotwe.*" (a troublesome woman is

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<sup>34</sup> Omaore Moronya 89. 12<sup>th</sup> Dec 2019

<sup>35</sup> Henry Monyancha 65; 28<sup>th</sup>, December, 2019

given the tough and unproductive land where she can feel the pinch and change her unbecoming behaviour)<sup>36</sup>

The socio-economic distinctions between men and women were rigid, and were strictly enforced in the clan system. In this regard, as Onyango explained, “the Gusii homestead through the concept of *Egesaku* was used to denote the distinction between the descendants of a man, either a living man or a departed patriarch, whereas *Enyomba* (house) denoted the matrifocal unit of a wife within a polygamous family”<sup>37</sup>.

Also, women were supposed to be given land through their grownup sons. This made it very crucial for all the married women to ensure that they had sons to be able to access the land. Apart from ensuring that they got married to access land, women also struggled to give birth to sons to ensure security of land access through the sons. Therefore, barren women tried all means to get children especially sons by consulting herbalists, healers, seers and/or even witchdoctors. Those with daughters only would also try the same means to see if they could get sons of their own through whom they could be assured of access to land beyond old age.<sup>38</sup>

Those who never got sons at all could use their daughters' dowry to marry another woman to beget sons for them. Also, childless wives were given an opportunity to get a lady who had a son or sons to enable them to access the family land. Widows who were denied land by their in-laws could report to *Etureti* (a clan based informal court) which would come and order the in-laws to give the widows the requisite land. In addition, those widows who were chased away by the members of *etureti* (sub-clan)

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<sup>36</sup> Chief Chuma Agwata;85,Nov 2019

<sup>37</sup> Zachary Onyango; 70, Dec 2019

<sup>38</sup> N. Thomas Hakansson; 1991, Grain Cattle and power: Social Processes of Intensive cultivation and Exchange in Precolonial Western Kenya, *Journal of Anthropological Research* vol. 50 No. 3 pp 249-276. University of New Mexico, 58-60

for one reason or the other, could move away from their departed husband's kinship and could eventually be given land by their maternal relatives<sup>39</sup>. In the broader context of the Gusii community, therefore, inter-clan land conflicts were resolved by a higher-level Council of elders referred to as *Abakumi*. This was the highest court of the land similar to the modern-day Supreme Court.

Unmarried sons were not given land, and it was seen as very bad omen, when a grown-up son died without a wife or children. Such a son was buried in his mother's compound as a sign of communal regret. Also, unmarried women who died in their natal homes were buried outside the family homestead as a sign of showing that she did not belong to her place of birth since she was supposed to have been married into other clans. On special and very rare occasions, women who never got married and had children were given land near their homes but far from the family homestead. Such homes eventually grew to become clans of their own. A good example is the Abanchari clan that is named after a daughter called Monchari who was given land near her parental home, married a man from Luo land and founded the Abanchari clan,<sup>40</sup> The evolution of the pre-colonial Gusii land tenure system was therefore a direct outgrowth of these three modes of land acquisition as detailed above.

## **2.4 Customary Land Tenure System and its Implication on Gender Relations in Pre-colonial Gusii**

Land tenure is the allocation of the available community land resource among individuals of the community. It is the way individuals have access to the land including the conditions under which community land is held. Land tenure system has undergone tremendous transformation among the Gusii. These transformations saw the Gusii modify their environment in relation to land utilization. This was reflected

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<sup>39</sup> Kerubo Ondabu (Novembr, 2019) Oral Interview at Bomachoge

<sup>40</sup> Group discussion with Abanchari elders, Nov 2019

in the Gusii customary laws and rules that govern the allocation and utilization of land. This clearly indicates Gusii's adaptive and innovative nature to the Gusii highlands.

The abundance of land in pre-colonial Gusii implied that the human factor would be the most important variable in determining land usage. Reflecting this were such elements as alliance relations, client-ship linkages, rights to people and labour, and the competence to organise these labour resource as observed by Nyakwara.<sup>41</sup> Features of social and agrarian organisation strongly coincided with principles of land tenure and land rights among the Gusii and were determined by the status enjoyed within the community, as well as meeting a host of social obligations of other household/family members. Land was thus vested in the Gusii community, with the underlying principle of Gusii land tenure, during the pre-colonial era, being the rights to access and use of land for both men and women.

Land as a natural resource, was crucial to the existence and livelihood of humankind. Since time immemorial, the Gusii exploited land for their overall sustenance. From the beginning, in pre-historic agrarian societies, land was a key livelihood resource just as it is among the Gusii. Asiago Nyang'aya<sup>42</sup> explained that humans have established social systems and hierarchies based on age, gender, and class to implement land appropriation and distribution, in order to guarantee their overall subsistence, a view shared by Hanna. S. and Jentoft S.<sup>43</sup> This helps to explain the nature of indigenous land tenure system in Africa in general and among the Gusii in particular, where the majority of the population is still agrarian.

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<sup>41</sup> Zablun Nyakwara ; 85, Nov 2019

<sup>42</sup> Asiago Nyang'aya; 95, Dec 2019

<sup>43</sup> Hanna, S. and Jentoft, S. (1996). Human Use of the Natural Environment: An Overview of Social and Economic Dimensions. In Susan S. Hanna, Carl Folke and Karl-Goran Maler (eds.): *Rights to Nature: Ecological, Economic, Cultural, and Political Principles of Institutions for the Environment*. Washington D.C. Island Press.

As noted earlier, gender relations of production regarding land ownership, access and production were culturally specific and characterized by differential power relations between women and men. Furthermore, power relations were continually being negotiated, contested and resisted in various ways. Consequently, multiple and different co-existing domains of difference produced different outcomes, that influenced women and men's access to resources. Access, control and ownership of natural resources such as land were negotiated within and between the household, and therefore, gender household relations remained a focal point through which relations of production were constructed.<sup>44</sup>

As already stated, under the Gusii land tenure system, ownership and control rules were based on kinship. These rules were universally understood, and obeyed by everyone, to the extent that no one dared to interfere with land that was temporarily left fallow.<sup>45</sup> Ancestral spirits of departed relatives who had once lived on the land were greatly feared and respected. In the event that anyone was wrongfully dispossessed of their land, they were required to swear an oath in the name of their ancestors who had once lived on the land in question. It was believed that the ancestors would come to the aid of their descendants, by causing harm to false claimants of land, either through sickness or death. Therefore, it was almost unthinkable for someone within the clan to make a false claim of ownership of land, as the retribution of the ancestors was assured.<sup>46</sup>

Fencing of land was also a strictly observed customary rule among the Gusii. The land of particular homesteads or clans was demarcated using a hedge made of the

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<sup>44</sup> Ibid.

<sup>45</sup> Ochieng, W. R. (1974). *A Pre-colonial History of the Gusii of Western Kenya, c. 1500- 1914*. Nairobi: East African Literature Bureau.

<sup>46</sup> Ndege, T. M. (2006). Evolving land tenure and agricultural systems, in J.S. Akama and R. Maxon (2006). *Ethnography of the Gusii of western Kenya: A Vanishing cultural heritage*. Lewiston, NY: Edwin Mellen Press.

*omoroka* plant. There was also a ritual that was performed during fencing, in which the heads of the family and other members were shaved, and the shaved hair was buried under the roots of the *omoroka* plant, at a particular location of the fence, known only to the members of the family/kinship group. The Bogetutu elders noted that this ritual guaranteed ownership of the land for all future generations, and was particularly feared by all outsiders. It was also used to resolve land disputes, as the hair would be dug up to prove that the claimant of a piece of land was indeed the rightful heir.

The eyewitness testimony of clan elders was used to resolve land disputes that dated back to a time when the land was first settled and/or bequeathed to a succeeding generation. An elder who had witnessed the initial settlement/bequest, would swear an oath invoking the name of the ancestors that the land in question was the rightful property of a particular person/family. This was particularly important in resolving disputes within families and/or clans over the ownership of land. In traditional Gusii society, members of the extended family lived together, so children grew up knowing their uncles, grandparents, and even great-grandparents. Thus, in the event of a land dispute between brothers or cousins, older generations could testify as to who was its rightful owner.<sup>47</sup>

Therefore, in the Gusii patriarchal society, it was crucial for the male line of succession to remain unbroken. Thus, it was crucial that deceased men should be buried on the same piece of land where their ancestors were buried, as ancestral spirits had to be connected to a physical or a specific geographical location. This explains the continued Gusii attachment to ancestral land, and their reluctance to sell it as mentioned earlier. However, the requirement of burial on ancestral or clan land does

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<sup>47</sup> Ibid.

not apply to women, especially if they were unmarried. Indeed, the Gusii culture seems to display a high level of indifference as to where women are buried, because they are still perceived as outsiders, whose main social role is to help build bonds between different lineages and or clans.<sup>48</sup>

Among the Gusii, land rights and access were governed by well-articulated customary laws, and land was never privately owned but communal and individuals only worked on the land to meet their daily obligations and utilities through planting food crops to nourish their families<sup>49</sup>. Therefore, in Gusii land, social and gender relations continued to structure land access, control and ownership. Under the customary land tenure system, control of resources followed clearly defined gender-segregated patterns based on traditional norms that operated in such a way that limit the rights of women to land.

In this regard, women access and control over productive resources, including land, was determined by clearly structured male-centred kinship institutions and power relations that tended to restrict women land rights in favour of men.<sup>50</sup> In many social settings, women had to strategize more skilfully and fight in order to access, use and control land as noted by Moronya.<sup>51</sup> Socio-cultural situations such as widowhood, divorce, women resistance to marriage and other life-cycle changes created uncertainties that were to be negotiated carefully. Consequently, the rules governing land rights were rooted in male-dominated, kinship-based institutions and traditional

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<sup>48</sup> LeVine, S. (1979). *Mothers and Wives: Gusii Women of East Africa*. Chicago: Chicago University Press.

<sup>49</sup> Mosei Omandi; 76, DEC 2019

<sup>50</sup> Tengey W.2008. 'Gender relations, rural women and land tenure in Ghana: A communication nightmare', in FAO, Land access in rural Africa: Strategies to fight gender inequality. Proceedings of FAO-Dimitra Workshop: 'Information and communication strategies to fight gender inequality as regards land access and its consequences for rural populations in Africa', 22-26 September. Brussels: FAO.

<sup>51</sup> Bitutu Moronya 85, south mogirango, Dec 2019

authority structures that discriminated against women. Women's right to inheritance was further undermined by the system where women would also be inherited as part of the property of a deceased man. In consonance with the scenario obtaining within the Gusii community, a report from a Committee which investigated the system of land tenure in Western Kenya in the 1934 noted that:

A woman does not own land. A girl who is married cannot come back to claim any clan land. When a man dies his wife is inherited together with her cultivation, by the heir. If the heir is a son, he inherits his father's property and provides for his mother.<sup>52</sup>

The commission's report evidenced the desolate position of women in Gusii land on matters of land ownership, control and utilization. It should however be noted that even under these circumstances, a woman enjoyed access to the land allocated to her by the deceased husband and could be able to provide food for her house. In addition, the report noted the traditional vulnerable position of daughters who were yet to get married. Therefore, the dominant avenue for women to acquire land was dependent on their relations to the men. In group discussions, women from Gianchere in Nyaribari Chache revealed that women were considered to be temporal members of their birth places. Hence, no need for them to own land. Men therefore, could decide which part of their land could be given to which one of the wives. Consequently, existing forms of gendered social hierarchies and other factors of production combined to limit women's land access, ownership and usage.

Traditionally in Gusii land therefore, all the land was held in trust by the clan elders who allocated the land to the members of the clan, mainly male household heads. It followed therefore that single men and women had no entitlement to land<sup>53</sup>. The Abanyameyio sub-clan elders in Nyaribari indicated that women's land access was

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<sup>52</sup> KNA DC/NN/10/ I, Political Association, 1926-1940.

<sup>53</sup> Thorp L. (1997). 'Access to Land: a rural perspective on tradition and resources', in S. Meer (ed.) *Women, Land and Authority*, Cape Town: David Phillip.



governed by Gusii customary laws depending on the type of marriage one was in. Thus, land was acquired through male lineage, and women could only access it through their husbands and/or sons. As a consequence, once a woman was divorced, she lost the right to access and use of the land and returned to her own clan. Ondieki Nyamari, however, explained that if a husband died, the wife had the right to use the family piece of land as long as she remained unmarried and lived in the matrimonial home.<sup>54</sup>

In Gusii land, socially constructed roles of women and men were integral to the delineation of land access rights. Control over land entailed the power to distribute and redistribute access rights to members of the family or society. This power was determined by the power relations among members of the community. In the Gusii patriarchal set up this role was vested in the elderly male members of the community. Kemuma demonstrated this point in the following terms

Land ownership constituted the overall right to land use and control in Gusii land influenced social relations in the community. Although the perception was that the entire community owned land, it was seen that the entity that had control over the land could exercise rights akin to individual ownership to the detriment of other members of the community. In most if not all cases, it was the men who traditionally had ownership and control over the community land. Equally, the men had the authority to determine how the land would be distributed and utilised.<sup>55</sup>

Based on Kemuma's narration, it is clear that in the traditional Gusii community, the men had an upper hand in decision making with regard to land ownership and control. This male privilege was exercised by the household heads (the husband/man) through

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<sup>54</sup> Ondieki Nyamari;76, Jan 2020

<sup>55</sup> Onteri Kemuma, 71; 20 Jan 2020

allocating the land to the various houses/women/wives that made up his homestead. Therefore, the community ownership could be characterised as proxy and collateral because in reality, as the women needed to hold an association qualification certificate by way of getting married.

Gusii cultural norms determined which rights to land a woman was to exercise freely. For instance, women would have the right to use a specific parcel of land or the right to gather farm produce from it. However the right to bequeath it through inheritance was negated as this was limited to husbands and sons. In this social-cultural context, a woman's land-related rights were usually tied to her place in her husband's family. Thus the rights to land were viewed within the broader context of social-cultural and economic distribution of wealth within the extended family.

It emerges therefore that ownership of land in Gusii land was based on family and kinship ties, with a level of family control at the household level. However, in terms of livestock grazing rights, the land usage system was more communal in nature. Land was a communal resource, while cattle were household possessions that were allowed to graze on communal grazing land. Additionally, there were communal rights in respect to access to water and firewood resources. This showed that the Gusii traditional land tenure system was more concerned with control and usage, than with ownership in the contemporary sense. Women could use and control land, by communal consensus, but the wider community (family, homestead and clan men) owned the land.

Traditionally, the division of labour was structured by gender and age. Richard Nyatangi<sup>56</sup> asserts that men would clear virgin forest using machetes, while the work

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<sup>56</sup> Richard Nyatangi; 57,Dec 2019

of cultivating (using hoes), planting and weeding was done by women. Young, circumcised but unmarried youths were in charge of looking after cattle, while uncircumcised boys would take care of sheep and goats. It is thus ironical as observed by Hackanson that although women cultivated the land and tended the crops, thus doing the hardest work, they had fewer rights to land ownership.<sup>57</sup>

Relations between Gusii family members, including gender relations, were governed by a strict code of conduct called *chinsoni*. This code of conduct operated within each homestead, headed by the family patriarch, *omogaka bwa omochie*. Subordinate to him were his wives and children, including married sons and their wives and children. In addition, each wife of the patriarch had her own house and home yard, and adjacent land for cultivation. This meant that married women had access to and control over pieces of land within their husbands' homesteads, as it was a wife's duty to cultivate the land and feed her husband and children.

The physical layout of a Gusii homestead was a real-life demonstration of the *chinsoni* concept, with the husband's house closest to the cattle enclosure at the centre of the compound. The wives' houses would be nearby, each with its own small enclosure and granary, and the houses of unmarried sons would be some distance from the others, on either side of the main gate<sup>58</sup>. Omayo<sup>59</sup> observed that “*Chinsoni* was strictly hierarchical, with the father at the top and his wives and children in subsequent levels of authority. It was unthinkable for a wife to disobey her husband in any matter.”

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<sup>57</sup> Hakansson, T. (1988). *Bridewealth, Women and Land: Social Change among the Gusii of Kenya*. Uppsala Studies in Cultural Anthropology No. 10. Uppsala: Amquiest and Wilsell International.

<sup>58</sup> Akama, J.S 2017. The Gusii of Kenya, 38-39

<sup>59</sup> Ombuchi Omayo, 62; 11 Nov 2019

On the same account, it was obligatory for children to obey their parents. Levine<sup>60</sup> noted that the arrangement of houses within a Gusii homestead was intended to reinforce social relation, hierarchy and power relations in the household. This was amplified by Monyenye through the following re-collection. The homestead head was formerly the absolute ruler of this group and owner of all its property including land....no one within or outside the homestead could challenge the man's authority and the matter would wait until his death for the adjudication by other elders.<sup>61</sup>

Monyenye confirms the authority of the household head and when he allocated the family land, no one among the family members would question why they were given a particular portion and not the other or why they were given this size and not more.

This study noted that through the payment of bride-wealth, women were not only detached from their lineage of birth, but, were integrated into their husbands' lineage when daughters could eventually get married to the other clans. It was a taboo for a daughter to get married within her clan. Formerly, when an infant was born, people could inquire about its gender by asking whether it was "of the cattle pen or outside?"<sup>62</sup>(a boy or a girl respectively). It was thereby implied that the boys were part of the patrilineage where they spring from and, this was symbolized by, inside the cattle pen, while the girls belonged elsewhere (outside the cattle pen). It was observed that although these idioms by themselves may not constitute much significance, however, taken together with other cultural values and ideologies as presented in this study, they entirely complete a picture of Gusii women's ambiguous and peripheral status as daughters and/or sisters. According to Mandere:

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<sup>60</sup> LeVine, S. (1979). *Mothers and Wives: Gusii Women of East Africa*. Chicago: Chicago University Press.

<sup>61</sup> Japheth Monyenye, 80. 20 dec 2019

<sup>62</sup> Mayer, I.(1975). The Patriarchal Image: Routine Dissociation in Gusii Families. *African Studies* 34:259-281.

In traditional Gusii, the responsibilities of women included *gokunga*, which meant taking care of property. In the overall, the man was in control of his family. Thus, “masculinity and femininity” began from childhood. Culturally, a woman moved from her home to a man's home and was supposed to handle the resources that had been handed over to her husband through his lineage.<sup>63</sup>

Mandere indicates that the process of assigning roles and responsibilities in Gusii land from a young age was ascribed by the community. The women were, therefore, treated as having roles and responsibilities of economic resource value. Therefore, what a man to a certain extent owned, also a woman owned. However, despite the hard work that Gusii women performed on the land, contributing to the food security of their families and clans, their status in society remained being subservient to that of men. This was further reinforced by polygamy, which ensured that men were at the top of the social hierarchy in their respective homesteads.

It is therefore clear from the study that women in particular, had access and/or usage rights to land. However, they did not control or own the land. This implied to a large extent that, their autonomy in the social and economic realms was circumscribed by their lack of ownership and control over land as intimated by the various women discussion groups<sup>64</sup>. These contentions resonated well with Tambiah's assertion<sup>65</sup> that this was quite significant in taking into account that land represented the vehicle, through which women moved from the reproductive (private and non-work) realm to the productive (public and work) realm. Despite these bottlenecks impinging on women rights to own/ control land, the Gusii customary land tenure system evolved avenues for the resolution of disputes pertaining to land ownership.

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<sup>63</sup> Mokare Mandere , 75. 28 Dec 2019

<sup>64</sup> Women group discussions at keumbu, Nyacheiki, Kenya and Riosiri; Nov-Dec 2019

<sup>65</sup> Tambiah, S. (1989). Bridewealth and Dowry Revisited. *Current Anthropology* 30(4), 413-416.

The most positive assessment of women's property rights in customary systems was the necessity for women to negotiate their social relationships in order to sustain their access to land through the changing of life circumstances. This was notwithstanding the fact that, difficulties in ensuring women's control and ownership of land had remained a problematic feature of Gusii customary institutions of land dispute resolution, land use and land control/management. Women who worked hard in the piece of land provided by their husbands and were able to produce a lot of food were highly respected both by their husbands and the community. This is because they were always in possession of surplus food which they could help those in need, and even exchange with neighbours for what they did not have. They made their families prestigious as they at times attracted those who lacked food to work for them in order to get food thus increasing labour in the home which translated to more food production.

On the other hand, Gusii women who were able to nature their children from infancy to adulthood especially sons were held in very high regard. They were able to influence critical decisions at family or even clan level. Their opinions were sought in critical situation like land conflicts. In the background, their advice was sought. In fact, men never made major decisions without consulting them. Their granaries were never interfered with even by their husbands. This is why men had to have their own stores within the homestead. Such special women as herbalists, seers, prophetesses, and other women who proved themselves as worth of wisdom were consulted in times of need.

The aforementioned customary rules, combined with the Gusii social structure, in which people lived communally in extended family groups, and where kinship links could be established to various other groups, through common ancestry or marriage,

combined with the reverence for ancestors, who were considered to be part of the family, ensured that the pre-colonial Gusii people did not have the modern concept of private ownership of land.<sup>66</sup> As Nyachoka narrates:

Individuals did have significant, even almost exclusive rights to use land, although these rights did not exclude other members of the family and/or kinsmen. Moreover, even the ancestors had rights to land, hence land rights were derived from the ancestors, rather than from mere physical occupation and use.<sup>67</sup>

Therefore, since land was held in trust for future generations just as the ancestors had held it in trust for the current generation. This implied that in the Gusii community, land was denoted as “ours” as opposed to “mine.” Norman Humphrey<sup>68</sup>, a senior colonial agricultural officer in his works on the Luhya agrees with this when he noted that ownership resided not in the man alone but also his ancestors... whose interests had to be guided just as those of the living members of the family, both men and women. These pre-colonial land practices would however begin to experience a shift due to the inception of colonial policies from the late 19<sup>th</sup> century

## **2.5 Initial Colonial Land Policies**

The origin of European interest in land in Kenya can be traced back to 15<sup>th</sup> June 1895 when Britain established its rule over the East Africa Protectorate, present day Kenya. This was followed by physical occupation of the colony where indigenous inhabitants of Kenya were subdued through military conquest or were tricked to let the British settlers acquire or get land to settle. It was the policy of the colonial administration to allow European settlers to occupy and utilise the land for agricultural production

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<sup>66</sup> Nyamwaya, D. and Buruchara, R. (1986). Property and land Tenure, in G.S. Were and D. Nyamweya (Eds.). *Kisii District Socio-cultural Profile*. Nairobi: Government Printer.

<sup>67</sup> Nyachoka Omare, 64. 28 Oct 2019

<sup>68</sup> Norman, H (1944) *The Liguru and the Land: Sociological Aspects of some Agricultural Problems of North Kavirondo*. Government Printers. Nairobi, Kenya

which would allow the colonial government raise money to help settle construction and administrative expenses of the Kenya-Uganda railway. The colonial administration and the European settlers had totally different perceptions and orientation as regards to overall social and economic development in general, and land use management in particular. As it shall be demonstrated, these colonial conceptions had far reaching impacts on the socio-economic development of the indigenous Kenyan people. In particular, it impacted the African conception of gender as relates to property in general and land ownership in particular.

To justify the occupation of indigenous land, the British colonial administration claimed that the land they were acquiring was either unoccupied, or was sparsely populated and/or was completely underutilised.<sup>69</sup> A series of legislations were thus put in place to justify the acquisition of land. In 1890, the Foreign Jurisdiction Act declared that all the unoccupied land with no settled form of government was under colonial control. Also, through the Indian Land Acquisition Act of June 1894, the colonial administration was able to acquire indigenous land by force for railway construction and for other public purposes such as the construction of roads, government houses and offices.

In 1898, the East Africa (Acquisition of Land) Order-in-Council was promulgated. This legislative measure allowed the expropriation of land for European settlement. More significantly, this legislation vested the ownership of all land outside the Coastal strip that was originally under the Commissioner of the East Africa Protectorate to the Colonial Government. Further in 1901, the East Africa Lands Order-in-Council was passed. This colonial law defined Crown Lands as: "All public lands within the East Africa Protectorate which are subject to the control of His Majesty by virtue of any

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<sup>69</sup> Sorrenson M .Y. K 1968 *Origins of European Settlement in Kenya*, Oxford University Press. Nairobi,38



treaty, convention or agreement.”<sup>70</sup> In other words, this legislation simply transferred all perceived unoccupied African land to the Colonial government. Then in 1902, the Crown Lands Ordinance was passed that empowered the Colonial Commissioner to lease or sell freehold land not exceeding 1000 acres to European settlers. The 1915 Crown Land Ordinance made all land, including all the land occupied by the indigenous people, Crown land. It also created Native Reserves for the Africans. The African rights to the Native Reserves that they had been moved to were eventually alienated with the change of Kenya’s status from protectorate to colony in 1920<sup>71</sup>

The completion of the construction of the Kenya-Uganda railway opened up the interior for European and Indian settlement as it improved transportation into the East African hinterland. This raised the value of land along the railway line and thus forced the Colonial Commissioner, Hardinge to apply the Indian Land Acquisition Act to reserve land of one mile along the railway line for public use. Afterwards, European settlement was particularly encouraged especially by Charles Eliot to make the railway pay.

From 1903, the highlands of East Africa Protectorate (i.e., present day Kenya) had become a centre of attraction for European settlement. In the Protectorate, the colonial administration found what they described as, “amorphous, leaderless populations scattered in the highlands of Ukambani and Kikuyu land.” The British Foreign Office, therefore, encouraged increased European settlement to bring to an end the Government criticism over huge losses that the colonial administration was making in the control and administration of the East African colony.<sup>72</sup>

Initially, the British wanted to settle Indians in the central highland region because

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<sup>70</sup> Ibid, 63

<sup>71</sup> Ibid

<sup>72</sup> Sorrension 1968, 34

through their trading activities, they would introduce money economy to the African communities. Furthermore, the Indians would carry out small scale farming that white settlers could not engage in. However, when Charles Eliot replaced Hardinge in 1901, he decided to reserve the Central Highlands for European settlement. Supported by the Colonial Secretary, Joseph Chamberlain, who had visited the protectorate in 1902, Eliot went on a campaign to encourage European settlement with the support from pioneer settlers who had already settled in the Central Highland region. As the railway line reached Nairobi, the town became a European frontier centre and the starting point for European settlement towards the west. Nairobi, therefore, became what Eliot called “pre-eminently a white man’s country.”<sup>73</sup> Thus, by April 1903, over 100 Europeans had settled in Nairobi and its surrounding areas, and by May 1904, 168 more settlers had arrived from South Africa.<sup>74</sup>

However, the colonial administrators were in blatant contradiction with one another on how to acquire, allocate and use the declared Crown land in Kenya. While the British Government was in agreement with the administration in Nairobi on land acquisition and settlement, it insisted on the consideration of the existing facts on the ground. The colonial administration in Kenya, on the other hand, insisted that the land was almost empty and that it should be occupied by the European Settlers. Furthermore, the local administrators, particularly the District Commissioners, were lobbying for compensation of the lost African land that had been occupied by the European settlers. Thus, with Eliot as the Colonial Commissioner, most of the land all the way from Ukambani to Naivasha was alienated and given to the settlers. At one point Sir Fredrick Jackson, the Colonial Secretary, complained that Eliot was offering land in the Rift Valley without making adequate provision for the protection of

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<sup>73</sup> R. M. Maxon 1990 Agriculture ; William R. Ochieng ( Ed ) *Themes in Kenyan History*

<sup>74</sup> Sorrenson 1968, 63

African rights.<sup>75</sup> Eliot thus denied Africans their rights to land in favour of European settlers' interests. Further, under Sir Donald Stewart who took over from Eliot, the Maasai were eventually moved to an unproductive Native Reserve to the south of the railway line.

Consequently, between 1907 and 1912, under the Chairmanship of J. A. L. Montgomery, the Colonial Land Commission saw settlement of whites in various parts of the country. For instance, in early 1907, over 5000 acre leases were surveyed and given out to European settlers. In August 1907, the Rift Valley allotment was completed. Also, towards the end of 1907, allotment was made around the Sotik area. At the same time in 1910, the Western Kenya allotment was completed, while Londiani allotment was completed in 1912. In 1915, the Crown Land Ordinance was promulgated. The law defined Crown Land as including "all land occupied by the native tribes of the protectorate and all lands reserved for the use of any members of the native tribe"<sup>76</sup> This legally rendered Africans tenants at will of the Crown.

Specifically, Gusii-land came under colonial rule as part of British protectorate of Uganda in 1894 with the whole area east of Lake Victoria to Naivasha to the west being part of the Uganda protectorate. The Gusii region, however, remained detached from the colonial administration because it was far from the railway line and most of the people were not engaged in long distance trade that would have opened up the area to the outside world. Moreover, transportation and communication to the nearest colonial administrative centre at Kisumu was nonexistent. In May 1902, an administrative station was established at Kericho, also; in 1903 another administration post was established at Kalungu in Luo land. The creation of these administrative centres in the neighbouring areas of Kericho and Kalungu enabled the British to enter

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<sup>75</sup> Sorrenson, 74

<sup>76</sup> Ibid; 189

Gusiiland.

According to the Colonial Commissioner, Donald Stewart, “Gusiiland was a potential area for European settlement....It was important to open this part of the protectorate which is well adapted to European settlement.”<sup>77</sup> The colonial administration moved in to establish an administrative centre in Gusii land. However, first they had to pacify the Gusii who were accused of raiding Luo and stealing livestock, an area already under the British colonial administration. In this regard, the British colonial soldiers (the King’s Army Rifles {KAR}) swept through south Mogirango, Bonchari and Bomachoge in Gusii confiscating herds of cattle to compensate the Luo. The capture of large herds of cattle from the Gusii people had immediate social and economic repercussions on the community. As Gesare of South Mogirango recounted, “mothers were left with no milk for their children, while for some time men, could not marry for lack of dowry.”<sup>78</sup>

The British soldiers, however, encountered stiff resistance from the Abagetutu Clan under chief Angwenyi who fought back to recover their cattle. Robert Maxon points out that the hostile encounter of the Gusii community with the British who used excessive force on them could affect future relations as the Gusii remained bitter and resistant to colonial administration long after the conquest.<sup>79</sup> By 1907, an administrative centre had been established at Getembe (present Kisii Town) with Northcote as the first District Commissioner. The DC had, however, to settle scores with the Kitutu of Bogeka area who had been affected most by earlier British attacks due to their persistent resistance to the establishment of colonial rule over their territory and the capture of their livestock by the British soldiers. The Bogeka people

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<sup>77</sup> Stewart to Lyttleton June 8 1905:PRO: CO 533/2

<sup>78</sup> Gesare Bitengo Gotichaki ,99yrs,Dec 2019

<sup>79</sup> Maxon R A, Conlicts and Accomodation ,pg 32

of Kitutu were especially motivated by the prophecies of a famous Gusii prophetess, Moraa Ng'iti, who according to Gusii elders never accepted foreigners in Gusii land. She openly showed despise towards men who never fought to keep the enemy away. Hence, she strongly encouraged Gusii warriors under the leadership of Otenyo Nyamaterere to attack Northcote who was leading a contingent of the King's African Rifles soldiers in an expedition to punish the Kitutu people, especially the people of the Bogeka sub-clan<sup>80</sup>.

As a prelude to the attack of the Kitutu people, in 1908, Northcote started collecting hut tax in order to raise revenue and encourage the sale of surplus production. This was aimed at promoting the capitalistic mode of production. In this regard, the colonial administration insisted on tax payment in cash making the Gusii men to sell their cattle, goats and sheep. Live animals were also confiscated from those people who refused to pay taxes. These colonial initiatives offended the Kitutu people who decided to retaliate. In January 1908, Kitutu warriors attacked the British soldiers who were under the command of Northcote. The war saw many Kisii warriors massacred by the colonial soldiers who had superior weaponry. However, notwithstanding the advanced weaponry of the British soldiers, according to Gusii elders, the Gusii warriors managed to kill over 40 of the King's African Rifles soldiers.<sup>81</sup> Also, the Gusii warriors went ahead and killed several Indian traders and policemen who were based at Getembe station.

In this critical initial encounter, the colonial soldiers were forced to retreat and seek for reinforcement from Kalungu, Kisumu, Kericho and from as far as the Nandi Station in the north. The reinforced British expedition re-entered Kitutu in August

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<sup>80</sup> Akama, J.S (2018). *The Untold Stories: Gusii Survival Techniques and Resistance to the Establishment of British Colonial Rule*. Kisii University Press.

<sup>81</sup> East African Standard, 25 January 1908, 11.

1908 and by the end of September 1908 they had destroyed several Gusii homesteads, killed many people, burnt houses and granaries, raped women and captured over 5000 herds of cattle<sup>82</sup>.

On the overall, the loss of cattle in the British attacks made the Gusii to embrace more crop farming than before. Also, the breakout of rinderpest in 1908 to 1909 made the situation worse as the colonial officials banned any movement and sale of animals that was a major cash earner for the payment of tax. Therefore, for the Gusii to get cash for payment of tax and purchase of consumer goods, they had to produce more crops for sale.<sup>83</sup> The colonial government encouraged this through the supply of seeds and encouraging the sale of produce by inviting Indian and Arab traders to the area. Thus, new ways of wealth accumulation and consumption were introduced in Gusii land<sup>84</sup>.

Thus, the eventual suppression of the Gusii marked the beginning of keener interest of the British in the Gusii highland region. The District administrative headquarters were moved from Gaya in Luo land to Kisii Town. Furthermore, more non-government groups including traders and missionaries started coming to Gusiiland. The colonial government was now bent on establishing clear political and economic measures to move forward. The colonial administration chose loyal men whom they made chiefs and tasked them with the responsibility of maintaining law and order, arresting offenders and hearing petty cases. However, the appointed chiefs were more associated with white rule and the local population did not appreciate their role. Hence, the Native Ordinance of 1912 provided for the appointment of council of elders who were able to help mobilise more young men to undertake public works. It

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<sup>82</sup> Akama, 2018 The Untold Stories, 35

<sup>83</sup> Onyambu Moruga Machoge, 95 yrs, Jan 2020

<sup>84</sup> Neigus, Conflict Over Land, 159

also made it easier to abolish *ebisarate* (the military encampments where male youth undertook military training for the protection of the community). These youths who appeared to be a security risk for the colonial administration were forced to go back to their families where it was easier to control them.<sup>85</sup> However as will be discussed later this arrangement would upset the social economic life as well as gender relations among the Gusii. Eventually, the colonial government established seventeen councils of elders in different parts of Gusiiland. Soon, the Gusii people started taking both civil and criminal cases to these councils, thus; laying the foundation for colonial administrative and the entrenchment of colonial judicial systems.

As the British government was trying to establish its rule over Gusiiland, the colonial administration adopted a dual economic policy which provided for parallel economic development for the settlers and the Africans. The major resources for development (i.e., land and labour) were used in favour of European development as African productive land was given to the settlers, while the African men were made to work in settler estates. The Gusii people, however, were never subjected to major land alienation though many of the Gusii men were taken to work in European farms. This was majorly because of the late conquest of the Gusii people, poor transport as the land was located far from the railway line, as well as the persistent Gusii resistance that as Robert Maxon puts it, changed British intention to settle in Gusiiland

The colonial government, however, introduced the new economic systems of production and market economy in Gusiiland. Indian traders were encouraged to reside in Gusiiland to encourage commercial production while the chiefs were to initiate the new forms of economic production through family labour. Consequently, with availability of productive land, many Gusii men including those who had been

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<sup>85</sup> South Kavirondo Annual Report 1912-1913, KNA:DC/KSI/1/1

chased from *Ebisarate* took to farming to pay taxes. However, many Gusii men were not keen with working away from home. As Makori Riana indicates, this was partly a form of continued resistance to British colonial rule coupled with the fact that many of those who volunteered to work away from home could die and as such could neither be accounted for by the community nor come back home. In 1913, the colonial government started forced recruitment of labour. Consequently, between 1913 and 1914, the then District Commissioner, Spencer sent over 4000 Luo and Gusii men out for public works.<sup>86</sup> As will be discussed later, this labour recruitment would eventually affect the gender relations among the Gusii as relates to land usage, access and ownership.

However, it is worth noting that despite this early colonial establishment in Gusii limited progress had taken place by 1914. The outbreak of the First World War made things worse especially when Kisii became the arena of war between the British and the Germans. The Germans who ambushed and attacked the Kisii administrative headquarters forced a hurried retreat of the DC and other colonial administrators from Kisii, leaving the administrative centre deserted. Elders from neighbouring Bonchari and Nyaribari indicated that this gave the Gusii an opportunity to loot and destroy the centre, an aggressive act that came to be known by the colonial administrators as ‘the sack.’<sup>87</sup> On return after the war; the DC Spencer organised a massive punitive expedition against the Kitutu, Nyaribari and Abanchari (these were the clans that mainly took part in the destruction and looting of the administrative headquarters). Over 3000 herds of cattle were immediately captured and a further fine of 16,525 herds of cattle was imposed on the Gusii and the Luo people.<sup>88</sup> Further, over 3000

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<sup>86</sup> South Kavirondo Administration Report 1913-1914, KNA:DC/KSI/1/2

<sup>87</sup> Group discussions at Bonchari and Nyaribari, November 2019

<sup>88</sup> DC Spencer, 23 September 1914. KNA: PC/NZA/3/65/47



men were arrested and forced to work in government projects.

The DC who took over after Spencer, W. F. G. Campell continued recruiting more Luo and Gusii young men to work in the Carrier Corps. Around 5,210 men were sent out of the District between 1914-1915.<sup>89</sup> More men kept being sent out of the District to work even after the end of the war. Thus, by 1920 a large number of men were going out to work for wages.

The war also led to the increase of taxes. Both poll and hut tax were increased throughout the protectorate to 5 rupees and the collectors who included the DCs, chiefs and headmen ensured exploitation of all taxable sources. This forced the Gusii people to work harder to produce more for sale. By 1920 the tax had been further increased to eight Rupees<sup>90</sup>

It must, however, be noted that the war period was a period of economic hardship. The Gusii could not sell their products except to their neighbours the Luo. In 1918 drought struck many parts of the protectorate followed by influenza attack in 1919. However, Gusiiland was not much affected. This provided the Gusii people with an opportunity to produce and sell their surplus to their Luo neighbours. Even with the end of the drought, the effects of global economic depression kept agricultural development at the bare minimum, especially for those who had begun growing cash crops, because prices had gone down<sup>91</sup>.

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<sup>89</sup> SKAR 1914-1915, KNA: DC/KSI/2

<sup>90</sup> SKAR 1920, KNA: DC/KSI/1/2.

<sup>91</sup> DC/KSI/1/2 South Kavirondo Annual District Report, May, 1919

In 1919, the Native Registration Ordinance was passed to enable the colonial administration identify the men according to where they worked and their ethnic background. The Men were given a certificate or *kipande* that they hanged around the neck and this enabled easy identification of those men who were not working for them to be recruited into the workforce.

These various colonial strategies and plans that were aimed at political, economic and social change in the Gusii community did not augur well especially with Gusii indigenous religious groups. Particularly, the people turned to mumboism to demonstrate their discomfort with colonialism. In the spirit of mumboism, a woman by the name Bonareri started teaching people that their renowned prophet Sakawa would return soon, that black men would rule themselves again, and that white men would leave. Her teachings became so popular and she got a big following from different parts of Gusii that the DC decided to deport her to Lamu in the Coast, together with her husband, son and other followers.<sup>92</sup>

As indicated, Gusii land effectively came under colonial rule after the 1908 'punitive' expedition. The imposition of colonial rule led to the introduction of new crops and adversely affected the indigenous Gusii agricultural systems. It can be argued that while colonial capitalism provided new opportunities for some Gusii to accumulate wealth and expand agricultural output, it in the long run pauperised majority of the population most of whom were women. In addition, the new mode of production hindered and, in most cases, ruined indigenous patterns of agricultural production, which to some level favoured women as producers and direct appropriators of the food crops.

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<sup>92</sup> Senior Commissioners report to police in kisumu, 23 march 1921, KNA: Coast 40/922

However, it should be noted that Gusiiland was a special area, far from the centre, with richly fertile land, but at the same time difficult to cultivate with its hilly terrain. Furthermore, there were no settlers occupying the Gusii highlands. The only white settlers were in the "buffer zones" of Kericho and Sotik. There was also a small coffee plantation near Kisii Town owned by a European settler. However, the Crown Lands Ordinance of 1902 which declared all African "unoccupied" land as Crown Land affected the buffer zones between the Gusii and their neighbours especially the Kipisgis. Thus, after 1908, the buffer zone land of Sotik and Kericho was given to the European settlers for tea and pyrethrum growing and came to be the Sotik-Kericho settlement area.

In the early period of colonial rule, the indigenous crops still dominated as the new crops were being experimented with and gradually established. However, overtime the Gusii were influenced by colonial policies to start growing crops for sale over and above the level of pre-colonial production by supplying them with seeds and beginning with chiefs who then would influence their subjects. They were gradually introduced into the money economy and found themselves producing crops both for subsistence and for sale<sup>93</sup>.

Furthermore, the introduction of coffee as a cash crop in Gusiiland played a critical role in the changing patterns of accumulation and social status. For most of the colonial period, most Africans in Kenya were forbidden from growing high-value export crops, like coffee, tea and pyrethrum, for fear that competition would lower returns to white settlers and inhibit the availability of cheap labour. It is, therefore, interesting to note that when the high-valued crop, coffee, was allowed to be grown by the Gusii, it was mainly 'owned and managed' by men. Though women provided

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<sup>93</sup> KNA DC/KSI/1/2 South Kavirondo District Annual Report, 1914

labour in the production of coffee, they were more visible in the growing and management of food crops.<sup>94</sup>

Nevertheless, the position of women in the patriarchal Gusiiland was increasingly eroded with the introduction of colonialism. Also, changes in socio-economic trends during the colonial era triggered a dramatic shift in the structure of the traditional division of labour between women and men. Thus, as most men opted for migratory labour, the women essentially retained their traditional roles and added extra ones, initially reserved for men.<sup>95</sup>

At the time when the colonialists were settling in Gusiiland, the Gusii were still expanding their occupation to frontier areas especially towards Sotik and Kericho region to the east and the Trans-Mara area to the southeast. As Gusii population continued to grow, land became a crucial factor of production. Polygamy was encouraged so that men would have more wives with more children who would provide extensive labour to enable them occupy more land and maintain control on the one already occupied. However, with the arrival of the British in the Kericho and Sotik area, and their subsequent occupation of the land in these frontier areas, there was a sudden end of the Gusii expansion to these areas. This meant that the households had to hold onto what they had acquired even when family numbers were growing. This increased pressure led to quarrels within and between families and clans as they rushed to grab any unoccupied piece of land within.

Further, the creation of reserves for the African communities saw the colonial governments create boundaries that enclosed each community to a specific reserve. As already mentioned the British arrived at the height of Gusii expansion process.

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<sup>94</sup> KNA DC/KSI/1/4 1933-1938

<sup>95</sup> KNA DC/KSI/ 1/2 South Kavirondo District Annual Reports I 913JI 923

Neigus<sup>96</sup>, however, noted that with the creation of reserves and administrative boundaries, the Gusii borders were closed and they were not allowed to settle anywhere outside the territory set aside for them by the colonial administration. The acquired productive lands that were outside the native reserves were reserved for European settlers and for cash crop production. Thus, the Gusii now started looking inwards to occupy any land left unoccupied. Omosa indicated, first, the people occupied boundary land between clans and then moved to occupy grazing land that was communal until there was no more free land to occupy.<sup>97</sup> Men had to subdivide the land they had to give their sons who came of age through marriage. This was the beginning of increased land stratification in Gusiiland, a process that has continued to the present time.

The Gusii were then forced to adopt a more intensive form of cultivation. Fortunately, the good soils and reliable climate allowed for this drastic change. The periods of fallowing were cut by half as they now had two planting seasons; *omwaka* and *omwobo*. The labour input was intensified with women working longer to provide food for their families. Conflicts over land intensified between wives, families and clans. At first, land was seen as a means of production of subsistence and surplus for exchange in the clan set up. This eventually changed as the clan could no longer help in expansion and protection of land with the limitation of the colonial administrative boundaries<sup>98</sup>. Thus, individual households started fighting for their space and this laid the foundation for individual ownership of land, Families now started consolidating their land and protecting it from encroachment by neighbours. The scarcity of land also meant that women access and use of land would be limited.

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<sup>96</sup> Neigus, Conflict Over Land

<sup>97</sup> Stephen Omosa. Kitutu chache,89.Jan2020

<sup>98</sup> Kitching, The making of an African Petite Begeoisie

Furthermore, the introduction of a cash economy by the British also came with a new set of exchange relationships. This was done through the introduction of a currency system of trade where people had to buy foreign goods using money, introduction of taxes that were to be paid in form of money, wage labour and introduction of cash crops. All these engendered the Gusii people towards working to achieve results of their own labour. The result was an end of group rights to property and the advent of private ownership and individual competition for resources.

As already mentioned, the British cultural values were passed on to the Africans in the process of westernization. One such western value is the subsumed place of a woman in the homestead. This idea of the Victorian woman was passed on to the African communities changing their initial noble attitudes towards women. Thus, unlike in the African set up where a woman was allowed access to land where she worked and produced her food with which she fed her family, the Victorian concept of a woman was simply a home keeper who waited for everything to be done by men. In all aspects, the British eroded the African conception of a woman and imposed their social and cultural values on the Africans. Coupled with the practice of individual ownership of land, women found themselves not being able to carry out their traditional duty of being given land to produce food for their families.

## **2.6 Conclusion**

From the foregoing discussion in the chapter, it is apparent that the Gusii greatly valued land as a means of production. The chapter has established that right from the time of settlement or occupation of land, men played a major role in the acquisition of land, clearing of forests for farming and providing the most needed security against intruders. This qualified them to be owners of the land not as individuals but as a clan or community. As the land was handed over to younger generations, it came to be

known as ancestral land. The Gusii people, as was the case with most other African communities evolved a land tenure system in which ownership was based on egalitarian principles where while men's rights to own and share land were clear, they only held the land as custodians on behalf of their ancestors and the community for future generations. Women also enjoyed the rights of access and use of the land within marriage for production of food to feed their families. These rights enabled the community to operate with limited conflicts, and promoted sustainability in the utilization of land resource for the overall wellbeing of the community.

Although both men and women in the community accessed land only after marrying, women had the daunting task of ensuring that their right to access and usage of land was assured by meeting other cultural requirement such as ensuring that they got sons who would perpetuate the ownership of land allocated to them by their husbands. This created the agency in women to ensure that they got sons of their own or by making arrangement to marry a woman who would bear children for them. Therefore, the only feasible way for a woman to acquire land and property was through her children, especially her sons. It was also evident in the chapter that without sons, a woman in Gusii land had minimal rights to property and would face old age without any economic support or prospects.

The arrival of Europeans and establishment of colonial rule over Gusii land at the beginning of the 20<sup>th</sup> Century saw the community face major changes socially, economically and politically that disrupted their smooth cultural operations. Most of the changes greatly affected the position, role and economic conditions of women in a more negative way. The initial expansion of the community was put to a halt with the creation of reserves and administrative boundaries beyond which members could not expand their areas of occupation. This led to increased pressure over limited land

resulting in conflicts over land as households fought to acquire more of whatever land was remaining within the reserve and retain that which they had already occupied for themselves. At family level, women got disadvantaged as land gradually diminished denying them their means of production for subsistence. Thus, the gradual colonial advancement of the money economy and private ownership of land left women with no right to ownership, access or usage of land. This would be more aggravated as colonial policies got more entrenched in the colony as will be shown in the next chapter.



**CHAPTER THREE**  
**COLONIAL LAND POLICIES AND GENDER RELATIONS IN**  
**GUSII-LAND, 1920-1939**

**3.1 Introduction**

The analysis in the previous chapter revolved around the effects of nascent colonial policies on the questions of land access, ownership and control in Kisii County. It emerged that the institution of colonial policies in this formative period had the net effect of constricting women's access, control, ownership and utilization of land as this resource became more contested and competitive. The discussion in this chapter is situated within the context of colonial agrarian policies that were instituted and implemented between 1920 and 1939. Key among these were the policies informed by the post WW I economic meltdown that ultimately compelled the official enunciation of the dual policy. The chapter interrogates the major elements of these policies and assesses the extent to which their attempted implementation impacted on questions of women's access, control and utilization of land in Kisii County. Further, this chapter details the dramatic effects of the Great Depression on overall colonial agrarian policies in Kenya's rural areas like Kisii that bestowed an enduring imprint on issues of women's access, control and utilization of land. The chapter ultimately addresses alterations or contradictions exhibited in colonial agrarian policies in the wake of African household response to the measures instituted earlier to stem-off the negative consequences engendered by the Great Depression on the colonial economy. The chapter measures the impact of these "control strategies" on Gusii women as pertains to land access, control and utilization.

### **3.2 The post WW I and its aftermath in Kisii, 1920-1922.**

With the devastating impact of the First World War, the Colonial Office in London diverted its attention to higher imperial interests beyond the East African colony. This allowed room for the settlers to gain influence in the Colonial State and push for the protection of their interests as the European elected representatives could articulate and defend settler interests at government policy level. By the 1920s, the settlers had managed to gain the right to elective representation in the Legislative Council, therefore, gaining greater political influence that boosted their economic dominance. The settlers would then push the Colonial State in Kenya to make their demands accepted by the Colonial Office.<sup>1</sup>

The Post World War I period saw the colonial office in London concentrate more on enhancing economic stability of the colony. It made the colonial state to transform its land use approaches in order to realize higher agricultural yields. While initially the colonial state had focused on settler production and protection of settler interest especially in agricultural production,<sup>2</sup> through provision of loans, agricultural extension services and guaranteed markets for the European settler produces, it turned out that settler production alone could not sustain the colonial economy. The colonial government, therefore, turned to African production to fill the void due to steadily declining agricultural production by settler farmers occasioned by the depressed prices during this period.

As evidenced in the First World War, the colonial state in Kenya supported settler agricultural production to ensure supplies for the war. The colonial state in Nairobi

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<sup>1</sup>Robert Maxon, The years of revolutionary advance 1920-1929 W. R. Ochieng, Ed, 1989) *A modern History of Kenya 1895-1980*; Evans Brothers ,Nairobi, 74

<sup>2</sup>David Anderson and David Throup “Africa and Agricultural Production in Colonial Kenya; The myth of the war as a watershed” *A Journal of African History* 26 (1985) 329-330, Robert Maxon, 1984, *Going their separate ways* 57

passed various policies that majorly aimed at spurring settler production. The war period, therefore, saw important gains made by European settlers. For example, the total export share for coffee and sisal rose from 32% to 57% while the export value of African products remarkably declined<sup>3</sup>. While the colonial office in London concentrated on the war efforts, the colonial state and the men on the spot in Nairobi leaned more towards settler needs to ensure settler agriculture flourished. In the Crown Lands Ordinance of 1915, for example, the colonial office in London had allowed the colonial state under pressure from the settlers, to give an extension of land leases to 999 years, making it convenient and cheaper for settlers to lease land. Equally, the colonial governor was given veto power over land transactions between members of different races thus defining all land occupied by Africans as crown land by 1919, thereby making Africans tenants at the will of the crown.

At the end of the First World War, the colonial state embarked on the settlement of the ex-World War I soldiers in the settler schemes that had been set aside in Trans-Nzoia, Laikipia, Nyeri, Kipsigis and Nandi reserves. Governor Sir Edward Northey pushed the colonial state to allow ex-world war I soldiers with resources to settle in Kenya. This led to an influx of European settlers and land agents into the country. These hoped to increase settler production and by extension the colonial economy.

In order to boost the colonial revenue in the colony, the Colonial State endeavoured to raise taxation after WW I to meet increased financial needs. An income tax law was introduced in mid-1921<sup>4</sup> for both Africans and settlers. Through their representatives in the Legislative Council, the settlers repealed the Income Bill and were relieved

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<sup>3</sup> Makana, E.N “Reinterrogating the interface between settler and peasant sectors of Kenya’s colonial economy 1901-1929”. A paper presented in a workshop on new frontiers in African Economic History, Geneva, September 2012.

<sup>4</sup> Ochieng’ W.R 1989, Themes in Kenyan History

from tax payment in 1922.<sup>5</sup> While the Africans in the reserves as illustrated by the Gusii continued to bear the burden of revenue remittance through increased taxation, the colonial government used the revenue on subsidising the settler economy especially in the area of agriculture. Settler areas and urban centres that were mainly occupied by the settlers witnessed a heavy inflow of capital. Railway extensions were constructed to connect settler areas to the main railway line for settler accessibility to and from market centres. This was done using African forced labour through coerced recruitment in Kisii and other African reserves.

The colonial state in Nairobi led by Governor Northey strongly supported the settler mode of production at the expense of African agriculture. In the Northey circular of 23<sup>rd</sup> October 1919<sup>6</sup>, the Governor directed that the state shall help the settlers in accessing labour supply by stressing on his administration officers, chiefs, and headmen to use every lawful influence to make or even coerce able bodied male natives to go to work. This policy was implemented without approval from the colonial office in London. Owing to the fact that the colonial state in Nairobi was under pressure from settlers, the colonial office allowed the colonial state to source for forced labour. The statistics provided in table 3.1 below show the trend of labour recruitment between 1919 and 1924.

**Table 3.1: Units of African Labour In Employment 1919-1924**

Year	Men	Women	Children	Total
1919-1920	45,005	3,917	4,789	53,711
1920-1921	55,939	4,911	6,539	67,389
1921-1922	51,753	4,261	5,935	61,949
1922-1923	54,406	6,609	9,942	70,957
1923-1924	66,993	8,316	11,784	87,093

Source: *Colony & protectorate of Kenya, department of Agriculture, Annual Report 1924*

<sup>5</sup>Ibid.

<sup>6</sup>Maxon The years of revolutionary advance 1920-1929 Ed Ochieng W, R. 1989,73

As can be seen in table 3.1 above, the Northey Circular led to a steady increase of labour recruitment from 1919 to 1924. To secure regular and reliable labour supply as had long been pushed by settlers, a registration measure was put in place where all men sixteen years and above were required to carry an identification document that doubled as a work record. The registration document popularly known as *Kipande* was put in operation from the 1920s, forcing more Africans to join the labour force to boost settler farming.<sup>7</sup> As illustrated by McGregor-Ross, by the end of 1920, some 194,750 Native Registration Certificates were issued which increased to 519,056 by the 1924 and 119,7467 by 1931.<sup>8</sup> A substantial portion of these registration certificates went to the Kisii African reserve.

During World War I, the massive recruitment of men into joining the war pushed many Kisii men into migrant labour to avoid conscription to the war fronts. This enabled settler farmers to enjoy regular supply of African labour from Kisii. The supply, however, declined as the war came to an end and the labourers (the Gusii men) started trickling back into the Gusii native reserves. The former labourers would join in the family household farming putting more land under the plough. Parenthetically, the World War I violently disrupted indigenous forms of agricultural production in Kisii, as large numbers of Gusii men conscripted into military service or carrier corps, and many others being forced into migrant labour which took a heavy toll on indigenous 'human capital.' Almost half of the men returning home from Carrier Corps duties were reportedly not fit for hard work again for a long time.<sup>9</sup> This left the bulk of the family chores, agricultural duties and responsibilities in Kisii to be handled by the women.

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<sup>7</sup> Ibid, 72

<sup>8</sup> McGregor-Ross, W. (1968), *Kenya From Within*. London: Frank Cass.

<sup>9</sup> Alila, P. (1984). *Kenyan Agricultural Policy: The Colonial Roots of African Smallholder Agricultural Policy and Services*. Institute for Development Studies. University of Nairobi. Working Paper 327.

The colonial state in Nairobi put in place measures that would push Africans into the capitalistic commercial production of grains so that the communities got enough farm produce for subsistence and the surplus for sale. First, the colonial government introduced taxation<sup>10</sup> in 1901 under the Hut Tax Regulations. The hut tax increased from one to two rupees in 1902 by 1903, it had been increased to three rupees. 1909 saw the introduction of Poll tax which stood at five rupees in 1915 and eventually sixteen shillings (the new currency) in 1920,<sup>11</sup> which had to be paid using money that was previously not in circulation. Western goods were introduced that could be purchased using money. Moreover, the cattle that could be sold to get money was rapidly depleted after the outbreak of diseases such as rinderpest, confiscation of cattle by the colonial administrators, as well as the placement of a ban on the movement of cattle outside Gusii land<sup>12</sup>. Equally, the young men who used to carry out raids to replenish their stocks had dispersed after the disbandment of the traditional youth camps (*ebisarate*) and were now at home. The community thus increased the land under cultivation in order to get surplus produce to be sold to enable them get money for the payment of tax. Men also took to grain farming as an alternative to raise money to pay taxes.

However, the start of the 1920s saw Gusii-land suffer double tragedy of drought and locust invasion especially in South Kavirondo District and the Northern parts of the district<sup>13</sup>. This affected the production of both maize and finger millet in Gusii region and other parts of the South Kavirondo District.

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<sup>10</sup>David L. Neigus 1971, *Conflicts Over Land* 57-60

<sup>11</sup> Makana, E.N “Re-interrogating” 6.

<sup>12</sup>Gavin Kitching 1980, *The Making of an African Petite Borgeoisie*, Yale university Press, London

<sup>13</sup>Great Britain, Kenya Land Commission Evidence and Memoranda vol 3 1934 ,2272

The years 1918 and 1919 saw Kenya experience one of the worst famines. The rains failed in many parts of the country resulting in famine in many African areas. This forced the Colonial Government to import food to avoid starvation<sup>14</sup>. At the same time, the country suffered the world-wide influenza attack that killed many people and shook the world economy. Between 1919 and 1922, therefore, Kenya suffered a depressed economy as farmers were hit by the collapse of prices of their agricultural produce both internally and externally<sup>15</sup>. In South Nyanza which Kisii was part of for example, business closed down as the Asians closed shop and business grounded to a stop<sup>16</sup>. The settler cash crop exports were severely affected as prices for coffee and tea went down by over 50 percent<sup>17</sup>. The fall in prices forced the settlers to cut down on African labour and wages. This made Africans unable to pay taxes, thus plunging the economy into greater economic challenges.

The effects of the mini depression, therefore, led to African protests against high taxes, low wages and land alienation that culminated in the formation of political associations such as the Young Kikuyu Association, the East African Association and the Young Kavirondo Association. The Gusii by this time had not joined the political movement till November 1945 when the Kisii Union was formed both as a trade union and a political association led by John Kebaso of North Mogirango<sup>18</sup>. This was because of the late arrival of the colonialists and the fact that the Gusii did not experience land alienation as will be discussed in chapter five.

Consequently, although women's land rights, control and usufruct in the pre-colonial Kisii were relatively insecure to the extent that they only had usufructuary rights and

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<sup>14</sup>Maxon R.M. The years of revolutionary advance, Ed Ochieng W. R 1989, 72

<sup>15</sup>I. D. Talbot, 1974, The Kenyan Flax Boom, *Kenya Historical Review* 2, 62-3

<sup>16</sup>SKAR 1918-1919, 1919-1920, 1920-1921, 1922, KNA; DC/KSI/1/2

<sup>17</sup>Ibid.

<sup>18</sup> Robert M. Maxon, 1984, Conflict and Accommodation in Western Kenya' 125-127

did not enjoy the rights of ownership or disposition, the advent of the colonial state demand for increased agricultural production and expanded land use after 1922 saw the security they had in the utilization of land eroded gradually and eventually extinguished with the passing of legislations which failed to recognize the user rights that the Gusii women enjoyed previously. From the onset, the colonial state was pressing for the necessity of more land to be alienated for European settlers on a freehold arrangement. However, as much as most of the early European travellers and adventure seekers had observed; they had found large tracts of land without people, consisting of forest country which was full of antelopes and lions and other wild animals, however, the study maintains that, this African land had its rightful controllers, users and owners<sup>19</sup> who were by right/rite the Gusii women.

Furthermore, the principles of obligation and responsibility under indigenous African Kisii land tenure system had guaranteed women's access to land and control over food crops. The colonial intrusion instilled conflicts and contradictions between the foreign type agricultural production and the Kisii traditional agricultural economies of affection.<sup>20</sup> In the 1920s, the rights of Gusii women concerning ownership, control and use of land in the area were further interfered with, by the introduction of capitalist production and reproduction for gendered gains. In particular, more colonial land reforms negated and progressively reversed the existing Kisii traditional order and eventually introduced male domination in land ownership and income generating agriculture.

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<sup>19</sup> Ochieng, W. R. (1974). *A Pre-colonial History of the Gusii of Western Kenya, c. 1500-1914*. Nairobi: East African Literature Bureau.

<sup>20</sup> Munro, J. F. (1968). *The Machakos Akamba Under British Rule, 1889-1939: A Study of Colonial Impact*. Ph.D Thesis, University of Wisconsin.



According to Nasimiyu<sup>21</sup> since the production of cash crops and subsistence crops were directly linked to the access to land, women in Kisii and other reserves were in the colonial period confronted with a whole range of handicaps in fulfilling their role as primary producers. Therefore, the study affirms that lack of control over land and all that goes with it in Kisii became a major cause of women's economic dependence and marginalization. Without land, Gusii women were reduced to a state of dependency with no sense of social and economic security. The more land was reserved for commercial crops in Kisii, the more women became increasingly reliant on a cash oriented domestic economy. The Gusii women could no longer produce sufficient food as their labour was transformed and reallocated to commercial crop production, the monetary benefits of which were the preserve of men.

Narrating her experience, Moraa Nyakundi observed that when her father went for migrant labour, they were left with her mother to work extremely hard on their piece of land, just like her step mothers, for sustainability in the household. However, when the father came back from work, he made the wives surrender part of the land they had been given as their share to be added to the father's already existing *emonga* (exclusive piece of land for the homestead patriarch). The father then planted his own maize for sale to enable him pay tax. This meant that the women's land for food production was being reduced as there was no more land for expansion. This created a conflict between the Kisii traditional system of agriculture and the colonial one in the 1920s. This conflict contradicted the norm as women in Kisii were disempowered. Also, the family members, especially women, had to spare some days to work on their husband's *emonga* from where they received nothing. This became the coronation of

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<sup>21</sup> Ruth, N. (1985). Women in the Colonial Economy of Bungoma: Role of Women in Agriculture, in *Women and Development in Africa* 56-73 (G.S. Were ed.)

the capitalistic mode of production in Kisii and exploitation of the Gusii women labour.<sup>22</sup>

The study noted that when the Gusii people started experiencing the impact of colonial land policies, issues relating to engendering land use were mild given that land was increasingly being subdivided in the 1920s to 1930s.

The 1920s also saw new opportunities for Gusii men. First, a larger number of the men after having come out of the youth camps (*ebisarate*) found it necessary to go for wage labour in order to get money for payment of taxes. This in reality allowed women unilateral access to and control of the land back home as the men were out waging. By 1922, for example, over three hundred Gusii men were recruited to work outside Gusii land.<sup>23</sup> However, it is important to note that most Gusii men liked working not far from home so that they could return home when they earned wages to invest the money through their women in agriculture and other productive activities. This explains why Gusii men never liked working in railway construction or as squatters in settler farms far away from their homeland.

### **3.3 The Dual Policy and its attempted implementation in Kisii**

The mini depression had adverse impact on the colony's finance. By 1922 the colonial state had a deficit of six hundred thousand dollars<sup>24</sup> with Governor Northey having spent increased revenue on expanded administration and support of European settlers in agricultural activities. On the other hand, African production was never completely crushed by the lack of colonial support. On the contrary, African production in most districts as exemplified by Kisii increased. The districts were able to produce surplus

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<sup>22</sup>MoraaNyakundi 90, Bomachoge 12<sup>th</sup> December 2019

<sup>23</sup>Robert M. Maxon 1984, Conflict and Accommodation In Western Kenya The Gusii and the British, 1907-1963, Fairleigh Dickinson University press London. 79

<sup>24</sup>Robert Maxon, The years of revolutionary advance. ED Ochieng W. R. 1989, A Modern History of Kenya 84-85

for the local markets in urban centres, settler farms and for neighbours who sometimes suffered from drought. The Colonial office in London, therefore, pressurised the Nairobi colonial state to balance its budget. In 1922, Sir Humphrey Legget, Chairman of the East African branch of the London Chamber of Commerce sent a report to the Colonial Office maintaining that reliance on the European settler mode of production was costing Kenya dearly. He noted;

*“...the solution to Kenya’s problems was to stimulate African production by spending more on the reserves while reducing the load of African taxation...”*

This marked the official state recognition of the vital role of African reserves, Kisii included in the colonial economy. Legget recommended African production of low value alongside settler bulk, high value and capital-intensive production.<sup>25</sup> The Colonial Office in London with W.C Botommley as the head of the East African Department at the colonial office was thus convinced that African taxation had to be reduced, their mode of production stimulated and expenditure on their production increased. Under pressure from the Colonial Office, the Colonial State under Northey reluctantly endorsed the idea of government resources being partially used to support African production<sup>26</sup> which occasioned his exit as governor.

In July 1920, the transformation of the East African Protectorate to colony status enabled the colonial office in London to have a grip on the colonial state and reengineer the interests of the African natives as evidenced by the recall of Northey and the coronation of Coryndon to execute the Dual Policy. This happened after the colonial office in London had lost sight of the colonial state in Nairobi as the colonial office concentrated on the war efforts. The short lapse of metropolitan control over

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<sup>25</sup>Ian R. G. Spencer.1981, The first World War and the origins of the Dual Policy in Kenya,1914-1922, *World Development* 9, 742

<sup>26</sup> Robert Maxon Modern History of Kenya, 81

Nairobi created a vacuum that was filled by the white settlers who used their dominance to manipulate the man on the spot in Nairobi to their advantage. In June 1922, Northey was recalled, Coryndon replaced him in Nairobi. Coryndon conceived and adopted the policy that came to be widely accepted as the Dual Policy where African production in reserves and settler production would develop complementarily<sup>27</sup>

The dual policy was a policy adopted by the colonial office London to straddle settler agriculture with African peasant agriculture, especially in reserves like the Kisii native reserve.

Despite the popularisation of the Dual Policy in the 1922, the policy never boosted African production. Instead, for the rest of the period, settler production for export was favoured by the Colonial State. Even when there had been calls for African bulk production in the reserves, this never came to pass. Settler agriculture, therefore, expanded in the second half of the 1920s. In 1926 to illustrate, African produce only accounted for £470,750 out of a total agricultural export value of £2,211,665 and in 1927-28 alone their exports exceeded two million pounds<sup>28</sup>. The settlers increased in number and production would then lead to increased demand for African labour which would also reduce African production caused by labour drain. Moreover, land purchase was subsidised especially during the period of the mini depression to make it affordable to the settlers. The increased white settlement also meant increased demand for African labour.

In Gusii, just like in other African reserve areas, the colonial state had not done much initially to promote African agricultural development. However, over time, the Gusii

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<sup>27</sup>Ibid,89

<sup>28</sup>Department of Agriculture Annual Report 1929, 651

realized increased production of grains out of their own responsive measures as they put more land under agricultural production. This led to the occupation of empty lands and frontier land to the East of Sotik while the South of the current Trans-mara region was also not spared.<sup>29</sup> This expansive utilization of land led to increased production especially of grains, thus promoting production and sell of surplus produce. These changes greatly impacted on land tenure systems and gender relations in Gusii to be discussed herein.

The expansion of farm land under cultivation could later be enhanced by the colonial government's introduction of better farm implements such as the iron hoes and oxen drawn ploughs as well as quality seeds.<sup>30</sup> Therefore, the 1920s saw the Gusii increase the production of grains such as finger millet and sorghum, which became their commodities of trade with their neighbors, especially the Luo and the Kipsigis. This prompted the Nairobi based colonial state to seek to improve the quality of African production in the Kisii native reserve by introducing quality seeds and improved production techniques such as the understanding of soil fertility and climate patterns as well as ecological zoning in the region.

With regards to marketing, the state-owned marketing cooperatives provided the settlers an edge over the Africans which prompted the Gusii women to resort to local and black markets within the area and the neighbourhood. The cooperatives practice regulated prices of agricultural commodities where they offered extremely low prices for agricultural produce originating from African reserves like Kisii.

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<sup>29</sup>David L Neigus *Conflicts over Land; A study of Expansion and Inversion in Gusii Society*. Thesis, Harvard College, 1971; 46-50

<sup>30</sup>Robert M, Maxon 1984, *Conflicts and Accomodation*. 57

Initially, Africans were seen and treated essentially as a source of cheap labour. They also produced much of their food requirements in the reserves and often realized surplus for sale, hence subsidizing the colonial economy. The 1920s saw a lot of pressure exerted on the Gusii to produce more grain which included finger millet, sorghum and maize<sup>31</sup>

Once the market economy had picked up in Kisii, men and women were presented with new opportunities and choices to improve their livelihoods and those of their families. One such opportunity was engaging in formal education. The introduction of formal education in Kisii started in the early 1920s with the establishment of missionary schools such as Nyanchwa in 1918 and Nyabururu in the 1920s.<sup>32</sup> The few men who acquired formal education found it easier to get jobs in the colonial system where they were appointed to work as administrators and clerks.<sup>33</sup> Others could be absorbed to work in the settler agricultural fields as supervisors and office secretaries. Later on, the Gusii men started demanding for better formal education in government schools that were deemed to provide quality education compared to missionary schools.<sup>34</sup>

Also, the Gusii people's increased interest in education was because of the enhanced efforts and campaigns by the church missionaries and government officials. Thus, the chiefs and village headmen stressed the importance of formal education to their people. However, from the very beginning Gusii girls and women, as was the case in other African reserves, were excluded from formal education and this marked the beginning of new gender roles in the labour market and property rights in Kisii.

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<sup>31</sup> Department of Agriculture circular.22-31 October 1932. KNA: PC/NZA/3/2/106

<sup>32</sup> SKAR 1923, KNA: DC/KSI/1/2

<sup>33</sup> Focused Group Discussion at Bonchari, November 2020

<sup>34</sup> R. M. Maxon. 1984, Conflict and Accommodation,84.

Women were particularly required to stay at home and carry on with domestic chores as men's new roles were beginning to be shaped based on formal education, employment and migrant labour. The educated men used their salaries to engage in commercial maize growing.<sup>35</sup> Mokeira Omari exemplified women who were left behind as their male counterparts progressed in education. She vividly recounted how two of her younger brothers were taken to school at Nyanchwa in 1924 while she remained at home to take care of her other younger siblings. The brothers later got employment as clerks in European demonstration farms and earned money for personal development while she still remained at home helping her mother with farm work as her father worked in Kericho.<sup>36</sup>

In order to promote native African agricultural economy in Kisii and other African reserves, the colonial state prepared grounds for the capitalist enterprises in Gusii region and other African reserves. The colonial state through the chiefs in the Gusii region pioneered the enterprise. The chiefs were the first to engage in modernized mechanized farming and formed the majority of the people who owned grain grinding mills.<sup>37</sup> Furthermore, the chiefs used their positions to influence access to land, labor and improved seeds as their farms acted in most cases as demonstration farms. The colonial state also supported the agrarian transformation of the chiefs through whom they promoted the capitalist agenda.

In 1924, the colonial state introduced the Local Native Councils, a strategy in which African development in African areas/reserves like Kisii would be secured without necessarily using resources from the central government.<sup>38</sup> The Council assisted Kisii

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<sup>35</sup> Musa Ayako, 85.Nyaribari Chache,jan 2020

<sup>36</sup>Mokeira Omari 94, Kitutu, January 2020

<sup>37</sup>South Kavirondo Administration Report, 1928, KNA: DC/KSI/1/3

<sup>38</sup>Kitching, Economic Change, 188.

women farmers and traders to improve on their agricultural productivity and marketing. The Council became the source of capital financing Kisii women for agriculture, business as well as being the source of salaried employment in the native African area of Gusii-land.

With the aim of entrenching its rule, in 1923 the colonial government established a system of location-based tribunals that handled civil cases in the native reserves like Gusii-land.<sup>39</sup> These tribunals at location level replaced the indigenous African Councils of elders that existed in the pre-colonial and early colonial periods. With the creation of the colonial court system, the people in the native reserve of Kisii quickly adopted and accommodated this new system of litigation with a little customization. In this regard, most of the subsequent District Commissioners observed that the people in the Kisii reserve area loved litigation and wasted their time and resources in the courts instead of utilizing the resources for economic and agricultural development given the productivity profile of the area.<sup>40</sup> Between 1924 and 1926, the colonial state established a Local Native Council (LNC) in every District, headed by the District Commissioners. In Gusii, a Native Council was established in 1925.<sup>41</sup> The local members of the Native Council, such as Chief Musa Nyandusi, used their positions to push for local/women gains<sup>42</sup>. However, with time, the Local Native Council was used to push for the needs of the community such as advocating for quality government education and the provision of medical and agricultural services which explains the Musa Nyandusi High School as a remnant legacy.

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<sup>39</sup>Robert M. Maxon 1984. Conflict and Accommodation. 87-88

<sup>40</sup>South Kavirondo Administration Report, 1929, KNA: DC/KSI/1/3

<sup>41</sup>South Kavirondo Administration report 1926, KNA: DC/KSI/1/3.

<sup>42</sup>Robert Maxon: In (Ed) W. R. Ochieng, 1989, Modern History of Kenya, 97



### **3.4 The Great Depression and its Aftermath in Kisii, 1929-1939**

The great depression of 1929 was as a result of changes and volatility of the world market system. It started with the collapse of the Wall Street stock market in New York in the United States of America. This led to worldwide economic downturn that began in 1929 and lasted until 1933, colonies included. Prices of primary commodities dropped sharply in Kenya, just like many other colonies. Further, the depression disorganized primary commodity production and export trade of the white settlers in Kenya. The depression sparked off fundamental changes in economic and social institutions and macroeconomic policies. In particular, the great depression caused drastic declines in production, severe unemployment, and acute deflation in most parts of the world, with far reaching implications on Kenya's agricultural economy.

The great depression also affected the prices of settler crops which sharply declined. The settler monopoly of commercial production for export was now under threat. In Kenya, the fall of export prices coincided with the fall in government revenue. By 1934 for example, the value of the country's export dropped to levels they were in 1922-23.<sup>43</sup> Maize which was largely produced in Kisii was hard hit as its prices fell by half while coffee fell by forty percent. It ushered in increased need to further expand agricultural production in the African native reserves like Kisii and to exploit other natural resources. Furthermore, the colonial state placed increased attention on the African reserves with the intent to increase agricultural production and supply of requisite colonial commodities. Consequently, more land was put under the plough in the Kisii African reserve than was the case hitherto. Land became a more contested resource with major implications on gender relations in Kenya and in particularly

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<sup>43</sup>Tabitha Kanogo, Kenya and the Depression 1929-1939, W R Ochieng, 1989, 115.

among the Kisii, owing to the agricultural utility of the area. Ochieng' illustrates that by the mid-1930s, about one-fifth of all usable land in Kenya was under agricultural control and utilization<sup>44</sup> which the study believes the lead area was Kisii.

In the 1930s, migrant labour had become popular with the Gusii men. The effects of the great depression made many Gusii men move out to maximally utilize the available land in their localities as many more moved to Sotik and Kericho tea estates as an alternative to agricultural production. In 1936, eighty percent of the 2813 men working in the tea estates came from Gusii land<sup>45</sup>. Other Gusii men went to neighboring South Kavirondo and Lolgorien region to work in mining centers.<sup>46</sup> Notably, most of these men worked on contract basis and kept links with their homeland where they returned whenever agricultural need arose. For instance, when the prices of maize crops improved in 1937, the Gusii men concentrated on putting more land under maize production instead of going out for wage labour.<sup>47</sup> As the District Commissioner noted, there was a considerable shortage of labour in South Kavirondo that not even raising of wages and other incentives influenced enough Gusii men for the required workforce.<sup>48</sup> Thus, as the production of grains especially maize increased in the 1930s, the Gusii found a ready market for their surplus produce in their neighbors the Luo and among migrant laborers, especially in Kericho and Sotik. Particularly, the grains were sold to the migrant workers who provided an alternative market for the Gusii farm produce. Nevertheless, the study maintains that, despite the turbulent economic times of the day, Kisii produced commodities in Kenya's export for the decade as Gusii agricultural production during the great

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<sup>44</sup> David L. Neigus: *Conflicts over Land, A Study of Expansion and Inversion in Gusii Society*. Thesis, Havard College, 1971

<sup>45</sup> SKMIR for October 1936, KNA: PC/NZA.4/5/8

<sup>46</sup> Robert Maxon *Going their Separate Ways*, 78

<sup>47</sup> Orvis, Men "Women and Agriculture" 8-11

<sup>48</sup> SKMIR July 1937, KNA: PC/NZA/A/5/8

depression was neither stultified nor crushed. Indications from all oral sources are that Gusii agricultural production increased during the great depression, which can only be attributed to Gusii response to the prevailing times.<sup>49</sup> This is evidenced by the quantities of maize and wimbi produced in Kisii in the 1930s as illustrated by table 3.2 below;

**Table 3.2: Maize & Wimbi produced by the Gusii between 1936-1938**

Year	1936	1937	1938
Maize (tons)	689	2378	1226
Wimbi (tons)	631	541	688

Source: SK Ag ARs 1937-39, KNA: AK/2/33

Table 3.2 above reveals that the Gusii production of Maize and wimbi was on the increase during the decade despite the turbulent times. In addition, as migrant labour employment rebounded in the 1930s for many men, the increasingly common absence of men began to affect women adversely, as they were required to take on a substantially increased share of agricultural labour.<sup>50</sup> However, as postulated by Kitching, production continued to expand through the 1930s, as migrant labour had little negative impact on African agriculture as the Kisii women and their non-migrant men were able to increase their labour time and employ new tools (iron hoe and oxen plough) and the introduction of new crops such as maize, groundnuts and exotic trees to increase productivity.<sup>51</sup>

From the early 1930s, Africans were increasingly initiated into the commercialisation of life in the reserves. Cash was increasingly used for services and purchases of items such as footwear, utensils, furniture, hoes and ploughs. The more commercialization

<sup>49</sup> Group discussion with elders from Bobasi and Bonchari, Dec 2019

<sup>50</sup> Hay, M. J. (1972). *Economic Change in Luoland: Kowe, 1890-1945*. Ph.D. diss., University of Wisconsin-Madison.

<sup>51</sup> Kitching, G. (1980). *Class and Economic Change in Kenya: The Making of an African Petite-Bourgeoisie*. New Haven: Yale University Press.

of rural life grew, the more Gusii women found themselves marginalised, as the Gusii men collaborated with the colonial officials to whittle down and erode women's legal rights, especially as relates to access and usage of land. This was done through the incorporation of traditional laws that favoured men into a new body of laws drawn up by the colonial state. This resulted in the emergence of new sexist colonial laws.<sup>52</sup> For instance, with the Gusii men being the ones who got formal education and migrant labour that gave them a cash advantage, it was thus clear from the word go that the colonial state was a male world. This was blended with the traditional patriarchal system to produce a structure that to a large extent disempowered Gusii woman. As Rhoda explained, Western ideological imperialisms and the introduction of capitalism and subsequent neo-colonialism were the linchpins of gender inequality in Africa as is exemplified by the Gusii people.<sup>53</sup>

One link between the Kisii pre-colonial and the early 1930s colonial experiences was the consistent denial of women rights for independent access to land and the control of the resources that were produced by a combination of land and labour. As the Gusii tradition showed, the most salient fact about women's access to land was that it typically remained and continued to be, derived from someone else rather than existing independently and directly. That is, rights to land only accrued to Gusii women as a result of their status within a family. However, the problem lay in the fact of the mutability of such status and of the rights they struggled to retain. In the late 1930s, as land got more and more scarce and given that the unoccupied land was getting exhausted, Gusii women's access to land, use and control were affected for

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<sup>52</sup> Jane, P. (1986). *Women's Rights and the Lagos Plan of Action*, 8 HUM. RTS Q. 180

<sup>53</sup> Rhoda, H. (1984). *Women's Rights in English Speaking Sub-Saharan Africa*, in *Human Rights and Development in Africa*, 46.

more and more men were getting back home to control their ancestral land for commercial production.

It was noted that in a situation where land was in abundance and the social organization ensured that women held important structural positions, women's right to access and use of land was secure. However, as land got progressively subdivided and limited in the 1930s, Gusii women gradually lost the security and power they had initially enjoyed. Their inability to get and own land other than through the status of a wife and the inability to inherit land in the land regulations of the 1930s adversely affected their future land rights and their socio-economic status. The whittling away of women's land rights by the changes instituted by the colonial state was a direct result of their disabilities arising from the customary rules of inheritance and the customary division of labour which had resulted in Gusii women not being able to directly acquire land for themselves. Whitehead & Tsikata noted:

Most rural African women play a substantial part in primary agricultural production, making the complex of local norms, customary practices, statutory instruments and laws that affect their access to and interests in land very significant not only to them, their dependents and their male relatives, but also arguably to levels of agricultural production<sup>54</sup>

Although Gusii women's land rights in the pre-colonial period were insecure to the extent that they only had usufructuary rights and did not enjoy the rights of ownership or disposition, the advent of European settlement and colonialism in Kisii in the 1930s saw whatever security they had in land being eroded and eventually extinguished with the passing of further colonial legislations in the years to come that failed to recognize

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<sup>54</sup>Whitehead, A & Tsikata, D. (2003). *"Policy Discourses on Women's Land Rights in sub-Saharan Africa: The Implications of the Return to the Customary"*. Journal of Agrarian Studies, 3 (1-2), 67-112.

the land access and user rights Gusii women previously possessed. Omandi<sup>55</sup>observed that:

Colonialism stopped further movement to new lands. Land started being partitioned into smaller holdings. Clear permanent boundaries were introduced. Land was initially marked using hills, rivers, valleys and specific trees. However, with the creation of permanent boundaries, clan land remained static as human population within families and clans increased leading to reduced land that can be used for cultivation and food production by the Kisii women.

According to Monyenye,<sup>56</sup>the British never cared much about the Gusii women in the 1930s since they were excluded from any form of public work and they had no formal education. Moreover, their traditional role as primary food producers that gave them mandatory access to land was sidestepped in the 1930s by the colonial state. Women in the 1930s were no longer to hold the land in custody for their growing sons as commercial agricultural production took over. The commercial agricultural production in 1930s reinforced the idea of Gusii men as eligible and absolute owners of land. The colonial authorities found it appropriate to equate the power held by traditional male Gusii elders in the allocation of land to the western conception of property ownership to the exclusion of Gusii women, which created the 1930s gender paradox among the Gusii. In such cases, the Gusii women lost the guarantee of the traditional land tenure systems in the mid1930s which had traditionally allowed them to access and use land for agricultural production. As Monyenye narrated:

In traditional society there was no hunger as women always farmed enough land for the subsistence of their children. It is until the mid1930s when women were increasingly deprived of the opportunity to utilize the land that families and the whole community started experiencing hunger and food shortage.<sup>57</sup>

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<sup>55</sup>David Omandi (Age, 55; 21 December, 2019)

<sup>56</sup>Ernest Monyenye, (Age 67; 20, December,2019)

<sup>57</sup> Monyenye

Therefore, it is clear that the colonial state in mid 1930s by design ruthlessly, suppressed the indigenous women friendly mode of land ownership, usage and agricultural production in Kisii which adversely affected Gusii women participation in economic production and social progress. According to Ongesa:

The 1930s colonial land policies stopped free movement to new land. Trends in land ownership changed, as colonial officials were given powers to make decisions over issues of land without considering and consulting Gusii traditional land use. They introduced punitive restrictions to land where the Gusii men became the owners of land as the colonial state handled all matters related to land with only men in Kisii area.<sup>58</sup>

From Ongesa's narrative, it is apparent that the commodification of land entrenched capitalism in the in the late 1930s among the Gusii people. Gusii men started dictating how, when and where land was used, and; they also started exploiting Gusii women labour for their personal benefits. Furthermore, communal protection of Gusii women's access to land was curtailed with the introduction of exclusive male tribunals in Kisii that were less likely to take into consideration existing Gusii women's plights. At worst, the Gusii women were left to fight for their survival on their own towards the end of 1930s. In the prevailing situation, some daring Gusii women tried to persuade their husbands to give them a share of the family land.

The Gusii women who were in control of the domestic/subsistence economy swiftly responded by reverting to the growing of traditional sweet potatoes and cassava as alternative crops to survive the locust invasion of 1934. Furthermore, the Gusii women halted the selling of the extra food they had in store as a cautionary measure just in case the famine caused by the locusts was to extend<sup>59</sup>. As they were getting out

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<sup>58</sup> Elkana Ongesa (Age, 60; 19, December, 2019)

<sup>59</sup> Nyachae Ombongi 89, Nyaribari Masaba. December 2019.

of these natural calamities, the Gusii women embarked on increased production of finger millet, sorghum and maize for their sustenance of the domestic economy.

While the increased need for migrant labour put more pressure on women's labour time, Kitching<sup>60</sup> suggests that this early period should be characterized simply as one in which underutilized male labour was absorbed and employed, resulting in large increases in production in Gusii and other African native reserves. Labour was underutilized in part because colonial conquest largely nullified the indigenous juridical, political and military roles that men of all ages played in their societies.<sup>61</sup> Thus, in trying to find out how colonial state policies affected gender relations in food production and land use, Wangari<sup>62</sup> argues that alienation of more land and the conscription of African male labour played a critical role in the transformation of gender land relations in most of parts of Kenya as illustrated by Gusii. The study affirms that this new development made more able-bodied men go to work as migrant labourers leaving women in the African reserves with more responsibilities. Functions such as, clearing and tilling of virgin land that were previously solely done by men were left to women and children. Norah Mong'ina says she learnt to clear the thick bushes near their home from her mother who had to work for long hours to put more land to crop farming while her father had left to work at Kericho.<sup>63</sup> Further, due to the traditional patriarchal setup, women were often unable to exercise their economic and social rights. Hence, women were overburdened with various agricultural tasks in the absence of their able-bodied sons and husbands.

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<sup>60</sup>Kitching, G. (1980). *Class and Economic Change in Kenya: The Making of an African Petite-Bourgeoisie*. New Haven: Yale University Press.

<sup>61</sup> KNA/DC/KSI/1-3 South Kavirondo District Administration Reprt 1924-32,167

<sup>62</sup>Wangari, M. (1996). Asian Versus Africans in Kenyans; Post-Colonial Economy in the Eastern African Journal of History and Social Sciences Research.

<sup>63</sup> Norah Mong'ina, 90, Nyaribari Masaba: November,2020



Lonsdale and Berman<sup>64</sup> indicate that the establishment of capitalistic production depended upon the appropriation of African land and labour, a point Ndege<sup>65</sup> concurs with when he notes that at any rate, the British colonial economic policies in Kenya including land alienation for European settlement, taxation, and migrant/forced labour, export production, railway & road transport and communication, education and health had complex and far reaching implications on the livelihoods of the Africans in the reserves especially the Gusii.

The interplay between land ownership system and crop production in Kisii cannot be well analysed while ignoring gender and labour relations in the area. Among the Gusii, it is the women who were primarily responsible for food production, household management and the nurturing of children. By the start of the 1930s, a large number of Gusii men were out on migrant labour leaving their wives with increased agricultural and household tasks.<sup>66</sup> In spite of maximizing on their labour, agricultural policies marginalised women not only in cash crop production but also in the provision of formal education. Ndeda<sup>67</sup> asserts that colonialism was discriminative to the African (Gusii) women who were overburdened in the reserves in the absence of male labour. In this regard, the Gusii women became the sole agricultural producers in Kisii reserve. They planted, weeded, harvested, stored and managed their food harvests both in the presence and absence of men until colonialism contradicted this norm.

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<sup>64</sup> Lonsdale, J. and Berman, B. (1979). 'Coping with the contradictions: The Development of the Colonial State in Kenya, 1894-1914,' *Journal of African History* 20.

<sup>65</sup>Ndege O.P. (2006). Colonialism and its Legacies in Kenya. Lecture delivered during Fulbright-Hays Group project abroad program: July 5th to August 6th 2009 at the Moi University Main Campus.

<sup>66</sup>Omwoyo, S. (2008). Assessing the Impact of Coffee Production on Abagusii Women in Western Kenya: A Historical Analysis (1900-1963). In C. W. Kitetu (Ed.), *Gender, Science and Technology: Perspectives from Africa* (156-167). Senegal. African Books Collective.

<sup>67</sup>Ndeda, J.M., (1993) *The Impact of Male Migration on Rural Women: A case Study of Siaya District c. 1894-1963*. Ph.D. Thesis, Kenyatta University

This marginalized women in Kisii further as it entrenched gender inequality in the ownership of land. Therefore, this study argues that while colonial capitalism provided some new opportunities in the Kisii reserve, the Gusii men exploited them selectively in the mid 1930s to accrue and accumulate wealth and expand individualistic agricultural output. It also pauperised a large part of the women population. In addition, the new mode of production hindered and, in some cases, ruined indigenous patterns of agricultural production that were hinged on women.

Traditionally, in a situation where land was in abundance, the social organization of the society ensured that women held important social and structural positions, as women's rights of access to land and control as well as usufruct were to a larger extent secure. However, the promulgation of new land tenure systems and agrarian changes conflicted and contradicted the traditional tenets of the people in the native reserve of Kisii as women gradually lost the security and power they had hitherto enjoyed traditionally.

Equally, the colonial state abolished traditional "cattle camps", (*ebisarate*) by 1937 and most of the grazing areas were replaced by the growing of the male dominated commercial crops. As the Gusii traditional male activities and obligations vanished, Gusii women faced increasingly greater obligations. These supplemented the colonial economic production system, since when labour requirements in European farms fell, the men returned to their families to be provided for by their women/wives. However, this made the procreative labour of women to be devalued by the colonial capitalistic production relations. Less emphasis was placed upon food production and the Gusii women's labour in this sector was uncompensated, while Gusii men's labour in cash crop agriculture assumed exchange value.

The Gusii customary rights of women continued to be eroded by colonial reforms.<sup>68</sup> The end result of colonial capitalism was the re-structuring of gender roles to the detriment of the Gusii women. The introduction of commodity production for export in Kisii brought about greater gender segregation in labour in the 1930s with Gusii men increasingly becoming agricultural managers.<sup>69</sup>

### **3.5 Gusii Response to the Colonial Expansion of Economic Space in the 1930s and its Implications on Gender Relations**

By 1930, maize had been established as a major crop grown both for domestic consumption and export. However, poor transport network became a major obstacle for the Gusii women to be able to sell their farm produce in the neighboring areas.<sup>70</sup> The poor road network made the transport costs very high.

As the Gusii expanded agricultural production, they equally ventured into other non-agricultural activities to support their households. One such income generating venture was the construction of water driven grinding mills for grinding grains. Thus, some enterprising Gusii men used the money generated from the sale of maize to buy grinding mills, to grind maize and finger millet, to supplement their livelihood and the paying of taxes. By mid-1932, petty African businessmen had taken over what was initially seen as Asian business. Around this time, eleven Gusii men were operating the water driven grinding mills in different parts of Gusii land<sup>71</sup>. Therefore, this was a clear indication of a people keen on embracing the colonial capitalistic modes of production. By 1935, the Local Native Council had approved sixty-six applications

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<sup>68</sup>Nzioki, E. (2003). *Why Women's Right To Land?* Ad-Hoc Expert meeting on Land Tenure System and Sustainable Development. Lusaka, Zambia.

<sup>69</sup> Davison, J. (1987). Who Owns What? Land Registration and Tensions in Gender Relations and Production in Kenya. In Davison, J. (eds), *Agriculture, Women and Land: The African Experience*.

<sup>70</sup>Maxon R, *Going Their Separate Ways*: Associated University press, Canada. 2010 pg 54

<sup>71</sup>KNA: PC/NZA/2/1/22, Minutes of KisiiBakoria LNC Meeting, 26-27 Mau 1932

for the purchase of water mills.<sup>72</sup> Clearly an African entrepreneurship and the rise of a petite bourgeoisie group had started evolving in Gusii land.

Consequently, African men in Kisii were inducted and coerced into cash crop production for export.<sup>73</sup> As discussed earlier in this chapter, it was the migrant labourers, the educated and the chiefs all of whom were men that ventured into cash crop farming because of exposure financial capability and administrative power bestowed upon them by the colonial state in terms of land use. The Gusii women were banished into subsistence production at the margin of the colonial capitalistic economy. Nyachoti<sup>74</sup> observed that during the colonial period, Gusii women lagged behind men in numerous ways; they had far limited experience with the cash economy for it was the Gusii men who had gained exposure through migrant labour, and their women had little formal education if any and minimal technical training in “modern” agricultural methods. Thus, women suffered a serious loss of social and economic vibrance.

The Gusii, socio-economic and customary practices were restructured, modified and recast during the great depression times. The changes affected the people’s way of life including the way they perceived themselves and their property. For instance, the Gusii households were forced to sell their cattle to pay taxes in cash. In pre-colonial Gusii, it was unheard of that a cow has been sold let alone for cash. But, with the establishment of colonialism and its penetration into the area plus the demand for cash in mid-1930s, such trading activities became the norm. As the Gusii like other native communities were forced to sell their cattle, the value of the cattle as a store of value

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<sup>72</sup>Minutes of Kisii Bakoria LNC meeting, may 26and 271932 KNA: PC /NZA/2/1/22

<sup>73</sup> Falk M, S. (1996). Changing African Land Tenure: Reflections on the incapacities of the State, The European Journal of Development Research, 10; 2: 33-49.

<sup>74</sup>ChumaNyachoti 83, KitutuChache, jan 2020

and a symbol of wealth started fading as they gradually started embracing the cash economy.

Another impact to one of the key pillars of the pre-colonial Gusii society began to occur in the 1930s, simultaneous to and caused by the rise of the Gusii men's off-farm employment. Young Gusii men started gaining increased independence from their elders and began to obtain their own bride wealth by purchasing cattle for the purpose.<sup>75</sup> This was a major shift from pre-colonial Gusii marital arrangements that were majorly transacted with bride wealth from the husband's sister. In this regard, off-farm cash income, gave young Gusii men the opportunity to pay for their own bride wealth. This minimised the role of Gusii elders in controlling marital arrangements in the community. It also meant that the young families deterred the involvement of elders in resolving marital and family conflicts, especially where injustices were vested upon women over the use of critical family resources such as land. Gusii women, therefore, could not seek the intervention of clan elders whenever they were faced with injustices from their men folk like before, especially issues related to access, use and control of land.

With land getting limited in the late 1930s, employment offered a new and open vista for socio-economic expansion through sons' careers. Initially, education became regarded as a means of obtaining profitable employment for only the sons. In addition, most of the Gusii men invested in businesses and trade. The late 1930s saw the cost of education and the scarcity of land place economic restrictions on polygyny. Through business and wage employment opportunities, alternative paths to wealth creation were opened for Gusii men and political power became more and more dependent on one's place in the local and national administration. As a result,

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<sup>75</sup>Mose Nyandusi, 93, NyaribariChache January,2020

polygyny as a means of expansion and prestige for Gusii men was on a speedy decline.<sup>76</sup>

Moreover, the role of women in childbearing among the Gusii, and the high value that the Gusii people placed on children affected the Gusii gender relations, land ownership and control towards the end of the 1930s. As sedentary cultivators in a fertile, well-watered, and relatively under populated land, the pre-colonial Gusii people needed as many hands as possible to work the land. Therefore, Gusii women, wives and subsequently children, were important measures of success and esteem among Gusii men. The high value placed on wives and children in Kisii was also influenced by the high rates of child mortality that occurred in the area. Therefore, Gusii families would have as many children as possible, with the negative conscience that some will not survive to adulthood. However, this desire for large families remained even after arrival of the colonial era, explaining the population explosion in Gusii.<sup>77</sup>

While the changing economy of Gusii-land in the late 1930s fuelled rising bride wealth prices, there are other factors that exacerbated the increase<sup>78</sup>, such as the large amount of money entering Kisii-land which was unevenly distributed among cash crop producers who had acquired substantial new wealth during the pre-War II period. Philip Mayer<sup>79</sup> an anthropological resident in Kisii-land in the 1930s revealed that, although larger amounts of wealth in circulation could be a legitimate cause for higher bride wealth, there were unfair bargains made by the new rich members of the

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<sup>76</sup> Abbott, S. (1980). Power among Kikuyu Women: Domestic and Extra-Domestic Resources and Strategies. In *Anthropological Papers in Honor of Earl H. Swanson, Jr.* L. Harten, C. Warren, and D. Touhy, (eds.), pp. 8-14. Boise: Special Publications of the Idaho Museum of Natural History.

<sup>77</sup>Hakansson, T. (1988). *Bridewealth, Women and Land: Social Change Among The Gusii of Kenya*. Uppsala studies in cultural anthropology. No. 10. Uppsala: AmquiestandWilsell International.

<sup>78</sup>Hakansson, N. T. (1994). The Detachability of Women: Gender and Kinship in Processes of Socioeconomic Change among the Gusii of Kenya. *American Ethnologist*, 21(3):516-538.

<sup>79</sup>Ibid

community. This in turn helped push bride wealth into an inflationary spiral as other Gusii men were forced to demand higher amounts for their daughters. Mayer observed:

Every father fear being left in the lurch by finding that the bride wealth which he has accepted for his daughter will not suffice to get him a daughter-in-law; therefore, he is always on the look-out for any signs of a rise in the rate, and tends to raise his demands whenever he hears of other fathers doing so. This means in general terms, that individual cases of over-payment quickly produce a general rise in the rate all round.<sup>80</sup>

Moreover, to a limited extent, Gusii women gained increased independence, as Bukh suggests,<sup>81</sup> though often at the expense of increased workload curtailing available options.<sup>82</sup> Furthermore, by 1935, increased production allowed the development of African-controlled retail trade in Gusii-land and other parts of Kenya.<sup>83</sup>

It is also important to note that by 1939, Gusii men financed almost all land leases.<sup>84</sup> Once leasing of land begun, most of the Gusii families leased land more or less continuously, leasing different plots each year as need arose. Only sudden loss of a Gusii man's off-farm income or unusually high expenditures would cause a break in land leasing. However, given that leasing was temporary, almost all such land was planted with male controlled annual crops such as maize. Land leases represented the shrinking of household subsistence, as cash crops expanded and decreasing fallow periods lowered grain production on the family land. This new trend increased Gusii women's dependence on their men for key cash inputs into agricultural production.

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<sup>80</sup> Mayer, P. quoted in Lucy Mair, *African Marriage and Social Change* (London, 1969), 52.

<sup>81</sup> Bukh, J. (1979). *The Village Woman in Ghana*. Uppsala: Scandinavian Institute of African Studies.

<sup>82</sup> Guyer, J.I. (1984). *Family and Farm in Southern Cameroon*. Boston: Boston University. African Studies Center.

<sup>83</sup> Kitching, G. (1980). *Class and Economic Change in Kenya: The Making of an African Petite-Bourgeoisie*. New Haven: Yale University Press.

<sup>84</sup> Kitching 1980: 74-85; and David L. Neigus, Conflicts over land 115

Occasionally, some women would move and acquire land on their own with the support of their grown-up sons. Kwamboka Onyambu exemplified the latter case in the 1930s as the eighth wife of a large polygamous family at the time when boundaries had been fixed between clans and communities. When her husband became aged and she realised that she had to get enough food for the many sons she had (seven of them), Kwamboka moved from the ridge occupied by her husband and went several kilometres away looking for free land to settle. She then came across land that was previously being used by her husband's clansmen as grazing land (*oborisia*) at Erandi area in the current Bomachoge-Borabu region. Kwamboka marked the boundaries for her new land. She then built a home with the support of her sons, thus managed to acquire land for herself and her grown up sons.

Claiming ownership of the land was not easy for a Gusii woman at the time as Kisii men from her husband's clan tried to force her out, but with the support of her sons she stayed put. Later, and in order to enhance her security over the acquired land, Kwamboka convinced two of her co-wives to come and occupy part of the land. This strategic re-alignment and consolidation of family members made men from the clan to let her stay on the acquired land. Her community eventually nicknamed her "*Otwoma*" to mean one who pushes her way to achieve what she needs. This was probably in awe due to what Kwamboka had managed to accomplish in terms of moving away from the Kisii family homestead and managing to acquire virgin land almost single-handedly for her progeny.<sup>85</sup>

Furthermore, the research interviews and personal communications revealed that many Gusii women constantly expressed suffering from increasing stress, fear, and

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<sup>85</sup>Onyambu Onyambu, 92, Bomachoge. Dec 2020



dissatisfaction with their situation, especially those in non-bridewealth unions.<sup>86</sup> The Gusii women repeatedly emphasized the fear of living under the constant threat of expulsion, social disgrace, and economic depression. Thus, as long as a Gusii man had not paid bride wealth, the woman/wife was open to exploitation and mistreatment to a much higher degree than was the case in a traditional legal Kisii union. Such a woman staying in an unpaid bride wealth union had no attractive alternatives, leaving the man to wilfully expose her both to probable gossip and ostracism for being a loose woman resulting to economic insecurity and increased poverty.

Another transformation during the period of late 1930s was that Gusii men in migrant labour failed to meet their social and economic obligation in attending to traditional *amasaga*, agricultural system (organized group labour initiatives) and their wives were also freed of this obligation.<sup>87</sup> Their own access to the Gusii group labour became increasingly uncertain that it was the men's responsibility to invite their relatives and neighbours to attend his wife's *risaga* farming activities. Only the Gusii women and younger unmarried and unemployed men remained available for *amasaga*. Consequently, in Kisii, mixed-sex labour groups started coming together and agreed to perform certain amount of work for the provision of a certain amount of beer in which all members would partake. In this regard, group members could negotiate with a Gusii woman (their hostess) over the exact amount of work for an exact amount of beer to be given. Thus, both commercialized beer and manual labour had clear market values in the late 1930s. Thus, *Amasaga* ceased to function as institutions that provided requisite social function to each household based on need and began to be based on monetary and market-like transactions towards the beginning of 1940s.

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<sup>86</sup>LeVine, S. (1979). *Mothers and Wives*. Chicago: University of Chicago Press.

<sup>87</sup>Group discussion with women from Kitutu Chache January 2020

Furthermore, due to increasing population, high poverty levels began to set in and increased insecurity in the Kisii African reserve, which intensified the initial agitation for the return of indigenous land particularly in Western (that Kisii was part of) and Central Kenya. Various efforts including the creation of Land Commissions to address the rising tension and agitation among the African peoples in the reserves like the Kisii reserve were mooted by the colonial state marked by the launch of the 1930 Native Lands Trust Ordinance.<sup>88</sup> The Ordinance aimed at setting aside African reserves, and where need arose, provide additional land for the Africans in the reserves. The law also established a Native Trust Board to manage leases and transfer of land in the native African reserves like the Kisii reserve. However, the Native Land Trust Ordinance was limited to the extent that the Crown could grant leases and licenses to Europeans in the African reserves as exemplified by the Gold mine lease and license in the Kakamega reserve in 1934. In essence, the agitation for land ownership, control and use did not cease with such token and unilateral measures that still preserved the colonial state interests to the indigenous Africans interests.

The 1933 Morris Carter Land Commission was formed to look into the African protests over land and the general feeling that land for Africans in the reserves was not adequate. The commission was tasked to do estimates of African land requirements and recommend if necessary for their extension. It was also to establish the extent of settler encroachment on African land. The commission made several recommendations that sought to address some of the grievances in the African reserves. Principally, it was to address the need for more land, the rights to own and use land and other property by the Africans within and without the African reserves like the Kisii reserve. The colonial state crafted and introduced further laws on the

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<sup>88</sup> Land Tenure, K. Kibwana in William R. Ochieng (ed)1990. Themes in Kenyan History: Heineman Kenya Limited, 235-236

assumption that the problems in the Kisii reserve for example were due to overpopulation, bad land use and defective land tenure arrangements<sup>89</sup> The state further devised plans to co-opt “civilised” indigenous Africans into the colonial capitalist system where individuals amassed wealth in order to deal with the “dangers posed to the colonial hegemony”. According to Okoth-Ogendo,<sup>90</sup> the colonial state authorities in Kisii identified the solution to the problem as lying in the individualization of land tenure in the Kisii African reserve, just like in many other native African reserves. This was reflected in 1932 when the Carter Land Commission visited Gusii-land to gather complaints on the land issues in the area and got no specific complaint from the Gusii women except for the men what the elders termed minor intra-community land quarrels which they stated were internally managed.<sup>91</sup> From the group oral interviews, however, the exclusive composition of men to appear before the commission denied the women a chance to voice their land related complaints like limited land for subsistence production. Hence the Gusii women were left to suffer in silence with regard to land control and use in the area.

The pre-WW II period witnessed the introduction of state policies that sought to create a delicate balance between promoting agricultural production and controlling land degradation in the African reserves especially the Kisii highland reserve. This was due to the reality that with the disruption of the indigenous African land tenure system, coupled with increased population and intensive use of available arable land on the Kisii highlands necessitated by the competition between Gusii men and their women, the rate of land degradation and soil erosion was alarming in Kisii. The

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<sup>89</sup>Kenya Land Commission Report,1933. Government Printer Nairobi 287-297

<sup>90</sup> Okoth Ogendo H. W. O. 1975 The adjudication process and The Special Development Process. Unpublished Occasional Paper no. 12, Institute of Development Studies, University of Nairobi

<sup>91</sup>Great Britain, *Kenya Land Commission Report* 9(London: HMSO,1934), 297

competitive land use policies in the area had divisive implications on gender relations in the rich agricultural zone of Gusii-land.

The capitalistic ethic that had been awakened in response to the state policies adopted during the Great Depression were now being curtailed as the focus shifted to the prevention of what was referred to as “land mining”<sup>92</sup>. As late as 1939, while the colonial state had embarked on soil conservation in African reserves, encouragement of land use and introduction of new crops was more significant in Kisii highlands<sup>93</sup>.

The colonial state on its part faced opposition from the Gusii people when they attempted to acquire land for the establishment of a scheme for the planting of exotic trees as a soil conservation measure. Maxon<sup>94</sup> observes that the Gusii feared that supporting tree planting would mean that they lose their land to the white settlers. In addition, the 1930 Forestry Department report indicated that the Gusii feared losing their land to the colonial state. Therefore, they opposed every effort towards the tree planting scheme, forcing the colonial state to abandon the project in the late 1930s.<sup>95</sup> However, the planting of wattle trees became a centre of focus in Gusii land in the later years. Apart from being a cash crop where its bark was sold for tanning, the tree was also useful for other purposes such as supplying building material, firewood and charcoal, all of which were fringe benefits that accrued to women in Gusii-land. Besides, the growing of wattle trees needed less labor, therefore, convenient to grow hence why Gusii women supported it. With the recommendation by the Colony Economic Department in 1935 that wattle trees can be planted outside Central Province, the then District Commissioner of South Kavirondo and the District

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<sup>92</sup> Orvis, S.W (1989). Political economy of Agriculture in Kisii: Social reproduction & Household Response to Development Policy. PhD Thesis. University of Wisconsin, Madison

<sup>93</sup> Maxon, M.R (1984) Conflicts and Accommodation, 106

<sup>94</sup> Robert M. Maxon 1984. Conflict and Accommodation, 87

<sup>95</sup> Colony and Protectorate of Kenya, *Forestry Department Annual Report 1930* (Nairobi: GP, 1931), 17

Agricultural Officer in particular started encouraging the Gusii people to start planting the trees.<sup>96</sup> Furthermore, the Local Native Council financed the purchase of wattle seedlings for planting. By 1937, wattle tree planting had spread in many parts of Gusii land with households providing the required labour.<sup>97</sup> The ease of the spread of wattle trees in the Kisii reserve is credited to women support of the venture.

Bobasi women through oral interviews revealed to the study that as they surrendered more land for commercial production, a venture that men were keenly controlling, they found themselves accessing limited land for subsistence production. This forced them to start abandoning the traditional practice of shifting cultivation which eventually led to soil exhaustion and degradation. Women would only use land for food production purposes and were, therefore, not allowed to own land. Cultural traditions and practices concerning women's use, access and control over land degenerated further in the 1930s.

As the effects of the great depression begun to diminish in Gusii-land with the fall of prices of crops and locust invasion in the mid1930s, there was marked economic changes. As an effect of the great depression, the settler farmers swiftly moved into the reduction of migrant labor as most white farmers were not making profits from their crops.<sup>98</sup> As a result, the colonial white settlers stopped the planting of crops and were, therefore, not in need of the labor. Consequently, many Gusii men who turned up for labour would not be hired. In essence, many Gusii men lost their source of income and this forced them to go back home to share with their wives, daughters and mothers whatever resources that were available.

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<sup>96</sup>Robert M. Maxon1984, *Going their Separate ways: Agrarian transformation in Kenya 1930-1950*. 86-94

<sup>97</sup>Ibid

<sup>98</sup> Gavin Kitching 1980, *Class and Economic Change in Kenya*.pg 58

The locust invasion in South Kavirondo, around the same time, had devastating effects on the local people, especially to their Luo neighbors. All crops in Luo-land were destroyed resulting in the outbreak of famine.<sup>99</sup> The Gusii women who had not been so much affected got the opportunity to sell their maize to their Luo neighbors though the prices kept fluctuating.

On the other hand, the colonial state did not relax the taxation requirements,<sup>100</sup> therefore, creating more strain on the Gusii women who were already overstretched. This pressure would eventually result in family conflicts and quarrels over property rights, with adverse effects on the Gusii women.

### **3.6 Conclusion**

The chapter set out to give a portrayal of how colonial agrarian policies between 1920 and 1939 exercised an impact on land and gender relations among the Gusii. The chapter has identified the period of post WW I as one that coincided with the promulgation of policies favorable to the promotion of male dominated agriculture in Kisii. Thus, in the aftermath of the First World War, the agricultural policies that were introduced favoured and assisted men in Kisii to produce for the market and not for consumption. Kisii women were seen and treated essentially as a source of cheap labour. They produced much of their food requirements in the native reserves and they often realized limited surplus for sale. However, the Great Depression of 1929-1933 forced the colonial state to direct more attention towards the Kisii native reserve as a source of cheap food production. The consequence was that more land was put under the hoe or/and plough to the detriment of soil fertility and conservation as land use became contested between genders straining gender relations in Kisii.

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<sup>99</sup>SKMIR, April 1931, KNA: PC/NZA.4/5/7

<sup>100</sup>SKAR1932, KNA: DC/KSI/1/3

Due to land degradation in the post-Great Depression period, new land use policies aimed at promoting agricultural production and controlling land degradation in the Kisii native reserve were promulgated by the colonial state. These had major implications on gender relations in the rich agricultural zones of Gusii land, where men left the women working on the land as they sought migrant labour employment in the European settlements. The increasing common absence of Kisii men began to affect women adversely, as they were required to take on a substantially increased share of agricultural labour coupled with other household activities, although with curtailed usufructs.

Thus, though the colonial impact on gender relations, in many ways, weakened the social and economic position of Gusii women, it presented them with minimal potential opportunities for the enhancement of their roles in land ownership and usage. The importance of land in agricultural production in Kisii and the resultant gender related issues that its utilisation raised became even more manifest as the colonial state navigated the challenges posed by the Second World War. This will constitute the subject of analysis in chapter four.

**CHAPTER FOUR**  
**GENDERED LAND USE AND WOMEN RESPONSE DURING THE SECOND**  
**WORLD WAR, 1939-1945**

**4.1 Introduction**

In the previous chapter, it emerged that in the period preceding the Second World War, the colonial authorities had become alarmed at the damage done to soil fertility as African households in Kisii spontaneously stepped-up agricultural productivity in response to measures instituted to promote production in order to mitigate the negative effects of the Great Depression on the colonial economy. The period between 1935-1939 saw the colonial authorities' put on premium measures tailored to contain soil degradation and, in a sense, discourage intense land use.

However, the onset of World War II, forced the abandonment of these measures as more emphasis was placed on increased agricultural productivity with little regard to soil damage. Another facet of colonial policy in the wake of WWII was the unprecedented mobilisation of human (men) resources to serve on purposes of war either as soldiers or as carriers. This chapter measures the extent to which these policies were applied on the ground in Kisii and the effects that they had on women's access, control and use of land. It analyses how the drive for increased agricultural production triggered more intense land use among the Gusii thereby exacerbating competition and contestation over this resource. The chapter argues that this scenario exercised a profound impact on gender relations by further constricting control and access of women to land as a key factor of production.

Further, this chapter discusses the effects of the unprecedented mobilisation of human and material resources on women control, access and use of land among the Gusii. It is argued in the chapter that this particular aspect of the war had the cumulative effect



of increasing the agricultural workload for the women without bestowing any land ownership rights on them.

#### **4.2 Human resource, Military conscriptions and land use in Kisii in the war-time**

1939 marked the start of the Second World War which was a defining stage in Kisii on land matters. The women in Kisii found themselves in a contradictory position with the colonial state in relation to their participation in the war efforts. The families in Gusii land were torn apart with the men being forcefully taken to go to war. Also the colonial state was therefore to ensure increased agricultural production in support of the war efforts and the escalating and glaring soil erosion in Gusii land as Anderson & Throup<sup>101</sup> observe. Furthermore, during the Second World War the colonial state targeted to increase food production in the Kisii African Reserve with little attention to soil conservation as noted by Orvis and Heyer.<sup>102</sup> Agricultural officers, for example, emphasised that all efforts must be made to ensure increased food production, a position held by the PC Nyanza who noted a reduction in the number of agricultural extension officers into the villages.

At the outbreak of the Second World War, the immediate task of the colonial office and the colonial government was therefore to mobilise all potential resources of the colonial empire both men and material for the war.<sup>103</sup> In Kenya, the British government called for intensified agricultural production. The colonial state cooperated with the settlers more than ever before to ensure increased production.

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<sup>101</sup> David Anderson & David Throup; *Africans and Agricultural Production in Colonial Kenya: The Myth of the War as a Watershed*

<sup>102</sup> Judith Heyer, 'Achievements, Problems and Prospects in the Agricultural Sector,' in Heyer Judith (et al), (ed), (1976), *Agricultural Development in Kenya*. Nairobi: Oxford University Press. See Stephen Orvis. (1997). *The Agrarian Question in Kenya*. Gainesville: University of Florida Press. See also North Kavirondo Annual Agricultural Report, 1939. Native Affairs Report, 1939

<sup>103</sup> Hrold Macmillan, 1967, *The Blast of War 1939-1945*. London

It should be noted that the start of World War II caused a lot of discomfort among the Gusii youth since many of them had previously been captured for military service as carrier corps during the First World War and the military experience was not encouraging. Consequently, many of the youths decided to escape and work in the tea estates in Kericho, and in the mines in the South Kavirondo District in Luo and Maasai land to avoid being recruited into war services.<sup>104</sup> Even attempts by the District Commissioner (DC) to assure the youths that they could not be captured and taken to war were in vain. Not even the Barazas that were held and even the use of Gusii leaders to provide encouragement messages in local radio stations worked.<sup>105</sup>

With the outbreak of the war as noted by Barker, the British embarked on the recruitment of Gusii men in the Kisii Reserve for military utility<sup>106</sup>. Maxon indicates that the recruitment in Kisii started even before the war began by August 1939.<sup>107</sup> The Kisii Native Reserve was a recruitment centre where men were recruited into the military as East African Military Labour Corps and Services. Here they served as service men and women who engaged in support services and they were recruited as King's African Rifle soldiers.

Thus, during the war period, there was pressure on both land and labour in African areas such as Gusii land. Parenthetically, high productive areas with high population density such as Gusii land were a target for the recruitment of men for the war and other essential services. Thus in this regard, the colonial government laid down

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<sup>104</sup> SKAR DC Report 1939-1945, 14a

<sup>105</sup> Robert M. Maxon. *Conflict and Accommodation*, 114.

<sup>106</sup> Jonathan Barker, (1989). *Rural Communities Under Stress: Peasant Farmers and the State in Africa*. Cambridge: Cambridge University Press. See also North Kavirondo Annual Agricultural Report, 1940

<sup>107</sup> Robert Maxon, "Fantastic Prices" in the Midst of "An Acute Food Shortage": Market, Environment, and the Colonial State in the 1943 Vihiga (Western Kenya) Famine. In *African Economic History*, No. 28 (2000). African Studies Program, Madison; University of Wisconsin.

measures to legalize labour acquisition.<sup>108</sup> The colonial government passed Emergence Power Defence Act, 1939 at the start of the war, where the government was given broad powers of labour requisition, control of movement and censorship.<sup>109</sup> In addition, the 1940 Defence (Native Personnel) Regulations gave the Colonial Governor power to order the Provincial Commissioners to produce stipulated quotas of workers for military and other essential services for both the state and private contractors who were working for the colonial state. Many of the Africans who were conscripted to join the army or as essential service workers were either captured by chiefs or were tricked to go for military services. The state in Kisii pressured the locals through conscriptions to provide military and service men to aid in the war.<sup>110</sup> More labourers were recruited to work in essential service areas such as the construction of airfields, roads and military training camps. By 1941, 98000 Kenyans from African reserves like Kisii had been recruited to the armed force<sup>111</sup>.

However, from April 1942, the colonial government started initiating forced recruitment, thus forcing more than six thousand men from South Kavirondo to go out to work.<sup>112</sup> An Essential Undertakings Board was established in the same year to determine the production sectors that needed conscripted labour. This helped to promote increased military services as well as enhanced agricultural production. Plans for conscription were made as reported by the PC Nyanza in 1944 below.

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<sup>108</sup> Wangari, M. (2010). *Gender Relations And Food Crop Production: A Case of Kiambu District Kenya, 1920-1985*.

<sup>109</sup> Zeleza, T. (1992). *The colonial Labour system in Kenya. An Economic History of Kenya* (eds.) Ochieng' W.R. and Maxon R M.

<sup>110</sup> Robert Maxon. (2003). *Going Their Separate Ways: Agrarian Transformation in Kenya, 1930-1950*. London: Associated University Press.

<sup>111</sup> Clayton & Savage. (1974). *Government and Labour in Kenya, 1895-1963*. London.

<sup>112</sup> South Kavirondo Administration Report 1942. KNA: DC/KSI/1/4.

**Table 4.1: Planned conscription of labour in Nyanza province 1944**

	<b>CK</b>	<b>NK</b>	<b>SK</b>
<b>January</b>	400	200	Nil
<b>February</b>	400	Nil	Nil
<b>March</b>	Nil	200	400
<b>April</b>	Nil	400	400
<b>Total</b>	800	800	800

Source: KNA: PC/NZA/2/12/76

As indicated in the above table, Gusii land which was part of South Kavirondo also suffered from the conscription programme.

Eventually more men started going for waged labour voluntarily as their cattle had been auctioned by colonial administrators for taxation and war support. In May 1943 for example, 12,639 Gusii men were in civil employment as voluntary workers, while 8,269 were on military conscription.<sup>113</sup>

The colonial state in conjunction with the settlers went for forceful procurement of labour to work for the settlers. Oral interviews noted that a number of men were forcefully taken from their villages for war purposes and working in the settler farms. Peter Orang'o one of the ex- WW11 soldiers says that he, with his age mates were forcefully rounded up by colonial policemen under the instruction of their chief Nyakeri at Nyakooru Hills where they were grazing family cattle. The police picked about eight of them and took them to Kisii town where later they were taken to Nairobi Eastleigh for some military training before being shipped to Ethiopia for military services.<sup>114</sup> Further Maxon noted that many men were employed outside the district for non-military service in 1943.<sup>115</sup> The high numbers of conscripted men in

<sup>113</sup> Registrar of Natives to DCSouth Kavirondo 3<sup>rd</sup> June 1943. KNA: PC/NZA/3/13/13

<sup>114</sup> Peter Orang'o , 97 Kitutu Chache. November,2019

<sup>115</sup> Registrar of Natives to DC South Kavirondo 3<sup>rd</sup> June 1943

1943 coincided with the famine peak and the low quantities of maize produced in Kisii during this period.

Notwithstanding the use of force, African men were also cheated that they were being taken for off-farm employment only to find themselves conscripted into the military as narrated in oral interviews with various group interviews<sup>116</sup>. Moreover, other men were taken out of school, while some European employers gave out a number of their workers to join the military. There are those who, however, joined because they were enticed with misleading information. For instance, it was rumoured that those who joined the military could be exempted from paying taxes but were not exempted in the long run.<sup>117</sup> Thus, by 1941, over 98,000 Kenyan men were serving in the military forces for various roles.<sup>118</sup>

### **4.3 Impact of Conscription on Gender**

1944 had the highest number of recruits from Kisii which coincided with the peak of the War that required more military men and this explains the 1944/45 famine a position echoed by the 1942 Annual Report which noted that conscripted labour recruitment for essential war services had overshadowed every aspect of normal activities in South Kavirondo.<sup>119</sup> Frankel affirms that the absence of Nyanza males had hindered the improvement of African farming as men were likely to be more agriculturally progressive,<sup>120</sup> a position the study contradicts. According to Maxon,

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<sup>116</sup> Group interviews at Masongo Nyaribari and Kitutu chache January, 2021.

<sup>117</sup> Orina Nyakwara 90, Kitutu Chache, December 2019

<sup>118</sup> Shiroya, O, J. E. (1985). Kenya and World War II: African soldiers in the European war Nairobi: Kenya Literature Bureau.

<sup>119</sup> South Kavirondo Annual Agricultural Report, 1942

<sup>120</sup> Note by Prof. Frankel as reproduced in Hugh Fearn, (1961). An African Economy: A Study of the Economic Development of the Nyanza Province of Kenya, 1903-1953. London; Oxford University Press.

South Kavirondo, Kisii included, provided the third largest male military recruits for military purpose in Kenya.<sup>121</sup>

The conscription into the military took majorly a gender dimension as mostly men were conscripted into the army. As a result women in Kisii took over the roles of control and land use which guaranteed war supplies to the state. However, it should be noted that the conscription and recruitment of Gusii men into labour outside the Kisii Reserve in the war period did not result into labour shortage in the family farms in Kisii as agricultural production in the reserve was a preserve of women. Frankel notes that men were likely to be more progressive because of education opportunity with the additional experience they had gained from the European farms. The complexity of this contention was that their education and skills gained from the European farms could not be utilized for agricultural production for they were away from the farm serving in the military. This socio-economic scenario where men were conscripted by the colonial state to work in the military and settler farms to a certain extent re-engineered the female labour power in agrarian production in the area.

With such numbers of men out of Gusii, women boldly took land control and use as their primary prerogative and faced the prevailing situation and handled the colonial state pressures of the day while ensuring family food security. With the absence of the male labour that was crucial for the clearing of the land and the breaking of the virgin land, the state efforts to expand and increase maize production for the war was hampered as commercial maize production greatly declined while family food production in Kisii remained intact.<sup>122</sup>

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<sup>121</sup> Robert Maxon, *Going their separate way*

<sup>122</sup> Motari Nteng'a 85, Ibacho, Nyaribari Masaba Nov. 2019

The recruitment of the Gusii men into the army gave the Gusii women an opportunity although limited to exercise control and use of land which saw the Gusii women invest more time and labour in the farm resulting into more production that the state appropriated for war efforts. The more Gusii men were recruited into the army from the start of the war to the end of the war, the more Gusii women exercised control over and the use of the land, unfortunately to the benefit of the state for war supplies.

Conscription and recruitment of men in Kisii for military, settler and civil purposes restructured the Kisii agricultural labour system and gender relations. The redirection of Gusii male labour had bestowed land control and usufruct rights to the Gusii women and the children,<sup>123</sup> and limited it to household survival and where surplus was realized, it accrued to the colonial state for war purposes. In Kisii agriculture, the absence of the men was largely felt at the start of every production cycle due to the limited capacity by the women folk to clear land for planting in addition to bringing more land to agricultural production. With these limitations, the colonial state was worried that the Gusii may not majorly contribute to the war demands. The Agriculture Department in South Nyanza did not expect that the Gusii women would produce food crops for the families while being in a position to produce for both commercial purposes and for the military supplies,<sup>124</sup> a point echoed by elderly women in oral interviews who complained of their mothers taking up the responsibility as their fathers had been snatched by the war.<sup>125</sup> While the state anticipated increased production to support the war efforts, it failed to put in mind the ability of women to produce for both commercial and domestic purposes.

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<sup>123</sup> Hugh Fearn, (1961). *An African Economy: A study of the economic development of the Nyanza Province of Kenya 1903-1953*. London; Oxford University Press.

<sup>124</sup> KNA: PC/NZA/2/1/130. The Special Agricultural Officer writing to the Director of Agriculture

<sup>125</sup> Group discussion with women from Nyaura, Nyaribari Chache. 2<sup>nd</sup> feb 2021

By mid 1940s, the number of wage labourers from Gusii land had increased tremendously. Women and children who were left in the reserves now undertook duties such as taking care of livestock and breaking the ground work of virgin land, work previously done by men. Perhaps more important, it should be stated that changes in the traditional norms governing access to land were not accompanied by a change in women's formal status. Women still had neither birth rights to their parents' land nor any ascribed rights to it in their status as sisters or daughters. It is only through marriage that they were able to obtain land and their access to basic subsistence even within marriage was increasingly becoming problematic, as land ownership was largely male dominated.

Thus, in the 1940s, marriage patterns were relatively loosened from the tight grip of tradition and household elders, courtesy of the war dynamics. Consequently, though the colonial impact on gender relations, in many instances, tended to weaken the social and economic position of the Gusii women, it nevertheless presented them with potential opportunities for the enhancement of their roles, social status and participation in societal economic progress during the Second World War.

During the war period, families were forced to base their control of land and agricultural use on women labour. As a last resort, to mitigate the 1942 famine, vulnerable households provided farm labour to well-off families in return for food rations.<sup>126</sup> Equally, the forceful redirection of the remaining male labour in Kisii to soil conservation measures denied the area the crucial labour power that would have consorted with women labour to avert the emerging famine.

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<sup>126</sup> Robert Maxon. (2003). *Going Their Separate Ways: Agrarian Transformation in Kenya, 1930-1950*. London: Associated University Press. This is supported by Maore Moronya, 89, Bomachoge Dec 2012



Consequently, in this period, African labour was reorganized not only in the provision of agricultural produce but also in providing manpower in the construction of infrastructure and participation in the war, and other colonial services. Wartime production directly transformed gender relations because of the re-organisation of land tenure system and labour relations. The consequence of this was increased inclination towards what would later become individual land tenure system. Labour relations in Gusii land were thus re-organized during the World War II period. As many Gusii men joined the war and other forms of wage employment, women were left maintaining and sustaining rural production. However, in promoting commercial agriculture, the colonial government targeted men leaving out women who were traditionally in charge of cultivated land. The colonial state believed that compared to men, women were conservative and were neither willing nor able to adopt new methods of cultivation.<sup>127</sup>

Despite the official acknowledgement of the negative impact the withdrawal of male labour had on rural production, nothing was ever done to rectify the situation. In actual fact, the situation continued deteriorating as more individuals both men and women moved out of the reserves for wage employment and formal education.<sup>128</sup> It is no wonder that African production continued to be outdone by settler agriculture, which not only had cheap labour at its disposal but also government friendly policies.<sup>129</sup> Therefore, the food shortage experienced in 1942-43 was both as a result of the war demands and the cumulative effects of discriminatory colonial agricultural

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<sup>127</sup> Lovett, M. (1989). Gender Relations, Class Formation and Colonial State in Africa. In J. L. Parpart, & K. Staudt, (Eds.), *Women and the State in Africa*. London: Lynne Publishers.

<sup>128</sup> Robertson, C (1995). Women in the urban economy in Hay, J. M & Stichter, S. (eds) *African women South of the Sahara*. New York: Longman publishing.

<sup>129</sup> Ibid

policies.<sup>130</sup> Thus, the continued negligence of African producers especially in the high producing areas such as Gusii land resulted to occurrence of the 1942-1943 famine. Thus, having been denied the rights to grow inedible cash crops such as coffee, pyrethrum and tea, the Africans, especially the women, continued to produce food crops that were meant to supplement the war efforts but under changing gender relations.<sup>131</sup>

From archival sources, it is evident that since the movement of people was restricted during the war, men labourers were forced to remain in their work stations for longer periods than was previously the case.<sup>132</sup> Men's absenteeism in the reserves meant that the bulk of the agricultural labour fell on women. Eventually, as much as more men migrated to urban centres in search of employment, women too took part in this mobility but in a smaller number compared to men. Thus, the importance of women's labour during the war is evident by the control of their movement.

Barnes<sup>133</sup> points out that controlling women's movement was not just to prevent them from selling their produce but also due to other factors. Here, the main reason was rising social and economic demand where a significant number of the women who had gone out to work were not returning back to their rural homes. This was creating a big gap in labour supply as well as the general agricultural production in the reserve.

Furthermore, the demand for food supplies during World War II also led to a greater demand for the supply of cattle and other agricultural produce. Due the increased demand, the colonial state took to encouraging the Gusii people to sale more cattle to

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<sup>130</sup> Zeleza, T. (1992). The colonial Labour system in Kenya. An Economic History of Kenya (eds.) Ochieng' W.R. and Maxon R M.

<sup>131</sup> KNA/BV/1/31: 1943-44

<sup>132</sup> KNA/CS/1/2/21, 1952)

<sup>133</sup> Selhausen, Felix Meier Zu; Weisdorf, Jacob (2016). "A colonial legacy of African gender inequality? Evidence from Christian Kampala, 1895–2011". *The Economic History Review*. 69 (1): 229–257.

meet the needs of the war. The state however realised that voluntary cattle sale was not meeting the needs of the war and it started forced auctioning of cattle. This led to the sale of large numbers of cattle so that by 1945, almost ten thousand heads of cattle had been unvoluntarily sold<sup>134</sup>. This particularly affected the Gusii gender relations as regards to marriage and dowry payment as discussed later in this chapter.

#### **4.4 Increased Demand for Agricultural Production and the War Efforts in Kisii**

World War II period saw the British more interested in the increase of cereal production, and the sale of cattle and acquisition of migrant labor both for civil work and military services. This was as a result of the war time need to feed allied forces in Ethiopia and Egypt. European settlers' agriculture during this period enjoyed relative prosperity as the World War II provided market opportunities for the farmers to produce and sell more agricultural produce. Furthermore, the settlers were able to influence statutory boards and committees which they were now part of and which controlled agricultural and marketing policy<sup>135</sup>

In 1942, the Production of Crops Ordinance was promulgated by the colonial government. The ordinance guaranteed European settlers minimum prices for scheduled crops, also minimum return per acre, and free government grants for bringing new land into crop production. The scheduled crops included wheat, maize, rye, flax, oats, rice, rubber, barley, potatoes, pyrethrum, and vegetable seeds.<sup>136</sup> Though initially, indigenous African crops were not guaranteed minimum prices, this did not deter the African people from producing those crops.

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<sup>134</sup> Maxon R.M Going their Separate Ways.

<sup>135</sup> R. M. Maxon , Agriculture , in William R. Ochieng: (Ed) 1990, *Themes in Kenyan History* Heinemann Kenya Limited,Naairobi.32

<sup>136</sup> KNA/ DOA /AR, 1942:1.

The colonial state also ensured that it provided good prices for war time agricultural produce especially maize as a motivation for increased production. In December 1941, maize prices were increased from the previous 4/50 shillings to 8/50 per 200 pound bag. Later, the prices were revised to 9 shillings in 1942 and later to 13 shillings per bag.<sup>137</sup>

The colonial state agents on their part called for an increase of the acreage under food crops in the Kisii Reserve while calling for the intensified cultivation of food crops like sweet potatoes and *wimbi* as buffer crops against famine. Furthermore, the colonial state reached out to women in Kisii to increase maize production. If only the increased maize production would increase the chances of rescuing the emerging subsistence crisis in Kisii. However, the controlled market saw women shun formal marketing avenues. Oral interviews indicated that the women after realising that they would sell their maize to their Luo and Kericho neighbours at better prices diverted most of their produce from the controlled market.

It should be noted that from 1941 onwards, the colonial state launched a maize expansion campaign in Kisii which resulted in increased land surface for cultivation that reduced other crops' surface area for cultivation.<sup>138</sup> The colonial state was faced with an urgent challenge of ensuring increased production forcing it to temporarily suspend the soil conservation campaign that had begun in the 1930s in the Kisii highlands. The soil conservation efforts were to utilize communal labour yet the labour base in Kisii was depleted by the war conscriptions. The Department of Agriculture in 1943 urged for increased production in Kisii with specific increase in

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<sup>137</sup> Anderson and Throup, *The Myth of the War as a Watershed*, 335

<sup>138</sup> Moses Ogega, 89, Masige Bobasi

maize production,<sup>139</sup> as it was indicated that the position in respect of foodstuff supplies was not satisfactory for the year that ended as the quantity produced and sold through state recognized formal channels had declined.<sup>140</sup>

In February 1942, the colonial state issued a circular to the effect that all maize be mopped out of the African native reserves starting with the Kisii Reserve. The circular called upon the 'natives' (the Gusii women) to release the maximum amount of maize in their possession. With colonial state machineries directed towards getting more maize from the Kisii Reserve, the colonial state was determined to mop up the maize produced by the Gusii women and leave them with nothing. A confirmation that the colonial state was never interested in the wellbeing of Gusii women from the onset. The evidence is when the colonial state through the circular demanded that the women release all the maize in their possession and their families to consume alternative foods. This informed the response by the Gusii women to shift from maize farming to root crops such as sweet potatoes and cassava as they controlled the use of land during the Second World War.

Furthermore, during this period, the Gusii were also experiencing good harvests and guaranteed prices for their maize and finger millet that they sold to their neighbours especially the Luo and the Kipsigis. They therefore had enough cash to pay taxes and make household purchases. Therefore, it can be stated that the colonial state was more interested in ensuring more food was produced to support the colonial office in the war efforts than soil conservation in the Kisii Reserve. Sir Robert Brook the then colonial governor noted in his address to the nation at the break of the Second World War,

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<sup>139</sup> KNA: PC/NZA/2/12/76

<sup>140</sup> North Kavirondo Annual Agricultural Report, 1943

... the more reason then for all of us in Kenya to help Great Britain by every means in our power, ... that we continue to be self-sufficient in all essential foodstuffs and so far as we are able, we produce what Great Britain wants most.<sup>141</sup>

Sir Brook confirms that the interest of the colonial office in London overrode the interest of the African peasants in the African reserves, especially the women in the Kisii Reserve. In this case, the Gusii women were to bare the demands of the colonial state through food production as more land, according to Ochieng', was brought under cultivation in African areas like Kisii.

New technologies were adopted to guarantee the food-sufficiency for the British in the war efforts<sup>142</sup> as ox-drawn ploughs were bought in the area.

In Kisii, the increase in land under agriculture was to the detriment of soil conservation and therefore, the 1943 famine in Kisii was a long-term manifestation of the massive pressure on the land by the Gusii women during the war which manifested itself in soil degradation and declining yields which in the long run resulted in the 1943 famine. Oral interviews indicated that Gusii women did not allow the land in the area to go unutilised to allow for soil restoration while their families were ravaged by hunger and famine.

State pressure to increase maize production continued being enhanced with the Nyanza Provincial Commissioner (PC) holding local meetings to encourage farmers to double or even triple their efforts in the cultivation of maize. The PC even coerced the colonial chiefs to push their subjects to plant more maize,<sup>143</sup> with limited results.

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<sup>141</sup> Harold Macmillan, *The Blast of the War 1939-1945* (London, 1967). In Tiyaambe Zeleza, "Kenya and the Second World War 1939-1950." In W.R. Ochieng', (eds), (1989), *A Modern History of Kenya 1895-1980*. Nairobi; Evans Brothers.

<sup>142</sup> Ochieng' William, 'Food Production in the Pre-Colonial Period,' in *Themes in Kenyan History*

<sup>143</sup> KNA: PC/NZA/3/1/446

Because investment in increasing the productivity of family labour was only one of several investment opportunities open to men, they tended to try to maximize their family labour productivity with minimum investment of their own resources. Women, on the other hand, provided the bulk of labour force for household reproduction, and were left with few economic opportunities beyond the limits of the household economy, and were thus almost completely reliant on that family sustenance sector. They therefore often demanded more investment in household agriculture than their husbands/fathers/brothers were willing to make.<sup>144</sup> This increased tension in many households, as members vied with each other for control of resources. Thus, in order to understand women's resource allocation in particular, we must analyse their insecurity relative to the market and relative to the men on whom they depended for essential capital and land resources.

The 1940s equally saw the Gusii wholly internalise the concept of individual ownership of property. The Gusii now started scrambling for whatever land that was remaining in the highlands.<sup>145</sup> There was a big rush in the individual ownership of land during this period though at that time the population density was not as high as other parts of the country like central and western. Individuals started acquiring whatever land was remaining unoccupied just to increase their acreage for agricultural production.<sup>146</sup> Rose Ogega of Bobasi says that she saw her father who was one of the prominent businessmen of the time put boundaries to a hill that the community had left unoccupied as a source of herbal medicine and livestock grazing. Initially, he claimed that he was protecting it from any interference but eventually, he cleared the

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<sup>144</sup> Sarah Nyanchama 85, Keumbu, Nyaribari Masaba, Nov 2019

<sup>145</sup> Orvis: Agrarian Question, 219

<sup>146</sup> R. M. Maxon: Going Their Separate Ways. 251

bushes and planted exotic trees that had been introduced by the whites. The land eventually became his private property.<sup>147</sup>

More significantly, women's access to subsistence and income was reduced through the emphasis on cash crop production and the increased male control over agricultural resources. In addition, the declining land base in Gusii compared to the 1930s resulted to small family holdings. Particularly, it was noted that farms owned by young families were getting smaller over time. Both subsistence and cash crop production had to be based on these small holdings. Further, agricultural studies in some areas of Gusii showed that, on the average, one-third of the total acreage was taken up by cash crops such as coffee, tea, and pyrethrum.<sup>148</sup> Thus the decline in farm size made subsistence plots smaller and smaller, which affected women more than men, since the latter did not contribute much to the children or household upkeep. Milkah moraa indicated that her mother who initially produced a lot of maize with surplus for sale could not get much for sale when their father took more of their family land to plant coffee.<sup>149</sup>

In initial situations where land was in abundance and the social organization of the society ensured that women held secure structural positions, women's right of access to land were secure. However, the war period saw increased land use and the transformed land tenure and agrarian changes that accompanied it. Women gradually lost the security and the utility power they had hitherto enjoyed. Their inability to get access other than through the status of a wife and the inability to inherit land were to adversely affect their future land rights. The whittling away of women's land rights by

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<sup>147</sup> Rose Kemunto Ogega, 94. January 2020

<sup>148</sup> Kongstad, P. & Monsted, M. (1980). *Family Labour and Trade in Western Kenya*. Uppsala: Scandinavian Institute of African Studies.

<sup>149</sup> Milkah Moraa Nyangweso. 84 Bobasi January 2020



the changes instituted by the subsequent periods was a direct result of colonial imposition of land use policies that favoured men and the women's disabilities arising from the customary rules of inheritance and the customary division of labour which had resulted in women not being able to acquire land for themselves. As noted by Whitehead & Tsikata;

“Most rural African women play a substantial part in primary agricultural production, making the complex of local norms, customary practices, statutory instruments and laws that affect their access to and interests in land very significant not only to them, their dependents and their male relatives, but also arguably to levels of agricultural production”<sup>150</sup>

The principles of obligation and responsibility under African land tenure had guaranteed women's access to land and control over certain food crops. However, the colonial Second World War intrusion brought inherent conflict between the European-managed systems and the traditional economies.<sup>151</sup> Thus women ownership, control and use of land got modified by a major intrusion of colonialism in the Second World War, accompanied by capitalist relations of production and reproduction. Colonial land reforms introduced male domination in income generating agriculture with the introduction of cash crop farming in the 1930s.

According to Nasimiyu<sup>152</sup> since the production of cash crops and subsistence crops were directly linked to the access to land, women were confronted with a whole range of handicaps in fulfilling their role as primary producers. Lack of control over land and all that which goes with it became a major cause of women's economic dependence and marginalization. Without land, women were reduced to a state of

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<sup>150</sup> Whitehead, A & Tsikata, D. (2003). "Policy Discourses on Women's Land Rights in sub-Saharan Africa: The Implications of the Return to the Customary. *Journal of Agrarian Studies*, 3 (1-2), 67-112.

<sup>151</sup> Munro, J. F. (1968). *The Machakos Akamba Under British Rule, 1889-1939: A Study of Colonial Impact*. Ph.D Thesis, University of Wisconsin.

<sup>152</sup> Ruth, N. (1985). Women in the Colonial Economy of Bungoma: Role of Women in Agriculture, in *Women and Development In Africa* 56-73 (G.S. Were ed.)

dependency with no security. As more land was reserved for cash crops, women became increasingly reliant on cash to buy food they could no longer produce and turned their labour to cash crop production the monetary benefits of which were reserved for men.

Thus, colonialism in the word of Kossok<sup>153</sup> was not only a question of simple integration, assimilation, and accumulation but was a complex dialectic change in the relations of mode of production and social political class struggle and existing gender relations. These colonial initiatives totally altered the existing indigenous land use mechanisms that allowed women access to land for cultivation. Furthermore, it is also evident that, in the absence of men, settlers had to depend on women to provide the necessary labour to work in the farms for crop production. In Nyanza for instance, Owen argues that in 1944 women would not take part in the war because of the workload they were carrying. He aptly indicates;

Women in the reserves are not able to do what is generally counted as war work, because owing to the absence of so many men from this reserve, the fieldwork and the upkeep of Kraals, and even the care of cattle, increasingly devolves upon the woman. All millet which this reserve has produced, not to speak of other food such as eggs and chicken, could never have been attained the bulk it has without the hard work of thousands of women and girls.<sup>154</sup>

#### **4.5 Institutional and Statutory Production Control Measure and Policy**

##### **Pronouncement During the War in Kisii**

The outbreak of the war gave settlers a chance to control the colonial state by establishing a Settlement and Production Board in 1939<sup>155</sup> which coincided with the onset of the Second World War as the colonial state concentrated on the war. The sole

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<sup>153</sup> Kossok, M. (1973). Common Aspects and Distinctive Features in Colonial Latin America. *Science and Society* 46(1), Spring.

<sup>154</sup> Owens L. O. letter to D.C. October 13, 1942, KNA as quoted in Ndeda, 1991:191

<sup>155</sup> Tiyambe Zeleza, "Kenya and the Second World War 1939-1950" in W.R. Ochieng', (eds), (1989), A Modern History of Kenya 1895-1980. Nairobi: Evans Brothers.

function of the board was to coordinate the economic activities in the colony. This put the settlers at an opportune position in the war time economy leading to the compromising of the production in the Kisii Reserve. Ochieng' notes that during the Second World War, settlers achieved great influence on the statutory boards and committees which controlled agriculture and marketing policies<sup>156</sup>. This negatively affected women use of land in Kisii.

The Resident Labourers' Ordinance passed in 1937<sup>157</sup> had given the settlers in Kericho and neighbouring areas an upper hand to control the African (Gusii) squatters on the settler farm which saw an extension of the days the Gusii squatters were to work in the Kericho settler areas to 180 days per annum. Further, the children of the Gusii squatters in Kericho under the provisions of the Ordinance were perpetually squatters as the settlers had to determine what the squatters were to produce and had a direct control over the marketing of the produce of the squatters.

In 1942, the Governor established the Civil Defence and Supply Council. The council was made up of eight members; six unofficial members, all of whom were settlers and two colonial state officials. This civil defence was a system of defensive measures designed to protect civilians and their property from enemy attack. Thus the civil defence and supply council was established to protect the people in Kenya from any eminent attack from British enemies. In addition, it was to solicit for war supplies. The domination of the Council by settlers consolidated their position for labour procurement for themselves. The settlers influenced the state to their advantage as both the colonial state and the colonial office concentrated on the war efforts than the internal wrangles within the colony.

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<sup>156</sup> Ochieng' William, 'Food Production in the Pre-Colonial Period,' in Themes in Kenyan History

<sup>157</sup> Tabitha Kanogo, (1987). Squatters and the Roots of Mau Mau. London: James Currey. See also Gavin Kitching, (1980). Class and Economic Change in Kenya. London: Yale University Press.

The Emergency Power Act passed in 1939 by the British Government gave the settlers a leeway to appropriate the colonial state to themselves. The Act provided that all constitutional approaches were suspended with the outbreak of the war which was equally applicable to the colonies. The Emergency Powers Act of 1939 was an emergency legislation passed just prior to the outbreak of World War II by the Parliament of the United Kingdom to enable the British Government to take up emergency powers to prosecute the war effectively. It contained clauses giving the government wide powers to create Defense Regulations that regulated almost every aspect of everyday life in the country.

Furthermore, even though the growing of coffee was overshadowed as both the state and the Gusii farmers concentrated on food crop production, the coffee that was planted in the 1930s made production to keep increasing, gradually, as the coffee plants were maturing. Moreover, the prices of coffee were so good that the Gusii farmers found themselves with a lot of returns from the sales. In addition, the local Native Council took over the sale of the coffee produce and the payment of the farmers was done through its official accounts that were managed by the Colonial Agricultural Officers. Equally, in order to improve efficiency in coffee production, in 1943, the DC forced the creation of a Coffee Board whose Chairman was the District Agricultural Officer for South Kavirondo. The board took over the management of coffee from the Local Native Council. The Board eventually developed into a Co-operative Society in 1946 with Senior Chief Musa Nyandusi as the Chairman and the District Agricultural Officer as the Patron. Initially, the majority of the coffee growers were chiefs as well as men with some form of education and religious exposure.

Women, however, were left behind as they were never made chiefs nor did they access formal education.<sup>158</sup>

In 1942, the colonial state decreed that all maize produced in Kisii was to be sold to the Maize Control Board established on 1<sup>st</sup> July 1942.<sup>159</sup> The board was to fix the maize prices in advance for African maize from Kisii and other areas. As already shown earlier, the colonial state policy to mop up maize from the African native reserves instigated the 1943 famine in Kisii and other areas. The colonial state issued a circular in February 1942, to the effect that all maize be mopped out of the African native Reserves starting with the Kisii reserve. The circular read:

The government's most immediate and urgent problem is to ensure that sufficient rations are made available for native labour working in the towns, railways and in essential farming industries and for the troops. In all these cases the maintenance of essential services is dependent on the daily ration. Wherever, therefore, there is any surplus maize available most urgent steps should be taken to place it immediately at the disposal of the control and to impress upon the natives in the reserves the importance of using alternative foodstuffs and releasing the maximum amount of maize possible.<sup>160</sup>

#### **4.6 Market and Price Incentives in Gusii War Production**

For the Gusii, the 1940s were times of significant transformation in their agrarian economy. There was increase in the sales of agricultural products as well as increased migrant labour. This was the result of the emphasis put in place by the colonial government on production of more cereals for the war as well as solicitation of direct labour for the war. The increased demand on Gusii agricultural produce in the war period due to increased demand saw the Gusii becoming more responsive to the increased market availability.

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<sup>158</sup> Ibid

<sup>159</sup> Ian Spencer. "settler Dominance, Agricultural Production and the Second World War in Kenya." In *Journal of African History* 21 (1980)

<sup>160</sup> KNA:PC/NZA/3/2/8. Secretariat Circular Letter No. 16, confidential, 16 February 1943. In Robert Maxon. (2003). *Going Their Separate Ways: Agrarian Transformation in Kenya, 1930-1950*. London: Associated University Press

The increased sale of cereal products in turn motivated the people to increase production and expand the acreage under the plough. Consequently, the 1940s saw the Gusii sell their maize produce at attractive prices. The market forces therefore influenced the community to expand the acreage of maize production. However, as the prices kept fluctuating, the low price season made the Gusii farmers to shift to the growing of finger millet whose market was always locally available and fetched good prices.<sup>161</sup> However, the colonial government introduced maize and finger millet Control Policy that put in place restrictions on the marketing of finger millet while promoting the sale of maize. This made the demand for maize to increase during the war. However, as much as the colonial government encouraged the production of maize, the crop still remained in short supply between 1942 and 1943 as the war raged.

It should be noted that the colonial state's maize expansion campaign of 1942 was responsible for the 1943 famine in Kisii.<sup>162</sup> The Department of Agriculture targeted to increase maize production in Kisii for the war needs. As Ndege writes, while the Gusii women were responsive to market opportunities<sup>163</sup> in the area, the Gusii women reacted to the assured prices for their produce by enlarging the land under cultivation<sup>164</sup>.

The Gusii women also secretly sold their maize to the areas of Kericho and Luo Nyanza at higher prices than those set by the state.<sup>165</sup> These sales though in small

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<sup>161</sup> South Kavirondo Agricultural officer's Report 1942: KNA/DC/KSI/3/66

<sup>162</sup> Robert Maxon. (2003). *Going Their Separate Ways: Agrarian Transformation in Kenya, 1930-1950*. London: Associated University Press.

<sup>163</sup> Robert Maxon, "Fantastic Prices" in the Midst of "An Acute Food Shortage:" Market, Environment, and the Colonial State in the 1943 Vihiga (Western Kenya) Famine. In *African Economic History*, No.28. (2000), African Studies Program. Madison: University of Wisconsin.

<sup>164</sup> Group discussion with Nyansongo Women Nyaribari Chache. Dec 2019

<sup>165</sup> Agricultural Officer South Kavirondo, to the DC south Kavirondo. 18<sup>th</sup> January 1943. KNA: DC/KSI/OP/13/3

scale cushioned the women's source of capital and helped boost their sources of livelihoods and gave them some form of independence in handling matters of food security and other household matters.

Therefore, the Gusii community response to market forces engendered household structures that reflect what Makana refers to as embryonic processes of social differentiation and class formation in rural Western Kenya region<sup>166</sup>. The peasant households became increasingly stratified as they accessed market for their agricultural products and received capital from off-farm income. This supported their effort to hire manpower and ox ploughs that promoted increase in production and expansion of acreage under farming. Women were still disadvantaged in this stratification as they lacked direct access to the returns from the sales of cash crops especially coffee,

Consequently, in the World War II period, Gusii land had witnessed a nearly complete transformation of the process of social reproduction from the pre-world war II system based on cattle, wives and grain to straddling system based on men's off-farm income and its re-investment in household agriculture and education. The peasant community and peasant households created during the 1920s were thus further estranged by market integration, especially in the World War II period. The communal institutions where elders had control over the young men, controlled communal labour groups, and had inalienable land rights and controlled bride wealth were all but dismantled, with only the latter continuing to have limited economic importance. In their place had arisen straddling system, in which men's off-farm income was combined with

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<sup>166</sup> Makana, N.E; Transformation of the peasant sector: The missing link in African Economic development. *International Journal of Sustainable Development*, Volume 1 number2,2008, 32

education and the intensification of household agricultural production via increased labour input, principally from women.

The exportation of male labour in Gusii also affected gender relations and consequently agricultural production. However, a full understanding of smallholders' insecurity requires an analysis of the way in which straddling re-defined the positions of men and women within Gusii rural households. In the pre-World War II era as discussed in chapter three, men and women were both fully dependent upon household agriculture for short and long-term needs. In spite of the very unequal sexual division of labour, men were required to provide essential investment in agriculture to insure the survival of their households. Under straddling, men's access to off-farm income freed them from short-term reliance on household agriculture. They could choose to invest in household agriculture or non-agricultural endeavours, or they could simply consume their wages.

The demand to satisfy the war needs and to cope with the economy that was increasingly involving cash, made communities abandon food crop production meant for subsistence in favour of marketable crops. This meant that households began to gradually turn to the market to satisfy their subsistence supplies.<sup>167</sup> However, the war made the government intervene in African production through encouragement and distribution of cereal seeds to the farmers. This intervention was made necessary by the failure of the maize harvest in 1942, which caused widespread famine. The African communities had to rely on root crops such as cassava, hence the Gusii labelled this period as the 'cassava famine' (*enchara ya emiogo*).<sup>168</sup> The famine

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<sup>167</sup> Robertson, C (1995). Women in the urban economy in Hay, J. M & Stichter, S. (eds) African women South of the Sahara. New York: Longman publishing.

<sup>168</sup> Group interview of women from Botondo, Nyaribari Masaba



made the government to start focusing on the agricultural problems in the reserves.<sup>169</sup> However, in spite of the recognition of agricultural problems in African areas, the government did not take specific measures to solve them.

In this regard, analysing the centrality of marriage for household reproduction allows us to understand the importance of marital instability in creating insecurity in rural households in the World War II period in Gusii land. Consequently, increased tensions in the “conjugal contract” under straddling arose as the positions of men and women in the rural Gusii household were re-defined. This socio-economic situation gave men greater freedom from short-term reliance on household agriculture and increased household competition over resource control and usage, men producing more cash crops while women were for increased subsistence production, which often resulted in marital instability.

At the family level, the men were unable to pay the much-prized bride wealth and cohabitation eventually became the norm rather than the exception. This created a lot of insecurity for the women because they knew that their marriage was not secure because they could be sent back to their homes in case anything happened. In Gusii cultural setting, it is after the payment of dowry that a marriage was sealed. Non-payment of dowry meant that the woman was not entitled access to land which would ensure security of inheritance for her sons.

#### **4.7 War Time Technical and Technological Support to Gusii Production**

The colonial state on the other hand ensured provision of quality farm seeds, provision of markets, improved road network and provision of extension services. The increased production of maize eventually led to challenges of storage and transportation. The Kisii area had few seasonal roads that made it difficult for farmers

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<sup>169</sup> Robertson, C (1995)

to transport their produce to the market for sale. On the other hand, there were limited market centres where the maize could be sold. An example is the high production of maize that took place at Ramasha to the Southern part of Gusii near Maasai land in 1942, yet there was no good road to transport the farm produce for sale in the neighbouring areas until the then District Commissioner started a market centre in the area and even constructed a seasonal road that connected Ramasha to Keroka to allow for the easy transportation of the surplus Maize.

Furthermore, with the support of the Colonial Agricultural Officers, the colonial state set up thirty-eight farm produce buying centres in South Kavirondo between 1942 and 1945 which helped in the sale of more agricultural produce.<sup>170</sup> The poor road network and lack of sufficient market centres that had limited the region's potential for agricultural production were therefore improved.

By the mid-1940s a large number of Gusii men were out on migrant labour, leaving their wives with increased agricultural and household tasks.<sup>171</sup> In spite of their labour, colonial policies tended to marginalise women not only in cash crop production but also in formal education. Gusii women were, however, presented with new socio-economic opportunities and openings in terms of increased marketing of their food crops and the creation of legal institutions for the advancement of their interests, especially for the protection of their sexuality rights.<sup>172</sup> Women also used donkeys for ferrying heavy loads of maize and finger millet at home and even to markets thus increasing their income.<sup>173</sup> The sale of the food crops gave women some level of

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11 Robert M. Maxon, 1984. *Going their Separate Ways*. 224

<sup>171</sup> Omwoyo, S. (2008). *Assessing the Impact of Coffee Production on Abagusii Women in Western Kenya: A Historical Analysis (1900-1963)*. In C. W. Kitemu (Ed.), *Gender, Science and Technology: Perspectives from Africa (156-167)*. Senegal. African Books Collective

<sup>172</sup> KNA DC/KSI/1/2, 1913-1919.

<sup>173</sup> KNA DC/KSI/1/2, 1913-1919.

financial independence as they would use the money they got for personal and family use,<sup>174</sup>

At the end of the war, African Reserves started experiencing socio-economic problems, which made the colonial government attempt the reconstruction of the African agricultural practices. Communal farming and individual landownership, which were perceived as the best ways of reconstructing African areas had not succeeded.<sup>175</sup> Also to a limited extent, colonial reconstruction was also tried among African communities through the improvement of agricultural practices. Men were provided with incentives such as quality seeds and ox ploughs. Such government action enabled the men to enter the money economy as the only producers of commercial agricultural commodities, and aided in denying women similar status. Consequently, a pattern was established whereby cash crop production was supervised by and the proceeds thereof were controlled by men. Furthermore, the growth of commercial agriculture in the reserves generated increased demands for land and shaped people's strategies to gain access to land.<sup>176</sup>

The war period also saw great increase in the demand for formal education. While the Gusii had not developed much interest in formal education before, the attitude changed majorly because of the exposure of the ex-World War II servicemen to what was happening in other parts of the country and beyond. The increased demand for education in Gusii land made the chiefs to demand for the expansion of schools in their areas. For instance, the Local Native Council with the support of the DC supported the building of schools, and by 1946, Kereri School was started as one of

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<sup>174</sup> Livingstone Asiago 96, Machoge Oct 2019

<sup>175</sup> Wangari, M. (2010). *Gender Relations And Food Crop Production: A Case Of Kiambu District Kenya, 1920-1985*.

<sup>176</sup> Berry, S. (1989). *No Condition is permanent: The Social Dynamics of Agrarian Change in Sub-Saharan Africa*. University of Wisconsin Press.

the pioneer educational centres in Gusii.<sup>177</sup> Once more, those who benefited from this education were majorly men. Milka Nyanchama observes that her twin brother was taken to Nyanchwa Elementary School together with the brothers of her age mates girls. Their mothers worked so hard to supplement their fathers' school fees because they believed that educating a son gave a mother security as the sons would take care of them at old age.<sup>178</sup> For women therefore, while they were losing access and usage of land, they turned to educating their sons for a sense of future security.

Thus, more importantly the 1940s saw great increase in the demand for formal education. The demand for education and off-farm income became the main entry to household reproduction as the importance of women's labour and therefore bride wealth declined. A number of households, family heads with increased unpaid bride price and sons who owed potential bride price tied the receipt and/or payment of bride price directly to the perceived more important usages of income including savings for education, land purchase and improved housing facilities. Some amount of bride wealth, however, would almost certainly be transferred in all permanent marriages in order to ensure the rights of the husband's household over the children and eventual burial rights of the wife which was an important cultural activity in the Gusii society.<sup>179</sup>

Significantly, patriarchal African males collaborated with biased colonial officials to whittle away and erode women's legal rights. This was done through the incorporation of traditional laws that favoured males into the new body of laws drawn up by the

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<sup>177</sup> Gavin Kitching, *Class and Economic Change in Kenya* pg 277-299

<sup>178</sup> Milka Nyanchama Obonyo.89 Nyaribari Chache, January 2020

<sup>179</sup> Livingstone Asiago

colonial administration, the later result of which would be the emergence of a new form of sexist colonial law.<sup>180</sup>

In Western Kenya region such as Gusii land, men were pulled into cash crop production for export,<sup>181</sup> while women were pushed into subsistence production. Their confinement to subsistence agriculture did not generate any new rights for women; rather, it increased their labour burdens and obligations for family support. This also retained them in the rural areas within a network of communal relationships, and it increased their economic dependence. For instance, as Ochieng' notes, the government policy evicted Gusii women and children from towns to offer agricultural labour<sup>182</sup>. Newman summarizes the position of women as follows: thus, at the post war period, women lagged behind men in numerous ways; they had far less experience with the cash economy, were less educated, and less technical training in 'modern' agricultural methods, and had suffered a serious loss of their social status.

From the beginning of the war period, women's rights over land became even more constrained and the woman's role was mainly to fend and produce food for the family. Thus, women were restricted to use land only for food production and were therefore not allowed to independently grow cash crops and have ownership to land. Grassroots Organisations Operating Together in Sisterhood (GROOTS NGO) Kenya,<sup>183</sup> avers that from the colonial period, women became more unduly disadvantaged in respect to the use, access to and/or control over land and other valuable property, both as members of a household or as heads of households.

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<sup>180</sup> Jane, P. (1986). *Women's Rights and the Lagos Plan of Action*, 8 HUM. RTS Q. 180

<sup>181</sup> Falk M, S. (1996). Changing African Land Tenure: Reflections on the incapacities of the State, *The European Journal of Development Research*, 10; 2: 33-49.

<sup>182</sup> T Zeleza Kenya and the Second World War, 1939-1950 in W.R. Ochieng' *A Modern History of Kenya*

<sup>183</sup> Grassroots Organisations Operating Together in Sisterhood (GROOTS) Kenya (2012).

Cultural traditions and practices concerning women's use, access and control of land complicated this situation.

#### **4.8 Gusii Women Response to the War Complexities of Land Access, Use and Control**

The colonial state did not understand the complex indigenous subsistence situation in Kisii which occasioned the declined output in the area. Interestingly, since subsistence production in Kisii was under the purview of the women folk, they were more concerned with their subsistence produce at a time when their husbands were absent and not concerned with the output for war.<sup>184</sup> This was despite the colonial states call to upscale by all means the output of maize.

In reality, the colonial state amplified what the women in Kisii had already done to avert an impending crop failure. As noted by the women in oral interviews, the women extensively engaged in the cultivation of sorghum, sweet potatoes and cassavas as well as sim sim and millet.

While the set prices reflected an increase on the market prices to attract the maize produced by the Gusii women, it failed to achieve the results as Gusii women shied away from the capitalized commercial markets and reverted back to their tradition economy of affection.<sup>185</sup> This was informed by the reality that the available women labour did not permit much engagement beyond subsistence as the labour was both limited quantitatively and was gender biased. This pushed the Gusii women to spread the subsistence security risk by diversifying their subsistence production base away from the colonial state compelled maize.

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<sup>184</sup> Kemunto Nyamasege,86. Bomachoge. Nov 2019. Also group interview with Bonchari women

<sup>185</sup> Group discussion with women of Tabaka in South Mogirango

In spreading their subsistence risk security measures, the Gusii women in 1940 experiencing adverse climatic conditions decided to engage in early planting caused by early rains. With dry spell provoking their immediate subsistence response mechanisms, the Gusii women planted expansively than previously.<sup>186</sup> The women's efforts during this period bore fruits when maize was ready for consumption in April,<sup>187</sup> this forestalled a mid-war food crisis in 1940 and 1941.

This unique cycle produced a bumper harvest and the Gusii women being sensitive to their ethics, instead of selling their maize produce to the Control Board, they decided to withdraw from the market and withhold their produce as an insurance against future crop failure. However, this marketing practice was later widespread and continued throughout the 1940s, with the largest export of maize realised in 1944.<sup>188</sup>

The year 1942 and early 1943 were tough times for Gusii women in the Kisii Reserve. The Kisii Reserve saw wide spread famine that affected the state and the Gusii women in their reserves. Although the famine was ecologically caused,<sup>189</sup> (due to prolonged drought), the environmental causes were not adequate to trigger the famine in Kisii. According to Maxon and the Annual Report of 1943, in the Kisii Reserve, many households had given up on the short rains and begun to break the land with hopes that the long rains might be early. While it is true that rain failure caused crop failure, the crop failure substantially meant maize failure.<sup>190</sup> Therefore, the maize failure in Kisii was a threat to the colonial state in its war supplies efforts and food insecurity for the Gusii women back in the Kisii Reserve as maize had become the

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<sup>186</sup> Robert Maxon. (2003). *Going Their Separate Ways: Agrarian Transformation in Kenya, 1930-1950*. London: Associated University Press

<sup>187</sup> Group discussion with Bobasi and Bomachoge women

<sup>188</sup> South Kavirondo Administration Report. 1944 KNA:DC/KSI/1/6

<sup>189</sup> Colony and Protectorate of Kenya, (1943) Food Shortage Commission of Inquiry Report, 1943. Nairobi: Government Printers.

<sup>190</sup> *Ibid.*

stable food for Kisii households, but *mtama* and *wimbi* were also produced to advantageously rescue Gusii homes as these had proper co-ordination by women cultivators.<sup>191</sup>

When the Agricultural Officer reported that the Gusii women had given up on the short rains in the area and started breaking land in preparation for the long rains, oral interviews indicated that the Gusii women swiftly reacted after the breaking of the land by planting famine resistant crops which would take a short time to mature and intervene in the situation supplementing small portions of maize.<sup>192</sup> The Agricultural Officer, however, did not report on the crops that were planted after the breaking of the land, which is attributable to the position that the Gusii women in the midst of the war shying away from maize to produce root crops and other indigenous cereals that were not foods that would contribute to the war efforts and therefore, not worth colonial state recognition.

Thus, notwithstanding the 1942 short rains failure, the Gusii women were active in the January 1943 breaking of the land and eventual planting<sup>193</sup> amid a dry spell. The little January and February rains of 1943 relieved the Gusii women's root crops but, the afterwards disappearance of the rains negatively affected the maize in the area.<sup>194</sup> The situation changed in May as the root crops were ready for harvesting and consumption.<sup>195</sup> Therefore, the Gusii women never alienated themselves from affirming their role in controlling and utilizing land in the absence of their husband

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<sup>191</sup> Group interview of Kitutu Chache Women Nov 2019

<sup>192</sup> Colony and Protectorate of Kenya, (1943) Food Shortage Commission of Inquiry Report, 1943. Nairobi: Government Printers, This was also observed by Boncharo women in a group interview at Suneka, Nov 2019

<sup>193</sup> Robert Maxon. (2003). *Going Their Separate Ways: Agrarian Transformation in Kenya, 1930-1950*. London: Associated University Press.

<sup>194</sup> Ibid.

<sup>195</sup> Thomas Nyaanga 90, Bobasi Dec 2019



and in the midst of a famine scare evidenced by the increased volumes of *wimbi* and *mtama* which quickly substituted for the staple maize.

Further, the Gusii women reacted by planting more root crops and less maize which doubled up as cover crops for the soil. This proactive reaction to the 1943 famine was a reflection of the Gusii women's land control and utility in ensuring subsistence security without necessarily caving-in to colonial state pressure to produce maize for the war.

The partial failure of rains and the invasion of locusts in the Kavirondo region threatened food security further making the Gusii women to store whatever surplus food they had to be used during the times of need. Furthermore, unlike many parts of Kavirondo, Gusii land was not affected by the locust invasion. The Gusii therefore sold large quantities of finger millet to the Luo and Maasai who had been affected by the locusts.

In Gusii, in the 1940s the population had not reached a level that would lead massive soil erosion and land degradation. Furthermore, the Gusii had evolved indigenous agricultural techniques to minimize soil erosion especially in areas with steep slopes that were common in Gusii land. The people established contour terraces with shrubs on the slopes to prevent erosion and movement of soil especially during heavy rain seasons. In addition, the people planted their crops on shallowly cultivated land and kept slashing the undergrowth weeds until their food matured thus reducing exposure of the top soil to soil erosion during the heavy rains,<sup>196</sup> In livestock grazing, the Colonial Agricultural Officer observed in 1945 that the Gusii grazed their animals on

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<sup>196</sup> DC SK TtoPC NP 3 November 1937, KNA; p/nza/3/28/30

hill tops and valley bottoms leaving the sloppy areas for crop farming<sup>197</sup> The Gusii also constructed trash lines as they planted their crops. In 1941, when asked whether there was need to move the Gusii to other parts of Southern Kavirondo for settlement, the DC Thompson responded that there was still land to spare in most parts of the Gusii highland.<sup>198</sup>The government therefore found the promotion of soil conservation in Gusii relatively manageable as reported by the District Agricultural Officers in the 1943 upto 1945.<sup>199</sup>

However the continuous tilling and cultivation of the same plot for production by Gusii women led to the start of soil degradation and eventual soil erosion in the Kisii highlands which inevitably culminated into the 1943 famine. With the onset of famine, the Gusii women prioritized subsistence crops more so root crops as they avoided growing maize<sup>200</sup> which they would have been forced to sell through the established board. The shift by the Gusii women from maize production defined the nature of 1943 famine in Kisii as caused by the perceived fear of locust invasion from the neighbouring Sotik area. Conventionally in Kisii, the possibility of famine preceded locust invasion which made the Gusii women to initiate locust containment measures by planting root crops as opposed to maize.<sup>201</sup>

The increase in the sale of maize and cattle as well as the money brought in through wage labour led to availability of relatively greater amounts of cash in Gusii land. There were however limited consumer goods to buy due to the effects of World War II.<sup>202</sup>Those men who had accumulated money started paying higher price for the

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<sup>197</sup> R. M. Maxon, *Going Their Separate ways*, 256

<sup>198</sup> SK Ag AR 1941, KNA; AK/2/33.

<sup>199</sup> AAO SK, *Safari Diary*, 12-13 Oct 1943 KNA AK/21/34 and AAO SK *Safari Diary* 30 May-6 June 1945 KNA; AK/25/34

<sup>200</sup> *Ibid.*

<sup>201</sup> Group interview with Bonchari women, Oct 2019

<sup>202</sup> SKAR 1945, KNA:DC/KSI/1.7

wives they married above what was the norm. This led to general increase in dowry payment in the community. However, the high dowry would only be afforded by a few men who had accumulated wealth. Thus, majority of the young men who were of age to marry could not afford the stipulated dowry. Some young men opted to unorthodox means such as forceful kidnapping of women for wives in what came to be famously referred to as *ogokurura*.<sup>203</sup>(hijacking of women), a practice that had never existed before. Women on the other hand waited for their suitors to get dowry for such a long period until they eventually agreed to elope with the men so as to start families and get security to access and use land. More so the women were scared of the social stigma since no woman of marriageable age was allowed to continue staying in her parent's home.<sup>204</sup>

#### **4.9 Conclusion**

The chapter has analysed gender relations in Gusii within the context of colonial agrarian and military policies dictated by the occurrence of the Second World War. It has emerged in the chapter that the Second World War saw the colonial government place emphasis on cash economy forcing Africans either to produce commodities for sale or join wage labour. This led to increased production of maize as well as cash crops such as coffee, tea and pyrethrum. The pressure for increased production of these crops made the Gusii to put the available land into more use especially in the production of cash crops which led to hunger for land both for men and women leading to strained relationships over the access, use and ownership of land. Moreover, the improved tools of farming such as the plough which was now in good supply led to more land being put into crop farming. This also led to the strain of labour relations of production as household labour was overstretched. Specifically, the

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<sup>203</sup> Group discussion with women of Nyaribari Chache. November 2019

<sup>204</sup> Norah Mainga 85, Riokindo Bomachoge Dec 2019

women had to work harder to produce more to meet the demands of the colonial government and for subsistence.

Further it has emerged in the chapter that women got some form of control over agricultural production when their husbands were away for work. They controlled the planting, harvesting and the sale of their farm produce while the men were away. Being the managers of the homes gave women some independence to use the money they got from selling their harvests as they wished. It's also important to note that it was during the war period that continuous land use throughout the year began as land was getting limited. The use of land in all seasons would lead to land degradation and other related land problems that prompted the colonial state to put in place measures for land preservation. Therefore, the war brought major social and economic changes that eventually affected both the social relations in Gusii households in particular and the rural economy in general. These effects would be felt way beyond 1945 into the 1950s and 60s as will be discussed in the next chapter.

## CHAPTER FIVE

### POST WWII AGRARIAN REFORM AGENDA AND ITS IMPACT UPON GENDER RELATIONS IN KISII 1945-1960

#### 5.1 Introduction

The period of World War II saw the Gusii transit into a more capitalistic economy, as detailed in the previous chapter. The colonial state's pressure to produce more agricultural products for the war resulted into more land put under the plough in Kisii and the overuse of the land that would lead to land degradation compelling the colonial state to explore measures to boost soil conservation. Increased demand for production would further lead to increased demand for labour supply which made more Africans and specifically, Gusii men become migrant workers. The current chapter focuses on post World War II agrarian trajectory/reform and the impact of the same on gender relations in Kisii. The chapter details the post-war agricultural reconstruction course, the Swynnerton plan in Kisii area having intensified agricultural production through increasing the land under cultivation of cash crops. In addition, it examines the increased attention given to maize production for the market and in equal measure, evaluate the greater attention directed to agricultural training institutions like Siriba and how credit to farmers through loans and rewards were executed. Land kleptocracy in Kisii, as well as the gendered land relations in the area is detailed. The chapter, further, examines how the pre independence dynamics played out in Kisii with the futile attempts by colonial authorities to resolve the gendered Gusii land problem among them being scramble for land, land tenure complexities as well as land degradation. The chapter then analyzes how the agricultural and land dynamics impacted on women access, control and utilisation of land in this period preceding Kenya's independence.

## 5.2 Post WW II Colonial Agrarian Reform and its Implications for Kisii, 1945-1960

The end of the Second World War left the British government with a debt of £600 million. After World War II, Britain, like many other European nations, found her economy totally shattered. Billions worth of her imports and exports, machinery and even revenue had been sunk in the war. Almost £900 million depreciation needed to be recovered. It was estimated that Britain needed to raise her exports to 175% of her pre-war levels in order to recover from this economic mess. After 1945, Britain's dominance in the capital export market was taken over by the USA, while a large number of British colonies were becoming a burden to the capitalist mode of production. Britain had to find ways of making the colonies productive as sources of revenue. A ten-year Development Plan in 1946 was formulated to speed up economic expansion as a comprehensive scheme was also started to investigate the problems of the African areas like Kisii by establishing agricultural investigation centres<sup>1</sup>.

Considering the size and the enormous contribution of the Kisii area to the agricultural output of Nyanza province, and the conservatism and illiteracy of the inhabitants and the staff available, it was obvious that rapid improvement in farming methods through agricultural training<sup>2</sup> was the only way to sustain the production trend. While this highlights the imperative for agricultural training in Kisii, the study affirms that the increasing interest by the Gusii women in agricultural production, and the growing confidence between them and the district agricultural staff, as the provincial report observed were the most encouraging signs<sup>3</sup> in agricultural progress

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<sup>1</sup> R.J.M Swynnerton, (1955). A Plan to Intensify the Development of African Agriculture in Kenya. Nairobi, Government Printers.

<sup>2</sup> KNA:PC/NZA/1/45 Nyanza Annual Provincial Report 1950

<sup>3</sup> KNA:PC/NZA/1/54 Nyanza Annual Provincial Report 1958

in Kisii. In general terms, the Assistant Director of Agriculture reported that the Kisii area was in the very critical progressive stage and it was thus hoped that building up more agricultural training centres would be imperative for more catalytic and robust production in the area. With the establishment of a new agricultural training centre in Kisii opened in 1960, the tempo of agricultural development in Kisii in particular and the province at large continued to increase. Mr T. Hughes-Rice, the then Assistant Director of Agriculture observed that this was due to the improved spirit of Gusii women cooperation in agricultural training and their determination to increase agricultural output more so of subsistence nature. This was confirmed in 1959, when the annual report indicated that good progress was being made by Gusii women in general farm management with an increasing desire on their part to produce more and of better quality<sup>4</sup>. The eminence of Gusii women in agriculture was therefore evidenced with their co-operation with the Agricultural training which previously did not exist and now was becoming apparent. With a further establishment of Siriba Diploma Agricultural Training College in 1961,<sup>5</sup> agricultural training in Kisii was on a firm footing accounting for increased production by women in the area. At Siriba, training in sound patterns of Kisii farm lay-out became customary and the practice was first spreading in the area courtesy of the trainees, majority of who were women. The simple planned farm lay-outs provided useful examples to their neighbours which not only countered soil erosion, but enhanced crop production in the area<sup>6</sup>, in addition to farm planning and lay-out, farm-enclosure and general methods of farm husbandry, where planting had evolved with training to universal rows. Equally, manuring and better weeding were widely learned and acknowledged by the Gusii women as better and productive farm practice. Due to this training, record production of maize was

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<sup>4</sup> KNA: PC/NZA/1/55 Annual Provincial Agricultural Report 1959.

<sup>5</sup> KNA: PC/NZA/1/56 Annual Provincial Agricultural Report 1960.

<sup>6</sup> KNA: PC/NZA/1/55 Annual Provincial Agricultural Report 1959.

recorded. This was principally due to the extra time the Gusii women invested in their farms as trained. Besides the extensive production of maize by the Gusii women, the Kisii highlands continued to be the main coffee producing area in Nyanza province as evidenced by the continued increase in acreage under coffee. With these developments, the rural reserves as exemplified by Kisii were poised to remain an important factor in the economic recovery of Britain<sup>7</sup>

Another key facet of Britain's post WW II economic recovery strategy that would exercise a direct impact on the Gusii was the policy geared towards the encouragement of multinational corporate capital. To this end, Britain allowed direct foreign investments in the Kenya colony through multilateral institutions. Consequently, multinational organisations like James Finley were allowed to venture into industrial development in areas like Kisii with plantation agriculture and extractive industries meant to fill the void left by the collapse of importation of processed foods. According to Fearn, the demand for imported goods was stimulated by the presence of the tea industry in Kericho and Kisii<sup>8</sup>, which increased the purchasing power of the locals. As will be demonstrated in subsequent sections of this chapter, such encouragement of cash crop oriented agricultural enterprise rendered land a prime resource and presaged greater contestation over it among the Gusii.

The period covered by this chapter also witnessed restive African nationalism in British colonies. In an attempt to placate Africans within their colonies, the British colonial office came up with development and welfare programmes like loans and grants to cater for the situation and permitted financial support for programmes developed in colonies as demonstrated by the Swynnerton plan.

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<sup>7</sup> W. R. Ochieng. *Themes in Kenyan History*, 126

<sup>8</sup> H. Fearn, (1961). *An African Economy: A Study of the Economic Development of the Nyanza Province of Kenya 1903-1953*. London. Oxford University Press. 155



It was envisaged that through such programmes, the colonies would be empowered to help in the reconstruction of the British economy. In 1947, the colonial state in Kenya declared that there was need to reduce on expenditure, expand agricultural production and increase import substitution industrialisation.<sup>9</sup> The post-World War II hunger for food and raw materials prompted the colonial state to tilt away from settler agriculture. For this reason, the 1950s saw the colonial state compel the Gusii to escalate production as was indeed the case in other parts of the colony. The state made efforts to promote food and cash crop production in the area.

The period after WWII thus saw the colonial government embark on reformation of African agriculture. The Worthington Plan for instance, was drawn to run for a period of 10 years from 1946.<sup>10</sup> It was funded by the African Land Development (ALDEV) Programme that targeted African agriculture especially the restoration of soil fertility for specific reasons. According to the plan, the problem facing African areas like Kisii was not overpopulation but mismanagement of soil. Under the plan, ALDEV was to limit the number of stock kept and the growing of cash crops in the African reserves<sup>11</sup>. In Kisii, it was necessary to restore soil fertility to avoid a recurrence of food shortage as had been experienced during the war. Money was directed towards soil conservation projects such as terracing, manuring and systematic culling. Farming according to what was good soil conservation practice did solve the problem of soil conservation<sup>12</sup>. The Gusii were encouraged to produce not only to meet their subsistence needs, but, have surplus for export, that could help the colonial state invest in the reconstruction effort at home.

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<sup>9</sup> Kenya Colony Annual Report, Government printer, Nairobi, 1947,4

<sup>10</sup> P. T. Zeleza, *Dependent Capitalism*, 269-270

<sup>11</sup> Van Zwanenberg, 1975

<sup>12</sup> Prisca Tanui *Differential Gender Access to Agricultural Resources in Kenya*

The urgent necessity for the introduction of better farming practice throughout the African areas was never far from the minds of the officers chiefly concerned with the matter<sup>13</sup>. In Kisii, bench terracing was taken as the major way of reducing soil erosion where real stress on land was clearly manifest. Leslie Brown and Colin Maher, then officials in the agricultural department advocated for broad based terracing, which according to them, although difficult to construct, would provide more permanent defences against soil erosion and reduce the burden of communal terracing<sup>14</sup>. In Kisii, these officers sought to create a stratum of prosperous smallholders who practised mixed farming rotations and were allowed to grow high-value cash crops on permanent bench terraces, while domestic food crops were concentrated on the ridge tops. The agricultural soil conservation campaigns in Kisii coincided with Gusii women's ambitions offering them higher living standards<sup>15</sup>. In practice, the campaign was dominated by bench terracing, since all those to be considered progressive had to protect the soil on their slopes.

By 1947, thrash lines with guidance from agricultural department staff enhanced soil conservation efforts. The construction of these thrash lines soon became a pre condition for permission to cultivate such high value crops like coffee. Unlike 1943 where the use of thrash lines was concentrated in North Mogirango, 1947 saw the thrash line use widely accepted and used in the entire Kisii for soil conservation. As acknowledged by the SAO, "work on thrash lines was proceeding well and there was progressive improvement in the work"<sup>16</sup>. However, being a communal undertaking, both men and women were required to devote two mornings a week to the task. The work had no pay and absentees were liable to fines. The chiefs and headmen as

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<sup>13</sup> KNA: PC NZA/1/46. 1951 Nyanza Provincial Annual Report.

<sup>14</sup> Throup D. 1988 Economics & Social Origins of Mau Mau 1945-53

<sup>15</sup> Mary Mong'ina, 85 years Bomachoge.

<sup>16</sup> SAO NP, QR first quarter 1947 KNA:PC/NZA/3/2/89

exemplified by senior chief Musa Nyandusi were required to meet a specific target of workers which made them resort to coercion to achieve the targeted labour. This programme disrupted and disenfranchised the Gusii agricultural labour orientation. The impact of terracing was severely felt by persons who had small land, as a huge portion was taken up by the terraces. For women, the whole exercise was backbreaking as majority engaged in the exercise in the absence of the men. To avoid being enlisted, women used all sorts of excuses. Furthermore, steady advance was made in protection of the soil in the area by use of grass contour strips at regular intervals in cultivated fields, by laying of trash lines and construction of terraces. The greatest success was seen in Kisii highlands with trash lines being very evident, and some lands now had achieved distinct terraces by soil banking up behind the trash lines<sup>17</sup>.

The colonial state also channelled its resources into colonial primary and industrial production as a measure to achieve its short- and long-term exit reconstruction strategy. The government invested in expatriate services by increasingly rewarding meritorious Gusii women farmers and in short term loans to approved applicants<sup>18</sup>. Grants were availed to lead Gusii peasant farmers as an attempt to entrench and sustain Gusii peasant production. As noted by the PC Nyanza, “the Local Government Authorities within the province functioned smoothly and gave mature consideration to the allocation of funds<sup>19</sup>” available to the locals to spur production. Besides the proven methods of achieving the end desired goal of soil conservation through terracing and trash lining, large sums of money were spent on rewards and loans for better farmers. The African District Council in Kisii passed better farming by-laws.

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<sup>17</sup> KNA:PC/NZA/1/43Nyanza Province Annual Report, 1948

<sup>18</sup> KNA:PC/NZA/1/48 Annual Report Nyanza Province 1952

<sup>19</sup> KNA:PC/NZA/1/56. Nyanza Annual Agricultural Report 1960

The Kisii area, therefore, witnessed an increase in rewards to meritorious farmers and in short term loans to approved applicants. In addition to these incentives, a large mechanical unit was promised by the soil conservation service and the Kisii local native council had included in the Agricultural Betterment Fund Estimates, funds to purchase smaller mechanical soil conservation units, when the machinery becomes available<sup>20</sup> and distribute them to the meritorious farmers in the area. Furthermore, the cultivation of cash crops like coffee in Kisii was used as an incentive and reward to the same farmers. As Throup notes, only those cultivators who had built cattle bomas, terraced their land and manured their crops had been allowed to plant coffee<sup>21</sup>. Throup's position is echoed by the Agricultural Officer who maintained that only prosperous smallholders who practised mixed farming rotations were allowed to grow high-value cash crops. With such support, the peasants were gaining the ability to purchase elementary farm inputs. This point was reinforced in the 1951 annual report which noted that, in addition, large sums of money were spent on rewards and loans for better farmers. In Kisii, the increased support saw women in search for increased access, control and use of land as reiterated by the group interview with the women of Kitutu-Chache.<sup>22</sup>

In the midst of all these official policy interventions, it must also be recognised that population pressure in the Kisii reserve and the attendant increased demand for agricultural production during and immediately after the Second World War led to intensive land utilization in the area. Land got scarce in Gusii after 1945 as all available unoccupied land in the 1930s had now been occupied. Enclosure of all land was also realized at this period. The farmers, therefore, had to intensively utilize the

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<sup>20</sup> KNA:PC/NZA/1/43. Nyanza Province Annual Report 1948

<sup>21</sup> Throup, D 1988. Economic & Social Origins of Mau Mau 1945-53

<sup>22</sup> Group discussion with woman at Kitutu Chache South

land at hand with the aim of realising increased production as the demand and prices of their produce such as maize, coffee, tea and pyrethrum had increased.<sup>23</sup> In the aftermath of the war, the call to increase agricultural production was accelerated by import substitution industrialization. In addition, the intensification of agricultural production by the Gusii women after 1945 was also a function of their spontaneous to the prevailing response market dynamics coupled with the existence of a hungry population to feed within and without Kisii, and hungry machineries around Kisii.

In 1946, through the Worthington Plan, the colonial state allocated over £5m to African Land Development Programme mainly for soil conservation in areas like Kisii<sup>24</sup>. These funds translated into Kisii women's intensification of agriculture. As the P.C indicated in the 1949 Nyanza Annual Report; "Generally, agricultural production in the African areas of Kisii continued to increase steadily. Economically, there was solid if not spectacular, progress, in the area with maize crops"<sup>25</sup>. Equally, cash crop production in African areas particularly Kisii increased during the year and the value rose<sup>26</sup> which is attributed to the resource investment into coffee by the ex-World War II soldiers as women shunned it due to limited returns to them from the cash crops. Gusii women intensification of subsistence production was lauded in the 1948 Provincial Annual Report when the PAO observed that the situation with regard to food production in Kisii was excellent, in fact the province produced a considerable surplus for export from the 1948 planting, mainly maize which will probably total nearly 700,000 bags<sup>27</sup>.

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<sup>23</sup> Orvis, 127

<sup>24</sup> Zeleza T. Kenya and the Second World War 1939-1950 in Ochieng' W.R (eds) A Modern History of Kenya

<sup>25</sup> KNA:PC/NZA/1/56 Nyanza Province Annual Report

<sup>26</sup> Ibid.

<sup>27</sup> KNA:PC/NZA/1/43 Nyanza Province Annual Report 1948

By 1950, the Annual report affirmed the efforts of the Gusii women in the intensification of agriculture. The report indicated that the present harvest of cereals is estimated to create a new record and will touch the figure of 1.5 million bags for export from the province, after providing for its internal population of 1,820,000 African souls<sup>28</sup>. Although food shortages prevailed in certain areas of Nyanza province, in Kisii, famine relief was not necessary as supplies of foodstuffs were readily obtainable though often at unauthorised prices from within<sup>29</sup>. Mary Moraa corroborated this when she observed that each household now utilised all its available land to produce both food and cash crops without allowing any time for land to rest.<sup>30</sup>

By 1946, conscription of labour for war had come to an end, however, the number of men going out of the district for wages continued to increase. Men were compelled to go for waged labour because of the increased need for cash to purchase consumer goods for their households as well as the increased need for school fees for their sons.<sup>31</sup> By 1946, around 10,376 Gusii men constituted almost 32 % of able-bodied men who had joined waged labour<sup>32</sup>

With the emphasis on cash crops, land now became the most important commodity and competition for the same resulted in a new system of land tenure and social relations. As competition for land increased and land got scarce, individuals started developing ties to individual ownership and production, thus transiting from group rights to property ownership to private property ownership.<sup>33</sup> As the population increased, more and more land came to be permanently cultivated and individually

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<sup>28</sup> KNA:PC/NZA/1/45 Nyanza Province Annual Report 1950

<sup>29</sup> KNA:PC/NZA/1/48 Nyanza Province Annual Report 1952

<sup>30</sup> Mary Moraa, 85, Kitutu Chache, Oct.2019

<sup>31</sup> Maxon R. M. Conflicts and Accommodation. 123. 129

<sup>32</sup> Kenya African Manpower at 31 Dec 1946, KNA: PC/NZA/3/13/13

<sup>33</sup> Neigus; Conflicts over Land, 69

owned by households. Later, single family farms got crowded and became multifamily farms where sons and grandsons grew up and needed separate plots for their wives to cultivate.

By the end of 1946, the Gusii ex-world war II veterans returned from the war. At the same time, men who had avoided the war by going for civilian employment returned home with lots of money which they put into locally owned business ventures such as farming, owning shops, transport and maize mills. This gave them an added advantage compared to women for they could be able to support their households without necessarily relying on family labour.<sup>34</sup>

Consequently, it became more appealing to get money and grow cash crops instead of food crops<sup>35</sup>. Particularly, money was needed not only for the purchase of goods and provision of services, but for the payment of taxes as well. By 1948, the growing of food crops was increasingly a woman's affair, the capitalization on farming brought by the state reforms resulted in further marginalization of women both labour-wise in the growing of crops as more land was unilaterally allocated to cash crop production at the expense of food crops. The study noted that, the major obligation and responsibility under traditional land ownership had guaranteed women user rights to land, and control over food crop production had been significantly eroded by the end of 1948.

Colonial land reforms reversed traditional land ownership that guaranteed women user rights to land, and control over household food production by introducing male

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<sup>34</sup> Orvis 1989, 127

<sup>35</sup> Downs, R. E. (1988). The Kenya Land Tenure Reform: Misunderstandings in the Public Creation of Private Property, in *Land and Society in Contemporary Africa*, 98.

dominated cash crop agriculture<sup>36</sup>. These colonial land reforms facilitated increased limitations to user rights as land previously used for food production had increasingly been put under cash crop production. Therefore, women continued losing both the right to access, ownership, control and use of land than ever before. Most notable of these events was the near depletion of the Gusii stock; the emphasis placed on maize production to replace *wimbi*, the demand for labour and the associated hut and poll taxes. Livestock herding was one sector of the Gusii economy that was immediately affected by the imposition of colonial rule and her ally settler farming.

Changes in the land utilization system by 1950 had influenced the mechanism of decision-making in terms of the amount of land to be put under food production. The state of affairs unfolding in Kisii during this time is aptly captured by Davison<sup>37</sup> who maintains that the less the land an individual had, the less it was devoted to food crops and the bigger the land one had, the less was devoted to food production. Davison's study concurs with Tanui's findings with regard to the impact of differential gender access to resource in agricultural production in Nandi district<sup>38</sup>

Other studies by Njiru<sup>39</sup> also replicate the scenario observable in Kisii that agricultural activities before the adoption of commercialized tea production in the area initiated social economic differentiations among households. These differentiations had been intensified by tea production in Meru just as the case was in Kisii where the labour prioritization to livestock, food production and other household activities was in acute

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<sup>36</sup> Okoth-Ogendo, H. W. O. (1975). *The Adjudication Process and the Special Rural Development Process*. Unpublished Occasional Paper no. 12, Institute of Development Studies, University of Nairobi.

<sup>37</sup> Davison, M. J. (1987). Without Land we are nothing. The Effect of Land Tenure Policies and Practices upon Rural Women in Kenya, *Rural Africana*, 27.

<sup>38</sup> Tanui, P. Differential Gender Access to Agricultural Resources in Kenya: The Impact on Agricultural Production in Nandi District From 1954-2000.

<sup>39</sup> Njiru, E. (1990). *Effects of Tea Production on Women's Work and Labour Allocation in Embu District*. M.A. Thesis, Nairobi University: Nairobi.



competition with that directed to cash production. Njiru established that, although tea production increased women's workload generally, like in Kisii cash production, it brought some advantage for some; most tea producing households had relatively more incomes than before, better housing, clothing and other amenities in their houses<sup>40</sup>.

On the other hand, Njogu<sup>41</sup> points to the fact that most of the farmers in the tea producing areas devoted most of their land to tea production at the expense of food, which corresponds with the Kisii scenario in relation to cash production after the Second World War. In this study done in Kirinyaga, she found out that tea producing households gave first priority to food whenever they received their money. This however, was not the case in Kisii as women were left to toil as an alternate to food. These households did not get enough food through home production and therefore, the Gusii women had to purchase from the market<sup>42</sup>. After gaining from commercial maize farming the Gusii could now embrace cash crop farming, and more farmers started coffee growing. By 1950, the acreage of coffee grown had increased from 91 acres in 1938 to 222 acres in 1948 and 271 by 1950<sup>43</sup>. The colonial state ensured decrease in the size of plots of coffee growers to discourage the capitalistic big man class that had started growing.<sup>44</sup> However, by 1950, the size of the plots per grower had declined to a third of an acre from around an acre in 1938. This meant that farmers were now allocating parts of their land used for subsistence to grow cash crops as shown in the table below.

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<sup>40</sup> Johnson Ong'esa 85 years

<sup>41</sup> Njogu, E. (2002). *Household Food Security and Nutritional Status of Children in Tea and Non-Tea Producing Households in Ndia Division Kirinyaga District*. Unpublished Thesis: Kenyatta University.

<sup>42</sup> Ndege, P. the struggle at the market place,

<sup>43</sup> Maxon R. M. 1884, Conflict and Accomodation,118-120

<sup>44</sup> Ibid

**Table 5.1: Land acreage committed to coffee growing in the Gusii Highlands, 1946-1950**

Year	Acreage	%	Growers	Acreage Per Grower
1946	189.27	21.6	312	.606
1947	196.78	22.4	339	.580
1949	221.6	25.3	530	.418
1950	269.10	30.7	789	.341

Source: SK Arabica Coffee Fourth Quarterly Report 1946-1949, KNA: AK/11/60 and AR for Kisii Coffee Growers Co-operative Society Ltd. For the year 1949-1950, KNA: AK/11/58

It can be deduced from table 5.1 that there was a consistent increase in acreage under coffee by 9.1% from 1946 to 1950. The study notes that the increasing acreage under coffee after the Second World War was attributed to both the Ex-World War II soldiers and the return of the Gusii men who had sought civilian employment. The intersection of the two groups in Kisii loaded with money prompted the competition among men to see who had grown a bigger acreage of coffee than the other. However, the shrinking acreage per grower by 13.6% as shown in table 5.1 is attributed to the tussle among men members of the households, each seeking their own portion on which to grow coffee. The land crisis among brothers in Kisii was escalated by primitive accumulation by the state officers. For instance, in 1945, an African Tribunal noted:

It is regrettable that chiefs and other influential men, including members of the Tribunals, are taking advantage of the present uncertainty to acquire large areas of land and are seeking to advance their position to become feudal landlords.<sup>45</sup>

The primitive accumulation orchestrated recurrent conflicts over land as evident in the land cases handled by the Tribunal Court in the late 1940s and early 1950s<sup>46</sup>, which took long before any conclusion was arrived at. Court cases were further prolonged

<sup>45</sup> Sorrenson, 1964: 78

<sup>46</sup> Orvis, 1989: 127

because many persons did not accept a defeat verdict. This is evidenced by the many appeals made.<sup>47</sup> The high fee charged in the African courts is a further confirmation of how important land ownership had become in Kisii in the aftermath of the Second World War. In 1949, for instance, a total of £ 13,000 was raised as court charges compared to £24,000 in 1951.<sup>48</sup>

Inter and intra homestead land disputes became more intense as plots were further subdivided into smaller sizes. Families and individual quarrels over land escalated and the Gusii opted to go for litigation over boundary issues.<sup>49</sup> The Gusii, therefore, remained the most litigious people in Kenya by 1950. Levines noted that almost every Gusii male has been involved in land related court cases ten or more times<sup>50</sup>. This denotes a shift from the early 1940s, where court cases revolved around marriage and dowry to land consolidation cases in the aftermath of the Second World War and the early 1950s. This is corroborated by Mayer's observation that by the end of 1946, land cases in the courts were increasing. Disputes over boundaries and land litigation dominated the courts in 1950s until the official registration of land begun in the mid-1950s. According to the Kisii District Commissioner, in the Manga Court, the number of land cases grew steadily from 288 in 1949 to 982 in 1952 and after remaining at 800 for the next three years dropped to 539 in 1956<sup>51</sup>. The drop is attributed to land registration that began to take place after the Swynnerton Plan of 1954.

From 1956, kinship bonds began to dissolve as individual acquisition of land was adopted and entrenched. The economic independence of individually owned land

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<sup>47</sup>Mackenzie, F. (1990). Gender and Land Rights in Murang'a District, *Kenya Journal of Peasant Studies*, Vol. 17(4).

<sup>48</sup> KNA: AK/11/58

<sup>49</sup> P&I Mayer, 1965, c, 67

<sup>50</sup> LeVive, 1966; 73

<sup>51</sup> Kisii DC Report, 1956

changed the attitude of exchange within the community. Elements of measurement and calculation were introduced and by the beginning of the 1960s, *risaga* was virtually extinct. The land disputes within kinships intensified as kinsmen fought for individual access and ownership of land. This eventually led to high homicides within the Gusii community compared to other Kenyan communities as revealed below.

**Table 5.2: Average annual homicide rates per 100,000 people (1955-1956)**

Gusii	Kipsigis	Luo
5.5	4.8	4.5

Source: Neigus, D.L Conflicts over land. 79

The high homicide cases in Kisii were validated according to the Nyaribari focus group discussions by the heightened intrafamily conflicts complemented by the rampant interfamily boundary conflicts as narrated by Moses Ong'esa of South Mogirango. Anyona of Bomachoge narrated how his father was butchered by his step brothers over the sharing of their late father's land. Being the only son from his mother's house, who was the third wife, the step brothers knew by eliminating him they would take all the land. The intervention by the extended family ensured that Anyona's mother received a share of the land on which they currently reside<sup>52</sup>.

The Second World War had significant impact on Africans, land and gender relations. Their involvement both directly and indirectly in the war efforts affected all aspects of their lives. As discussed in the previous chapter, Africans were encouraged to put maximum land under use during the depression and the second world war to offset the declining returns from the settler sector and provide food necessities for the war effort

<sup>52</sup> Anyona Kibagendi, 79. Bomachoge Burabu

despite the soil erosion problem that was looming<sup>53</sup> The soil erosion problem had been a result of a growing population congestion, over-grazing, and over-cultivation without allowing the necessary periods of fallow in the 1930s and 1940s.<sup>54</sup> Given that contour-terracing cut across the traditional pattern of Gusii landholding, running in narrow strips from the top to bottom of ridges, it had to be done communally.

Maxon<sup>55</sup> notes that private land ownership was brought to Gusii in the early 20th century, by the British colonial administration. It was a consequence of the colonial administration's own unequal land policies, in which the settlers expropriated land by force, to the detriment of Africans, and designed to facilitate European modes of production (for commercial purposes). Maxon postulates that the effect of this on Gusii women's economic status was to move them from a position of self-sufficiency to one of relative dependency resulting in the loss of their socio-economic power. As more land was reserved for cash crops in Kisii, Gusii women became increasingly reliant on cash to procure food they could no longer produce and turned their labour to cash crop production, the monetary benefits of which were reserved for men.<sup>56</sup>

Throup<sup>57</sup> elaborates that the population explosion in Kisii resulted in increased land fragmentation. Before independence, in the late 1950s, a single household's (12 people) plot of land was less than 2 hectares (2 ha) and maize replaced finger millet as the main staple crop as demonstrated in the table below. The increasing popularity of

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<sup>53</sup> Throup, D. (1988). *Economic and Social Origins of Mau Mau, 1945–53*. (East African Studies.) Athens: Ohio University Press or James Currey, London. 1988. Pp. Xvi, 304.

<sup>54</sup> Stichter, S. (1975-76). Women and Labour Force in Kenya, 1895-1964. In *Rural Africana* 29.

<sup>55</sup> Maxon, R. (2003). *Going Their Separate Ways: Agrarian Transformation In Kenya, 1930-1950*. London: Associated University Presses.

<sup>56</sup> Nasimiyu, R. (1985). Women in the Colonial Economy of Bungoma: Role of Women in Agriculture, in G.S. Were (ed.) *Women and Development in Africa*, 56-73.

<sup>57</sup> Throup, D. (1987). The construction and destruction of the Kenyatta state, in *The Political Economy of Kenya*. Michael G. Schatzberg ed: Praeger.

cash crops contributed to the decline in food production, to the extent that by the end of the 1960s, food crops only accounted for 25% of cultivated land in Gusii.

**Table 5.3: Produce in bags marketed in South Nyanza 1948/49 and 1949/50**

<b>Crop</b>	<b>1948/49</b>	<b>Percentage</b>	<b>1949/50</b>	<b>Percentage</b>
Maize	205.533	89.92	442.924	93.57
Wimbi	13.425	5.88	21.362	4.50
Mtama	9.397	4.11	9.064	1.9
<b>Total</b>	<b>228.355</b>		<b>473.35</b>	

Source: SN Gazetteer, KNA DC/KSI/5/3

As indicated by the table 5.3, preference of maize is evidenced through the increased production of maize compared to wimbi. Table 5.3 showed the increase in maize production from 89.92% in the year 1948/49 to 93.57% in the year 1949/50, while wimbi production declined from 5.88% to 4.50% in the same period. Between 1948 and 1949, 89% of the bags produced were maize and by 1950, the percentage of maize had increase to 94%, while that of wimbi and mtama production remained minimal. This corroborates the view that the Gusii were embracing subsistence commercial production of maize. Oral interviews indicated that the Gusii loved white ugali for it was far sweeter compared to the wimbi one. They noted they could eat it without any accompaniment earning it the name *enchoro*.

### **5.3 The Intervention of the Swynnerton Plan, 1954**

In an attempt to resolve the multifaceted agricultural problems and increasing land issues that had led to increased calls for African emancipation, the colonial state came up with the Swynnerton Plan in 1954. The plan was aimed at reversing the colonial appetite and attitude towards the African ability to maximise agricultural profits while maintaining soil fertility. Rodger Swynnerton prescribed that improved African agricultural and economic growth as well as political stability required developing an

African agricultural sector comprised of 100,000 farms of approximately equal size, each achieving surplus marketed production at approximately £100 per year by 1959. This he noted could improve revenue for the colonial state and reduce the African hunger for land in European settlements. It was also to create a stable African middle class that would politically stabilise the country. This was to be done through the creation of a class of progressive farmers in African reserves like Kisii to support the colonial state operations. The plan endeavoured to intensify agricultural production through increased cultivation of cash crops, food crops as well as improve dairy farming. This was to be done by establishing training institutes for farmers like the Kisii agricultural centre, increasing extension services in agricultural and veterinary departments<sup>58</sup>, funding farmers through credits and co-operatives as well as promoting land consolidation and enclosure<sup>59</sup>. The plan would also lead to the creation of a landless class that would work for the landed class, who would mostly be Gusii women and children in Kisii; and Swynnerton viewed this as a natural outcome of a developing economy.

Using the plan, the colonial state created individual free hold land tenure system that would replace the dominant traditional communal tenure system already discussed in chapter two. It was argued that a secure free hold tenure system would motivate Africans to invest in their land for increased long-term productivity. The land tenure policies formulated by Swynnerton in 1954 included the views that the proponent of the plan advanced and supported the individualized land tenure in Kenya and particularly in Kisii to enhance agricultural production which the colonial state adopted and began to implement. The implementation of the Swynnerton plan marked

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<sup>58</sup> KNA:DAR/KSI 1939-1946

<sup>59</sup> SNAR 1959, KNA: DC/KSI/1/21

the beginning of an evolution in Kenya's land tenure reform system with a major shift from traditional Gusii land tenure system to individual ownership.

According to the proposal, communal land tenure in African reserves like Kisii was to be discouraged in favour of land consolidation for eventual registration as a private property. At this point in time, the colonial state perceived African customary land access and usufruct as a major obstacle to the realisation of greater agricultural production and proper land use practices in African reserves like Kisii. The state proposed its replacement with western style system which is based on individual land access and usufruct rights. The plan formed the basis for the pre-independent and post-independence land policies in Kisii and Kenya at large. Moreover, the Plan introduced absolute entitlement to land<sup>60</sup> by an individual in Kisii. This left the Gusii women in a precarious economic state as men were accorded absolute rights over land through land registration done in their name. Consequently, the proposed policy failed to acknowledge even the derivative rights of women to land.

#### **5.4 Practicality of the Swynnerton Recommendations on Gusii agriculture**

The most striking of manifestation of the Swynnerton plan in Kisii which turned out to be the most spectacular liberation step towards emancipating the Gusii woman was made in the domain of land enclosure and eventual consolidation especially of the planned land. The value of land enclosure, consolidation and planning came to be appreciated in Kisii when the new emerging proto-capitalist Gusii began affirming the interest in agricultural production. As is corroborated by the 1957 Annual Report, land enclosure, consolidation and planning was carried out under the auspices of the indigenous land authorities in Kisii and their efforts and the response of the Gusii to

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<sup>60</sup> Ibid.



them was most heartening<sup>61</sup>. This in practicality depicts the Gusii agency in shaping their agrarian trajectory especially where they adopted, adapted and customized the colonial state policies as exemplified by the Swynnerton plan to their advantage. These sentiments by the PC Nyanza were corroborated by Mr. T. Hughes-Rice, the Assistant Director of Agriculture, when he observed that land consolidation and enclosure in Kisii was making steady progress on voluntary basis with organization and direction remaining in the hands of indigenous tribal authorities.<sup>62</sup> It is important that the voluntariness of the Gusii is emphasised to lay bare the agency of the Gusii, which was instrumental in their agrarian transformation especially among the agricultural agents who were the Gusii women. With this willingness, the Gusii witnessed marked increase both in demand and in the number of farm lay outs especially when bubbling with the methods of improved agricultural production from the Siriba agricultural training and demonstration centre. This was noted in the 1959 Annual Agricultural report which indicated that the build-up of trained Gusii farmers was the most important development at the time and they guaranteed land enclosure and the sound patterns of farm lay-out which had fast spread in Kisii.

The Annual report acknowledged the utility value of these by noting that the demonstration plots at Siriba provided by farm planning was beginning to pay dividends in the long run providing useful example to their neighbours<sup>63</sup>. The Kisii area was lauded for the familiarity with farm planning over a number of years which went hand in hand with soil conservation. Land consolidation, planning and enclosure in Kisii began immediately after the effecting of the Swynnerton plan as the 1954 provincial annual report for the year indicates. The report notes that in the Kisii

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<sup>61</sup> KNA: PC/NZA/1/53 Annual Provincial Agricultural Report 1957.

<sup>62</sup> Stephen Orvis: *The Political Economy of Agriculture in Kisii, Kenya*

<sup>63</sup> KNA: PC/NZA/1/55 Annual Provincial Agricultural Report 1955.

district, one can observe the fencing of the enclosures in many parts of the highlands; and there has been tremendous enthusiasm in Butende<sup>64</sup>. These enclosures further motivated the Gusii as the farmers who enclosed their farms decided to form a number of farmers' clubs all of whose farms were planned and are successfully enclosed<sup>65</sup>. The study affirms the cooperation between the agricultural staff and the Gusii as the Gusii carried out land consolidation, planning and enclosure with energy. As a way of motivating the progressive Gusii farmers and catalyze the uptake of land consolidation, planning and enclosure, the colonial state through the department of agriculture devised a system of giving awards<sup>66</sup> for merit which opened up in the year 1954. The land consolidation, enclosure and planning paved the way for the eventual land registration<sup>67</sup> as provided for in the Swynnertyon plan.

After 1954, maize production in Kisii continued increasing as the conditions of production in the Africans reserves like Kisii improved, increased pressure from the colonial state together with the increased prices which had risen from Ksh 11/95 in 1949 to Ksh 26 a bag in 1954 provided the impetus for the increased production.<sup>68</sup>

After mid-1950s, the colonial state through the Department of Agriculture staff laid more emphasis on cash crops such as coffee and pyrethrum as they endeavoured to replace maize with cash crops.<sup>69</sup> The colonial state was keen to increase coffee production among the Gusii in order to cover up for the diminished settler acreage under coffee. To encourage Gusii for more production, a local coffee board was established for easy organisation of financing farmers as well as marketing of their produce in Kisii.

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<sup>64</sup> KNA: PC/NZA/1/50 Annual Provincial Agricultural Report 1954

<sup>65</sup> Ibid.

<sup>66</sup> KNA: PC/NZA/1/54 Annual Provincial Agricultural Report 1958

<sup>67</sup> KNA: PC/NZA/1/56 Annual Provincial Agricultural Report 1960.

<sup>68</sup> South Nyanza Gazeteer, KNA: DC/KSI/5/3

<sup>69</sup> SNAR 1959, KNA: DC/KSI/1/21

In summary, the Swynnerton plan in Kisii area stressed an intensification of agriculture through increased cultivation of cash crops and through mixed farming. It equally increased attention given to production for the market of such crops as maize, vegetables and fruits and provided for a greater attention to training institutes for farmers with credit to farmers as loans and rewards<sup>70</sup> as already discussed. Therefore, the Kisii highland strongly felt the effects of the plan in all agricultural production domains.

The key aspect of land tenure reforms in Kisii was the initiation of private land ownership through the issuance of title deeds. These land reforms involved adjudication of demarcated fragmented parcels of land to ascertain individual ownership. However, in Kisii, the adjudication of land was an entirely male affair without any representation of women.<sup>71</sup> Once the title deeds were issued, the Gusii men handled the land as personal property as they needed no consent from anybody, family included to either use or even sell as they wished, according to oral interviews.

In particular, the issuance of individual title deeds in Kisii was premised on patriarchal perspectives of the indigenous Gusii society where women were not allowed to directly own and/or inherit land<sup>72</sup>. Eventually, with the intensified cash crop farming in Kisii and the cash-based economy, land use activities and economic goals were totally transformed as land itself was quickly transformed into a commercial commodity.

Therefore, land tenure reforms of the late 1950s in Kisii resulted into the sale of land, land disputes, and denial of land rights particularly for the vulnerable Gusii women,

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<sup>70</sup> Maxon, R.M 1989. *Conflict and Accommodation in Western Kenya. The Gusii and the British, 1907-1963*. London; Associated University Press.

<sup>71</sup> Downs, R.E. (1988). The Kenya Land Tenure Reform: Misunderstandings in the Public Creation of Private Property, in *Land and Society in Contemporary Africa*, 98.

<sup>72</sup> Milka Bosibori, 78 years, Bobasi

children, widows, and orphans. The Gusii Women had no formal claims to the household land as the title deed was in the name of the husband, the father, or the father-in-law. As such, they were unable to use land as collateral for loan or even to merely rent it out as their husbands or fathers controlled the crucial household resource. Widows' rights were faced with challenges from male relatives after the death of the spouses<sup>73</sup>.

### **5.5 Land Kleptocracy and Gendered Relations among the Gusii**

The interplay between the system of land ownership and crop production cannot be well analysed devoid of gender and labour relations in a given society. Since gender relations are the distinctive social relations between men and women, studies on gender relations during the colonial and post-colonial period cannot be ignored in the present analysis. Stichter established that among the Gusii, it was women who were primarily responsible for food production, household management and the nurture of children<sup>74</sup>.

Women in Kisii had user rights to their husband's land and occasionally, if they were unmarried with a child, they had user rights to their father's land.<sup>75</sup> Conventionally, land among the Gusii was predominantly needed for subsistence. It was neither sold nor exchanged. However, as land got scarce and money circulation in the area improved, it became commoditized. The introduction of cash crops (maize and coffee) in Kisii made land one of the most sought-after commodity and competition for it resulted in a new system of land tenure and social relations. As competition for land increased, land got scarce, and individuals started developing ties to the

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<sup>73</sup> Masese, R. E. (2006). Traditional Land Tenure. In Akama, J. S and Maxon, R. M, (Eds) *Ethnography of the Gusii of Western Kenya. A Vanishing Cultural Heritage*, Emp, New York, USA.

<sup>74</sup> Ndeda (2019): The people of Western Kenya

<sup>75</sup> Henrysson, E & Joireman, S. F. (2009). On the edge of the law: Women's property rights and dispute Resolution in Kisii, Kenya. *Law & Society Review*, 43(1), 39-60.

individual ownership and production, thus transiting from group rights to private ownership<sup>76</sup>. For instance, Charles Omwenga's father who after coming back from service in the Second World War bought pieces of land in the nearby village and moved with only his family to the new land. His father's efforts to persuade him to share the land with his brothers failed.<sup>77</sup>

The establishment of absolute male land ownership in Kisii was validated by the Registered Land Act (RLA), which destroyed a married Gusii woman's ability to claim and protect her interests and rights to matrimonial property.<sup>78</sup> While in communal land tenure systems, Gusii women had indirect access and rights to use communal resources through their roles as household managers, they were excluded when land tenure was individualized and invariably adjudicated and registered in the name of heads of households (the men). Without legal and social/communal protection, Gusii women were at risk of suddenly becoming landless. The wars for independence were caused by the question of rights over land<sup>79</sup> which had been unjustly apportioned to the "White-Settlers" by the colonial regime. In Kisii for instance, the British did not take sufficient regard of customary land tenure and particular rights to land proprietorship meant for the Gusii population.

The reforms, gradually and systematically destroyed the socio-cultural fabric on which Gusii women's socio-economic power and stability were anchored and

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<sup>76</sup> Neigus 1971, *Conflicts over Land*, 69

<sup>77</sup> Charles Omwenga, 80. Bonchari, Nov 2019

<sup>78</sup> Okoth-Ogendo, H.W.O. (1989). *Some Issues of Theory in the Study of Tenure Relations in African Agriculture*, 59 *Africa* 6.

<sup>79</sup> Newsinger, J. (1981). *Revolt and Repression in Kenya: The "Mau Mau" Rebellion, 1952-1960*. 45 *Science & Society* 159.

maintained. Instead, they introduced a new system which neither maintained nor guaranteed any rights for women in return for what they had lost.<sup>80</sup>

In this regard, the land reforms did not take into consideration the strong social and cultural status and levels of power that were accorded to women in indigenous Gusii as regards to land user rights. Thus, priority was given to individual ownership of land by the men without protecting the user rights of the Gusii women. This did not only obliterate the usage rights accorded to Gusii women under the Gusii indigenous tenure systems, but, led to very few Gusii women (if any) being registered as individual land owners.

As the Gusii population grew, more land was put under the permanently cultivated individually owned household status. Single family farms soon became crowded multifamily farms as sons and grandsons grew up and demanded their share of the existing family land for themselves to cultivate. The Gusii found themselves embroiled in what Orvis terms “land scramble”<sup>81</sup>. This intensified inter and intra homestead disputes as family land was further divided into even smaller sizes. The family and individual quarrels over land would lead the Gusii people to opt for litigation over boundary issues<sup>82</sup>, rendering them the most litigious people as recurrent land disputes gave them more reason to visit the courts.

Land conflicts escalated in Kisii on the eve of independence as kinsmen fought for individual access, control and ownership of land which culminated in rampant homicides among the Gusii. John Nyandoro recounted that for the first time in the community, people were fighting and even killing each other within the family and

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<sup>80</sup> Maxon, R. (2003). *Going Their Separate Ways: Agrarian Transformation In Kenya, 1930- 1950*. London: Associated University Presses.

<sup>81</sup> Orvis, *Agrarian Question*, 44

<sup>82</sup> P. &I. Mayer, 1965. *The Nature of Kinship Relations*. Manchester University Press. 67

the community elders could not stop the evil activity<sup>83</sup>. Nyandoro narrated how his father who had been a clan elder observed that they had never seen such a selfish spirit in the community<sup>84</sup>.

Moreover, the pre-existing kinship bonds gradually dissolved as individual acquisition and commoditization of land was adopted. The economic independence of individually owned land changed the attitude of exchange within the community as the elements of measurement and calculation were introduced. By 1960, *risaga* was extinct since there was no virgin land to clear and land holdings were small not to require *risaga*, a practice that had sustained kinship ties in the Gusii community. Since the food products that were initially exchanged on reciprocal terms could now be sold for money, mutual sharing faded away, seriously hurting the Gusii kinship ties. Mokoro noted that he literally saw his uncles refuse to lend his father two heads of cattle for his brother's bridewealth in 1956, even when they knew he would return when they needed it as had been happening before.<sup>85</sup> Mokoro's family epitomises what became of the initial mutual cultural sharing as the Gusii community came to embrace capitalistic and individualistic practices at independence. Women suffered more in these new relations for they shared more in subsistence as land got scarce and food production steadily declined.

As land conflicts increased in Kisii, issues of witchcraft relating to land matters were on the increase as the Gusii looked for alternative ways of solving land disputes amongst themselves. Accusations were often made against co-wives, brothers and close kin with the purpose of trying to push them away either as witches or as victims

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<sup>83</sup> John Nyandoro, 89, Nyaribari Chache

<sup>84</sup> John Nyandoro Oigo 85, Nyaribari Chache, Jan 2020

<sup>85</sup> Richard Mokoro 79, Bobasi, Dec 2019

of witchcraft<sup>86</sup>. The scarce land became the reason for the increase in issues of witchery among the Gusii. Onsongo Nyamwange of Ibacho revealed that his father was forced to look for some new land for his mother who was the younger wife in the family of two wives because she was always sick and the family believed it was the first wife who was bewitching her so that she moves out and leaves the land for her three sons<sup>87</sup>. Women who felt that their access and usage of their husband's land for the good of their subsistence was threatened could thus use unorthodox means to push away their co-wives.

The late 1940s saw more men go for migrant labour. However, by 1960 the numbers had drastically dropped to almost 20% of the total men population in Kisii.<sup>88</sup> Fewer men went for migrant labour from North Kisii than from south. In North Mogirango for instance, the percentage of men who went for migrant labour dropped from 30% of their total male population in the area to only 8% in 1962<sup>89</sup>. This, the study attributes majorly to the men's private ownership of land and their increased role in cash crop cultivation where returns were high. For instance, by 1964, returns from coffee to the farmers in Kisii stood at over nine million shillings<sup>90</sup>. Pyrethrum was also introduced in 1952 and tea in 1957.<sup>91</sup> The men of Mogirango and Kitutu then gradually abandoned migrant labour as a means of earning cash for they earned more cash from farming on their privately owned land. They took more land for cash crop production and left the Gusii women with less land for food production. This reduced the food production and supply in the Northern part of Kisii. On the other hand, the

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<sup>86</sup> Levine, 1963. Witchcraft and Sorcery in a Gusii Community. In *Witchcraft and Sorcery in East Africa*, J. Middleton and E. Winter (Eds). New York, 240

<sup>87</sup> Isaac Onsongo Nyamwange, 78, Ibacho, Nyaribari Masaba, Dec 2019

<sup>88</sup> Neigus 1971, 99-100

<sup>89</sup> Maxon, R.M. *Conflict and Accommodation*, 136-137.

<sup>90</sup> *Ibid.*

<sup>91</sup> *Ibid.*



southern part of Kisii (Bobasi, Machoge, South Mogirango and parts of Nyaribari) concentrated on maize production and sale of the surplus, some of which were sold to the Gusii women of north Kisii whose large parts of their farms were utilised for cash crop production.<sup>92</sup>

After the world war, the colonial administration turned focus to ensuring that soil conservation was taken care of just like in other reserves. Although the Gusii farming methods had helped in soil conservation, increased demand for agricultural production and good prices for the products made the Gusii over utilise the land to produce as much as they could. The agricultural department staff guided the farmers, mostly men, to construct thrash lines across their land whose demarcation ran from the top of hills down to river valleys. Any planting that was done went hand in hand with the construction of these thrash lines. This form of soil conservation was so successful in Gusii land that by 1959, the agricultural officers commended the “almost universal use of trash lines in Kisii highlands”<sup>93</sup>

The increased production of coffee after the Second World War saw the Gusii get good money from its sales. The Gusii received more money from the increased produce and sale of cereals, compulsory sale of cattle as well as wages accrued from the conscripted labour. This money was then directed to trade, most of the men ventured into setting up of shops for cereals, transport services as well as increased production of coffee.<sup>94</sup> Oral interviews indicate that this gave men an opportunity to promote their personal economic well being aside from household resources. Gusii men could now buy and sell goods as well as render transport services without

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<sup>92</sup> Ibid 102, The women of Kitutu also affirm this in a group interview on how their mothers and at times themselves went to markets in Nyaribari and Bonchari to buy maize for their families because they produced less at home.

<sup>93</sup> SKAgAR1949, KNA: AK/2/33

<sup>94</sup> Maxon R. M. Conflict and Accommodation, 117

necessarily needing family labour. At the same time, they were able to hire and pay for labour outside the household labour, giving them an advantage over Gusii women. The men as indicated in oral interview now had fully reached the status of the “big man” as indicated by Maxon<sup>95</sup>.

Wafula<sup>96</sup> examining the colonial land policy in North Kavirondo African Reserve, points out that this policy was mainly a metropolitan transplant designed to serve settler needs. He notes that the North Kavirondo reserve was created in order to ensure adequate labour supply to the neighbouring Uasin Ngishu and Trans-Nzoia settler areas. In Kisii, however, increased land disputes were experienced resulting from individual rights being imposed on pre-existing Gusii system of multiple rights. The European based tenure reforms that were introduced in Kisii from 1954 by the British created greater uncertainties and conflicts between the Gusii men who were the principal land holders and who thus assumed exclusive individual rights in a given parcel of land to the detriment of the Gusii women and children because their rights remained either secondary or usufructory.<sup>97</sup>

Gusii women had user rights to their husband’s land and occasionally, if they were unmarried with a child, they enjoyed user rights to their father’s land.<sup>98</sup> This was a continuation of the customary laws where Gusii women were often dispossessed off land in traditional patriarchal family ties. Gusii women were considered as strangers for they were expected to get married and belong to the husband’s lineage. However,

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<sup>95</sup> Ibid.

<sup>96</sup> Wafula, S. (1981) "Colonial land policy and the North Kavirondo African Reserve to 1940." M.A Dissertation, University of Nairobi.

<sup>97</sup> Okuro, S. O. (2011). “Rethinking World Bank Driven Land Tenure Reforms”. In OKuro, S.O and Punyana, Am. (Eds). *Strategies against Poverty Designs from the north and alternatives from the south*. Buenos Aires: Clasco.

<sup>98</sup> Henrysson, E & Joireman, S. F. (2009). On the edge of the law: Women's property rights and dispute Resolution in Kisii, Kenya. *Law & Society Review*, 43(1), 39-60.

the introduction of the Swynnerton plan's individual registration of land gave greater advantage to the Gusii men who could now exercise full control of the land and use or dispose it as they wished without any consent or input from their wives. This would eventually trigger intra family conflicts over land as women and their sons were now completely alienated from their previous right of access and usage of the land.

There is no question that the years 1945 to 1960 schematically transformed the gendered land relations in Kisii. The resolution imposed by the state aimed at intensifying agriculture and affirming cash crops with emphasis on male controlled agriculture became a primary determinant of the Gusii women's loss of status, access, control and power in land and agriculture. The end result of state created private enterprise in Kisii was the re-structuring and re-engineering of gender roles. The affirmation of cash crops for export in Kisii brought about greater gender segregation in labour tasks with Gusii men increasingly becoming agricultural managers. It is essential to understand that given the labour division, Gusii women were the backbone of rural agriculture before then.

Gutto posited that women had virtual control and monopoly of crop production which led to them having rights to land they controlled for maintenance of their households<sup>99</sup>. It is obvious that Gusii women's status in their agricultural productive tasks was secure under traditional land tenure system until the Colonial Land Policies introduced legislative programmes designed to replace the traditional land tenure system. One may cautiously conclude, therefore, that land tenure systems in Kenya and particularly in Kisii cannot be blamed for the engendered land crisis. The

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<sup>99</sup> Gutto, S. B. O. (1975). Gender, Land and property rights in modern constitutionalism: Experiences from Africa and possible lessons for South Africa.

unavailability of sufficient land on the eve of independence was one major factor that made both Gusii men and women renegotiate labour within and without the district.

The post-World War II population growth can undoubtedly be attributed in part to improved adult life expectancy. However, with time, increasing numbers of women desired to restrict child-bearing, reflecting a growing sense among young households of the severe constraints of land and demand for education fees. This strong sentiment in favour of “no more” often represented the resistance of women to their husband's desire for the social status that still came with large families. Some women desiring to cease child-bearing reported their husband's disagreement with them. Interviews revealed that only one out of the 60 women had secretly taken birth control measures, though several others threatened to do so. A Gusii woman's strategy in this situation is delicate, in the sense that her husband could marry a second wife (though polygyny was increasingly becoming rare) if the first ceases to bear children. This would require the first wife to yield half of her land to her co-wife, much a worse option than simply having one or two more children<sup>100</sup>. The increase of land stress in Kisii forced Gusii women to become innovative, as Kiogoro Focus Group Discussion<sup>101</sup> explains:

“In a house of three wives, the first wife had one son and one daughter, the second wife had 6 daughters, and the third wife had 3 sons and 4 daughters. The patriarch of the family, Francis Oira, was a Councillor in the African Local Native Council. He bought land in two other places, Menyinka and Bonyama-Sicho where he settled the 1st and 3rd wife. The second wife (with 6 daughters) was left in ancestral land. Because she only had daughters, she married a woman who bore her a son. The son later died mysteriously. As well as his mother, the old lady also had died earlier. The land now lacked somebody to inherit it. One of the daughters, a primary school teacher stayed there until she retired and left to her home. Then she died. The remaining daughters had agreed that they could not subdivide the land amongst themselves because of cultural restrictions. They agreed to sell the land and share the proceeds.”

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<sup>100</sup> Kiogoro Focus Group Discussion, Nyaribari; (30 December, 2019).

<sup>101</sup> Ibid.

To a large extent, women were still responsible for all of the daily work in agriculture; they did the planting, weeding and harvesting as a part of their responsibility for feeding the family. They were also in charge of fetching firewood and water as well as all the other household chores.<sup>102</sup> For these tasks, Gusii women relied very much on their children's labour contribution. Significantly adding to the perceived importance of children among the Gusii is the havoc that illness caused to almost any household. Time lost to illness further enhanced Gusii women's desire for children. A sick or pregnant mother whose husband works off the farm can call on her daughters to fetch firewood, water and cook, and on both sons and daughters to replace her labour in the field. A household without children will suffer when such tasks are left undone.

Consequently, marriage, and children remained crucial to household reproduction under straddling Gusii family labour. A significant part of insecurity is the instability households' face via marital instability, health problems or the potential disaster of not having children for labour and old age security. The decline of pre-marital bridewealth transfer and the increased competition over resources within rural households threatened the dissolution of the household itself.

Generally, the establishment of a colonial economy and political order in Kisii had the effect of destabilizing the position of Gusii women both socially and economically. Major sources of change included the individualization of land ownership in Gusii men's names, and the recruitment of male labour to the settler economy, cash crop production and formal education. All the land in the household principally belonged to the father. Gusii women acquired usufructuary rights of the land because they

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<sup>102</sup> Kongstad, P. & M. Monsted (1980). *Family, Labour and Trade in Western Kenya*. Centre for Development Research (Copenhagen), Publications 3. Scandinavian Institute of African Studies, Uppsala.

cultivated it. Inheritance of rights in land, though common, was not a significant concept.

The sudden loss of labour, particularly a woman's labour, could severely constrain household agricultural production. Examples of this abounded and were a lesson for any households that were fortunate enough to have avoided such calamities. A major illness or problematic pregnancy could cause the loss of an entire season's subsistence production, not to mention the expenses of health care. Even more severe were cases of longer-term illnesses in which household resources had to be fundamentally re-allocated to overcome the loss. Not every household faced such trauma, but those that did stood as examples on the importance of guarding against the worst effects of ill health.

Furthermore, women under straddling suffered a two-fold insecurity. Like men, they perceive market access to key resources as tenuous. Women's principal concern was access to key inputs into agriculture and their own local small-scale businesses, rather than off-farm employment (though they were obviously affected by the insecurity their husbands faced in the latter). Women were also directly dependent on their husbands for key resources for agriculture and children's education. Because they had a greater reliance than their husbands on household agriculture, they could not be certain of their husband's continuous contribution to that sector. Combined with market insecurity, the uncertainty of their husband's support caused women to diversify their productive activities and diffuse resources to an extent which was even greater than that of men. They diffused their most important resource, their own labour power, over a variety of agricultural endeavours and local businesses in an attempt to minimize exposure and risk in subsistence agriculture.

The dissolution of pre-colonial institutions designed to ensure each household had minimal access to land, labour and food increased the dependence of women on the market and their individual husbands. Thus, the rise of the individual, household estate constituted the end of community control over land. With it went community ability to allocate unused land to households that were in need. Instead, households with inadequate land resources (a situation worsened by increasing number of people causing population pressure on land) had to purchase or rent additional land. All land purchases and most land renting relied on men's off-farm income, making women vulnerable to abuses of their land rights from their male counterparts.

In periods of scarcity, women were similarly dependent on the market and their husbands for maize purchases<sup>103</sup>. Overall, access to grain to meet subsistence shortfalls was heavily dependent on market purchases, even in a year of unusually poor production due to drought. While women's business income was often adequate for some grain purchases, men's income was typically so much greater that an unusually large shortfall required men to purchase grain to compensate for the shortfall.

Omwoyo<sup>104</sup> analysed the organization and transformation of agriculture among the Gusii of Western Kenya in the colonial period. He demonstrated that the dynamism and innovativeness of Gusii indigenous agriculture showed its efficiency and productiveness. He further demonstrated how the colonial penetration modified and marginalized Gusiiland's indigenous agriculture. Nonetheless, he attributes this transformation to colonialism. Moreover, Omwoyo<sup>105</sup> points out that the women in

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<sup>103</sup> Ndege, P. *The Struggle at the Market Place*

<sup>104</sup> Omwoyo, S. M. (1992) "The Colonial Transformation of Gusii Agriculture" M.A. Thesis, Kenyatta University: Nairobi.

<sup>105</sup> Omwoyo, S. M. (1997). 'Women and Agricultural Production among the Gusii c. 1875-1963, *The*

Gusii land adopted several approaches to counter the impact of coffee production on labour relations as established in the oral interviews. First, they deliberately intensified their own labour. As they were forced to undertake duties of their absent husbands, offer their labour in coffee farms, and perform their own domestic chores, women had no alternative other than to work a little more and longer than before. Second, they used the working parties more than before. The working parties went around soliciting for jobs to do in rich farmers' coffee holdings with an intention of being paid cash.

In addition, they sought for employment locally in the rich men's coffee *shambas* as individuals. This meant working for their employer in the morning hours and working on their own holding late in the afternoon. Another strategy employed by the women to cope with their continued marginalization from the cash crop economy was to increase production of profitable crops within their reach like wimbi and maize. Such women established vegetable gardens and were often seen selling vegetables in market places on appointed market days. Last, women formed small scale cooperatives or merry-go-rounds to raise the required capital to be detailed in the next chapter.

Davison<sup>106</sup> argues that gender relations to land in Africa have been modified over time by internal conquest and power struggles and by major intrusions from abroad. Studying land registration in Mutira and Chwele divisions in former Central and Western Provinces respectively, Davison asserts that the implementation of the Swynnerton Plan from the mid-1950s affected food production and caused gendered tension especially at the family level. This was because land registration negatively

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*Eastern Africa Journal of Historical and Social Sciences Research*, Vol .2 No.1.

<sup>106</sup> Davison, M. J. (1987). Without Land we are nothing. The Effect of Land Tenure Policies and Practices upon Rural Women in Kenya, *Rural Africana*, 27.



impacted on food crop production, which was a woman's sphere. Further, the household was impacted as the unit of production specifically addressing land policies and how they affected women's usufruct rights.

## **5.6 Conclusion**

The chapter set out to examine the post World War II Gusii agriculture. It maintained that the Swynnerton plan was a turning point to not only agriculture in Kisii, but to women access, use and control of the land. It further affirmed that the intensification of agriculture in Kisii was predominantly founded on Gusii women initiatives compounded by market imperatives and subsistence needs. This chapter further evaluated the post-World War II gendered Kisii agrarian trajectory and land relations. The chapter evidenced the post-war agricultural reconstruction course as stimulated by the Swynnerton plan which orchestrated land kleptocracy in Kisii. The chapter contextualised the pre- independence dynamics in Kisii with a view to shape the independence legacy in Kisii. It drew the conclusion that land reforms in Kisii resulted in the issuance of individual land title deeds which legalised individual land ownership and legitimised Gusii men's ownership of land to the disenfranchisement of women. This increased land conflicts for such arrangements ignored the traditional overlapping and multiple rights and uses of land, reduced land accessibility and rendered Gusii women "landless". The next chapter undertakes an examination of the period 1960-1970 with a view to ascertaining the extent to which these colonial agrarian policies continued to exercise an imprint on women access, control and utilisation of land among the Gusii in post- colonial Kenya.

## **CHAPTER SIX**

### **POST-COLONIAL LAND OWNERSHIP AND GENDER RIGHTS, 1960-1970**

#### **6.1 Introduction**

The independence period saw the Gusii deeply entrenched into the capitalistic economy as will be documented in this chapter. The previous chapter evaluated the post-World War II gendered agrarian trajectory and land tenure relations in Kisii. It elucidated the post-war agricultural reconstruction course as stimulated by the Swynnerton Plan which orchestrated the emergence of land kleptocracy in Kisii. The chapter also contextualised changes in the dynamics of land ownership and the attendant gender relations within broader developments that occurred in the aftermath of WWII thereby shaping the evolution of land use as relates to gender in post colonial Kenya. The chapter concluded that land reforms in Kisii resulted in the issuance of individual land title deeds, which legalised and legitimised the ownership of land by men to the disenfranchisement of Gusii women.

The current chapter focuses on the independence agrarian trajectory and the restructuring of the same on gender relations in Kisii. The chapter details the impact of the colonial legacy on the evolution of agrarian policy, the role of the policies contained in Sessional Paper Number 10 of 1965 on the land question in Kisii, especially as pertains to gender relations. The chapter explores how the early independence dynamics played out in Kisii with the futile attempts by the state to settle the gender land question among the Gusii. Further, it analyzes how the agricultural land dynamics impacted on Gusii women access, control and utilisation of land in the period immediately after independence. This chapter, therefore, concentrates on the independence period and the transition of land rights from the

settler dispensation to African ownership. It thus measures whether there was continuity or change in gender land access, use and control in Kisii.

In order to plot such continuity and change in women access, control and use of agricultural land in Kisii, an analysis of the ensuing labour policies and government initiatives to promote cash crop production to shape the pre-independence and the independence period is undertaken. Further, the chapter evaluates the expansion of economic space and the need for Gusii women to take advantage of the opportunities availed by the market in order to access the elements of continuity and change, predominant in the period covered by the chapter. This chapter thus serves to create linkages between the agrarian and land policies pursued during the colonial and post-colonial dispensations within the context of gender relations in Kisii.

## **6.2 The Colonial Legacy and the Evolution of Land Policy**

The pre-independence land tenure and agricultural dynamics were guided by the delicate complexities of the state of emergency and the independence agitations by African nationalists. The Lyttleton prescription<sup>1</sup> and the Swynnerton injection were the only way out of the complex transitory situation in Kenya. On the political dimension, for purposes of continuity and transition, the Lyttleton proposal provided for the federal principles of transition but lacked the economic aspect that would solve the larger impending economic transition crisis which only the Swynnerton plan<sup>2</sup> sought to address through the Kenyanization of the economy.

The Kenyanization of the economy entailed the emergency of agricultural complexities in Kenya in general and Kisii in particular which were to be straightened

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<sup>1</sup> Reference is made here to Oliver Lyttelton's constitutional proposals of 1954 which sought to create more political space for Africans at the national level. see

<sup>2</sup> Roger Swynnerton (1954) A Plan to Intensify African Agriculture. Government Printer

and beacons on the provisions of the Swynnerton plan. The plan advocated for land consolidation, enclosure, individuation and titling for the independence transition in the agricultural sector. These provisions were to address both the delicate situation of putting agriculture firmly in the hands of Kenyans while at the same time guaranteeing continuity and sustainability of the country's agricultural sector as the sum of the peasant production sections as exemplified by Kisii. For the broad Kenyanization, the Red Plan and the Green Plan were fundamentals of change and continuity in the country's agricultural sector in the transition period. Kenyanization was highly characterized by the educated Kenyan elites who had evolved during the colonial period and were taking over the land that was vacated at independence by departing white settlers in the high potential areas. This left the vast majority of the population on mostly limited land that had previously been designated as native reserves.<sup>3</sup>

During the period close to self-rule in Kenya, group interests on land and their approach to the land question caused socio-political divisions that spilled over to the political party formation processes. The main political parties by then were the Kenya African National Union (KANU), Kenya African Democratic Union (KADU), the New Party of Kenya (NPK) for the settlers, and several other smaller parties representing smaller groups and interests.<sup>4</sup> Divisions around the land issue, therefore, became the foundation for different political projects for national independence. On one hand, KANU preferred a unitary form of government and advocated for a stay on further land reforms until political independence. On the other hand, KADU, motivated by fear of state domination, preferred a federal system of government with

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<sup>3</sup> Maxon, R. (2003). *Going Their Separate Ways: Agrarian Transformation In Kenya, 1930- 1950*. London: Associated University Presses.

<sup>4</sup> Kanyinga, K. (2000). *Re-Distribution from above. The Politics of Land Rights and Squatting in Coastal Kenya*. Nordic Africa Institute Programme; Research Paper No. 115.

regional assemblies whose most significant duty would be the administration and adjudication of land matters.

Internally, the African parties were also deeply divided over the land reforms. The radical faction of KANU, rooted in nationalist position on the issue of land championed for wholesale seizure of the expropriated land in the White Highlands to settle the landless and squatters. Opposed to the radical wing, liberal capitalists within the parties sought to encourage the emergence of a free market in land in order to promote more rapid economic growth and provide a basis and greater security for accumulation by the landed elite.<sup>5</sup>

In particular, the liberal group feared that any radical departure from what the colonial land reforms had achieved would jeopardise economic growth by antagonising relations with foreign investors. Whereas KADU made it clear that they wanted a constitutional provision that guaranteed ethnic groups' fair compensation for land that had been effectively expropriated by the colonial government, they also emphasized that respect for property rights in land should apply to both individuals as well as ethnic communities.

The emerging political conflict at the time of transition to independence and the eventual defeat of the radical group led to an evolution of a constitutional framework that favoured the sanctity and inviolability of private property rights, which provided for protection from deprivation of private property without any compensation. Second, it resulted in the adoption without alteration of the legal framework on which

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<sup>5</sup> Kanyinga, K. (2000). *Re-Distribution from above. The Politics of Land Rights and Squatting in Coastal Kenya*. Nordic Africa Institute Programme; Research Paper No. 115.

the colonial reform on land tenure was based.<sup>6</sup> This formed the basis for land administration and management in the post-colonial period.

As Kenya gained internal self-government in 1963, the independence administration was keen not to disturb the legal framework on development laid down by the colonial state. The administration was convinced that private property rights in land would lead to intensified agricultural productivity upon which the economy depended. As a result, the regime adopted without alterations, the legal and policy framework of the colonial land tenure.<sup>7</sup>

In this regard, the Kenyan independence elites inherited the British institutions alongside national liabilities. These elites opted for the retention of the colonial powers by whatever means possible to avert and eradicate perceived poverty. For example, the independence regime inherited land framework from the colonial government, and used various forms of coercion and intimidation to transfer large tracts of public lands to private use.<sup>8</sup>

As Okoth Ogendo puts it, in the 1950s, the colonial state embarked on the consolidation of the settlers through systematic diffusion of political nationalism and the incorporation of Africans into a colonial mode of production relations, where it was to create a social class within the African ranks with similar interests and ideals to those of the ruling economic elites.<sup>9</sup> This needed adjustment to the realities of giving Africans opportunities given the political situation where the Mau Mau war had sensitised Africans on issues related to land and equal farming opportunities.

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<sup>6</sup> Kanyinga, K. (2000). *Re-Distribution from above. The Politics of Land Rights and Squatting in Coastal Kenya*. Nordic Africa Institute Programme; Research Paper No. 115.

<sup>7</sup> Ibid.

<sup>8</sup> Matthews, K. and Coogan, W. H. (2008). Kenya and the Rule of Law: The Perspective of Two Volunteers. 60 *Maine Law Review* 561.

<sup>9</sup> Okoth Ogendo: 139

In 1963, as the Registered Land Act was passed to resettle Africans on the land that was being left by the Europeans, as the independence government mooted two major strategies. First, was the transfer of over a million acres of land belonging to the departing settlers after independence. These were acres of land that were purchased for the resettlement of Africans in small to medium size holdings. The second strategy was to transfer large European estates to private individuals, Co-operations and partnerships.<sup>10</sup> This new system that came to be known as the Africanization of the economy of the white highland laid the foundation for straddling as far as land holding in independent Kenya is concerned.<sup>11</sup>

A Land Development and Settlement Board was established to handle resettlement schemes for all races whose main activities were to stabilise prices of European owned farmland, and offer credit to Africans who wished to purchase farmland in scheduled areas. The board managed to settle Africans on a European post-World War modelled schemes where over 700 farmers were settled in high density holdings with total financing from the United Kingdom, World Bank and Colonial Development Corporation.<sup>12</sup> Many radical Africans such as Oginga odinga, Bildad Kagia and Achieng' Oneko opposed this arrangement referring to it as “political leverage of the settlers”, at a time when it was clear that European rule was over.

The departure of settlers left many squatters who had lived on their land for many years, some who never had homes to go back to, thus finding themselves landlessness. This emotive situation was now confronting the independent government and needed an immediate solution. In 1962, The Million Acre Plan was inaugurated, modelled to settle peasant and small holdings. Schemes of this kind were expanded to

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<sup>10</sup>Republic of Kenya, National Development Plan 1964-1970, Nairobi, Government printer

<sup>11</sup> Okoth Ogenido, Tenants of the crown. 156

<sup>12</sup> Ibid

accommodate the great numbers of the landless and unemployed Kenyans. The financial and technical requirements for these settlement groups were either scaled down or done away with altogether to allow for quick settlement of people. By 1971, when the Million Acre Plan wound up, nearly 35000 families had been settled on around 470000 hectares of land at a cost of £30 million<sup>13</sup>

With the independence government agreeing that land had to be paid for, those who qualified to get the land had to demonstrate capacity to repay the loan given by the government to purchase the land. Eventually, the majority of those who got the land in the settlement schemes ended up not being the absolute landless that these schemes were meant for. The land ended up in the hands of those who had accumulated cash from farming, business and wage employment.<sup>14</sup> This arrangement, therefore, came to signify the continuity of social stratification that had begun with the Swynnerton Plan. As the relatively rich land owners settled down in the schemes, it turned out that almost 99% of them were men given the fact that they were economically better placed to be able to secure the land.

The pre-independence and the independence state therefore succeeded in perpetuating European land policies to the independent dispensation. Gusii land was not an exception to this state of affairs as will be subsequently demonstrated. During this period of transition, as Gibson Kuria contends,<sup>15</sup> individualisation of tenure was aimed at defeating Kenyan nationalism as the landed class of conservative people was to be created through replacement of customary land tenure with one that permitted a few individuals to own land<sup>16</sup> as discussed in chapter five.

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<sup>13</sup> Ibid,158

<sup>14</sup> Stephen Orvis; *The Agrarian Question*. See also Group interview at Masongo, Nyaribari Chache

<sup>15</sup> H.W.O Okoth-Ogenda: *Tenants of Crown*

<sup>16</sup> W. R. Ochieng: *Themes in Kenyan History*, 237



### 6.3 Implications for the Specific Case of Kisii

At independence, the Kisii leaders including politicians such as, John Kebaso, Sagini Ndemo and James Nyamweya as well as senior chiefs such as Musa Nyandusi, Ndubi of North Mogirango and Matayo of Bobasi put a strong case to the KANU government that the region around Sotik highlands was part of the Kisii frontier land and that the Gusii had settled at the western end of Sotik before the onset of colonial settlement.<sup>17</sup> The Kenyatta government allowed for the curving out of the scheme to the west of Sotik and Bomet for the settlement of the Gusii farmers drawn from all parts of Gusii.

As per the National policy, the land was meant for the settlement of the landless and poor people with small pieces of land. Accordingly, chiefs were given the task of enlisting people who qualified from the locations. Again, true to the prevailing patriarchal practice, it was majorly men as heads of the families who were chosen for land allocation.<sup>18</sup> Furthermore, the chiefs took advantage of the power they possessed and allocated themselves large pieces of land running into hundreds of acres. The pioneer politicians and elites who formed the petite bourgeoisie of the time also took advantage of their position to acquire large tracts of prime land in what came to be called Borabu location.

The process of registration of land within the parameters established by the former colonial masters while ignoring the African traditional practices on land use and ownership by the independence government further marginalised Gusii women's access and ownership of land. Bruce and Migot-Adholla<sup>19</sup> as well as Shipton and

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<sup>17</sup> Araka Matundura 80 and Samuel Bosire 75

<sup>18</sup> Bramwel Nyangeso 89, Kitutu Chache South, Dec 2019

<sup>19</sup> Bruce, J. and Migot-Adholla, S. (1994). *Searching for Land Tenure Security in Africa*. Dubuque, Iowa: Kenadall/Hunt Publishing Co.

Goheen<sup>20</sup> detail the shifting nature of land rights, including women's right to land. They indicate that the right to use land does not confer the right to control or to dispose land. Thus, land may be owned by one person and used by another, and there may be certain other rights enjoyed by third parties to the land, who may neither own nor use it. Thus, rights of use may be either shared or exclusive.

Research<sup>21</sup> to a large extent confirms that in Kenya, land determines the economic well-being, social status and political power of individuals in a society. The Kenyan Government has over the years pursued programmes to transform customary land tenure into statutory freehold tenure through land adjudication, consolidation and registration (privatization). But the problem was that the land titles were being transferred almost exclusively to individual men, thereby leaving no provision on how women's land access rights were to be defined and how women would realize the goals of privatization once the lands were registered in the name of individual males. In this case, land titling not only increased men's control over land ownership and distribution, but also increased women's dependency on men.

In addition, the central perspective in the understanding of gender relations is the need to focus on the ways that development, the market, the state, culture, global forces and multiple regimes of property rights affect land use practice and access.<sup>22</sup> Furthermore, the weakness of women's property rights in Kenya, in general and in Gusii in particular, has been noted in the past as a problem rooted in both statute and customary law. The post-colonial agrarian and land policies did not only

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<sup>20</sup> Shipton, P. & Mitzi, G. (1992). Understanding African Land-Holding: Power, Wealth and Meaning. *Africa* 62/3: 307-425.

<sup>21</sup> Nzioki, A. (2009). *The Effect of land tenure on women's access and control of land in Kenya*.

<sup>22</sup> Carney, J. (1996). Converting the Wetlands, Engendering The Environment: The Intersection of Gender within Agrarian Change in Gambia. In *Liberation Ecologies: Environment, Development and Social Movements*, Peet, R. and Watts, M. (Editors), London and New York: Routledge.

disproportionately empower men economically as land owners they also accentuated this process through programmes aimed at the promotion of cash crops.

#### **6.4 Further Initiatives to Promote Cash Crops in Kisii**

Agriculture still remained the major source of government revenue as the country transited towards independence. According to the National Economic Survey of 1960, agriculture represented in the aggregate of monetary and non-monetary activities, some 40 per cent of the gross domestic product. But on this note, cash crop production represented 16 per cent of the gross domestic product<sup>23</sup>. For Kisii, higher incomes derived from the sale of cereals resulted in the Gusii women, having higher purchasing power and had an encouraging effect on their engagement and intensification of production in the area. Compared to the 1950s, the largest acreage in Kisii was given over to cereals, scheduled crops and cash crop production in the early 1960s accounted for 90 per cent of the total land under crops in 1961.<sup>24</sup> The land occupied by cash crops in Kisii had steadily risen as demonstrated by the increasing cultivation of coffee from 472 acres in 1952 to 2,996 acres in 1958. According to Orvis and backed by oral evidences, the number of coffee growers in Kisii for instance increased from 36,149 in 1954 to 54,000 by 1963. In addition, tea growers in the same period rose from 2,362 to 39,612.<sup>25</sup>

The intensification of cash crops production in Kisii in the immediate pre independence period compared to the post Second World War period was echoed in the 1961 Economic Survey which noted a remarkable increase in coffee and tea cultivation. Coffee planting, according to the survey, grew rapidly as the major cash

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<sup>23</sup> Republic of Kenya, National Economic Survey, 1960. Government Printers

<sup>24</sup> Ibid.

<sup>25</sup> Orvis, S.T (1989). The Political Economy of Agriculture in Kisii, Kenya.

crop under the Swynnerton Plan, and the acreage increased to 26,000 acres.<sup>26</sup> The production increased from 1,000 tons in 1955 to 6,000 tons in 1959. With land consolidation on the rise in South Nyanza, the acreage planted to pyrethrum was also on the increase and was expected to remain so for the future.<sup>27</sup>

On its part, although maize was largely perceived as a food crop, it doubled up as a cash crop in Kisii, more so at independence compared to the pre-independence period. The efforts of Gusii women in the production of maize as both a cash crop and a subsistence crop were noticeable in the 1963 Economic Survey which observed that the most noticeable changes in the year were the continued decline in the acreage of cereals such as millet and wheat and a further expansion in the area under maize cultivation while the pyrethrum acreage rose from 9,000 to 48,500 acres.<sup>28</sup> This was even motivational to the women efforts in the production of maize as its revenue rose in spite of the fall in the deliveries by farmers (the Gusii women) since they did not have to pay any export cess since 1961.<sup>29</sup> This was fore grounded in coffee production which was reported that production of clean coffee of 7,300 tons in 1960/61 had more than trebled since 1958.<sup>30</sup>

The acreage under coffee growing continued to expand as the second generation of farmers began to plant the cash crop. As in education, the gender disparity in off-farm income resulted in a concomitant disparity in the coffee acreage. Furthermore, women's businesses began to expand rapidly, as sons' wives began to engage in these activities in follower households, adopted the practices initiated by their pioneer and follower neighbours. In some cases, daughter-in-laws in pioneer households also

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<sup>26</sup> Republic of Kenya, National Economic Survey, 1961. Government Printers

<sup>27</sup> Republic of Kenya, National Economic Survey, 1967. Government Printers

<sup>28</sup> Economic Survey, 1963. Government Printers.

<sup>29</sup> Economic Survey, 1963. Government printers

<sup>30</sup> Ibid.

entered off-farm labour, working as well paid nurses and teachers, further enhancing pioneers women levels of wealth.

The fore detailed increase in cash crop production was made possible by deliberate policies and initiatives by the government. According to the Development Plan 1964-1970, the government undertook to ensure farm inputs were not only readily obtainable, but at reasonable prices. The prices of farm inputs such as phosphatic and nitrogenous fertilizers were subsidized<sup>31</sup>. The Plan, further notes that in comparison to the pre independence period, the prices of these important inputs would continue to be subsidized in future as changing circumstances required. Besides the subsidies to the crucial farm inputs, the government equally subsidized the prices paid to the farmers in the early independence years compared to pre-independence period. In particular, the prices of maize and wheat were heavily subsidized as indicated in the 1964-1970 Development Plan<sup>32</sup> in order to further promote the production of these crops.

These subsidies made it possible to produce maize profitably in the face of price challenges in the 1960s<sup>33</sup>. Besides the input subsidies, cash crop yields were steadily rising courtesy of the government policy of introducing better production methods as exemplified by the use of hybrid and synthetic varieties of maize<sup>34</sup> that Gusii women were largely receptive to. The deliberate efforts by the government to increase farm mechanisation research<sup>35</sup> also enabled the identification of more efficient methods of using a wide range of farm equipments in Kisii which offered alternative cultivation techniques hence permitting cheaper methods of cultivation and improvement of soil conservation measures.

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<sup>31</sup> Development Plan, 1964-1970. Government Printers

<sup>32</sup> Republic of Kenya, National Development Plan, 1964 - 1970. Government Printers

<sup>33</sup> Economic Survey, 1964. Government Printers

<sup>34</sup> Development Plan 1964-1970. Government Printers.

<sup>35</sup> Ibid.

In addition, the provision of agricultural credit was increased. The independence government through Agricultural Development Corporation (ADC) and Agricultural Finance Corporation (AFC) provided financial credit to farmers<sup>36</sup> in Kisii with an aim of intensifying cash crop production. For example, from 1964 to 1970, National Development Plan devoted K£4.7 million of development funds to agricultural credit programmes. In addition, Agricultural Finance Corporation (AFC) availed K£2.4 million from its own resources for agricultural credit projects<sup>37</sup>. The credit facilities were complemented and supplemented by the government intensification of communication in the country generally and in Kisii specifically.

Furthermore, the government invested K£43 million to the construction of country wide road network. In Kisii, the improved and the newly constructed roads directly benefitted women agricultural production more compared to the pre independent times as they would deliver their agricultural produce to the various markets efficiently and effectively. For example, in the tea growing areas of Kisii and Kericho, K£1.7 million was spent on the roads development programme. Consequently, as per the the 1969-74 Road Development Plan, the Kisii region had achieved 52 trunk roads, 145 Major Secondary Roads and 8 Minor Roads totalling to 205 kilometres of road network to facilitate communication with the various market centres in the area.

Marketing of agricultural produce was another initiative that initiated increased cash crop production. In Kisii, for instance, the government directly ensured the involvement of statutory boards in agricultural marketing. For instance, measures

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<sup>36</sup> Economic Survey, 1967. Government Printers. & Development Plan 1964-1970. Government Printers

<sup>37</sup> Ibid.

were taken to decontrol maize marketing which reduced the share of the final price that was absorbed by the marketing system in Kisii<sup>38</sup>.

### **6.5 Further Expansion of Economic Space & the need to Maximise on Market Opportunities**

The place of markets in engendering Gusii agricultural continuity and change was well illustrated on the eve of independence and after independence. According to the 1964 economic survey, the principal cause of the buoyant domestic product was the higher cash earnings of the agricultural industry<sup>39</sup>. For instance, the value of marketed production in 1963 rose overall by 9 per cent to a new high level. This was in spite of a fall in the average price received for coffee in 1962/63 from £342 per ton to £280 per ton. In these circumstances, coffee, a Gusii produced crop held its place as the most valuable produced in the country. The recovery in coffee prices was resounding in 1964 with an additional £2 million from the crop<sup>40</sup>. On the opposite side, the failure of the market for pyrethrum to expand in 1964 was attributed to the rapid accumulation of expensive stocks of pyrethrum extract occasioned by drastic cuts in farmers' quotas.

The marketing dynamics and measures to enhance agricultural production as impelled by changes from the colonial system to independence system of government were best laid out in the 1964-1970 Development Plan. A major player in the market dynamics was the introduction of marketing boards and cooperatives which were not just responsible for identifying all possible markets for agricultural produce<sup>41</sup> in areas like Kisii, but decontrolled the markets themselves. In Kisii, for example, market

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<sup>38</sup> Development Plan 1964-1970. Government Printers.

<sup>39</sup> Economic Survey 1964. Government Printer

<sup>40</sup> Ibid.

<sup>41</sup> Development Plan 1964-1970. Government printer

conditions permitted a moderate increase in production of coffee through the coffee board of Kenya. The marketing boards and cooperatives took up issues afflicting the economic dynamics of agriculture. Further, the cooperatives and marketing boards undertook research and provided agricultural extension services on farm management and marketing. They expanded to farm management training programmes exemplified by Kenya Agricultural Research Institute and the Coffee Research Farm which enabled farmers in Kisii to take up agricultural production on a business and technical side<sup>42</sup> as compared to the part time basis that characterised the pre independent period.

Numerous market centres provided opportunities for trading services in rural Kisii which according to the 1964-70 Development Plan had the highest number of trading centres among them; Kisii as the main urban centre while Keroka, Manga, Nyambunwa, Ogembo and Kebirigo served as rural centres. On the other hand; Nyamache, Nyamira, Kenyenyia-Majoge, Keumbu, Nyamarambe, Nyamaiya, Rangenyo, Riosiri, Gesima, Ikonge, Nyangusu, Tinga and Nyansiongo fed rural centres as market centres. The market centres were largely supplemented by local centres which were dominated by Gusii women as the main players in the local agricultural trading industry on centres like; Mogunga, Gesusu, Igare, Riochanda, Birongo, Obwari, Nyanturago, Magombo, Kiamokama, Masimba, Mosochi, Etago, Riana, Ikoba, Borabu, Itumbe, Maroo<sup>43</sup> among others.

As the 1967 Economic Survey points out, in the period 1964/67 as a whole, the growth rate of monetary agriculture was substantial and the survey indicates 1966 as the year that witnessed the most improvement in agricultural harvests and in

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<sup>42</sup> Ibid.

<sup>43</sup> Development Plan 1964-1970. Government Printers



consequence, the most vibrant period<sup>44</sup> on the local marketing centres with all forms of agricultural produce being traded and exchanged by women. This was reinforced by the 1961 Economic Survey which noted that the average producer returns for all agricultural products showed improvement over the years<sup>45</sup>. Even the average returns received from coffee was comparatively high compared to 1958 and 1959. This in essence indicates the commitment of the independence government not only to production, but to better market prices and returns compared to the pre-independence one. The improvement in agricultural production meant that more and more land in Kisii was brought under the plough hence the need to analyse continuity and change in land issues in the area at independence.

## **6.6 Continuity & Change in Land Regime and Legal Framework at Independence**

The relationship between land and labour was critical, especially in terms of women's ability to keep the proceeds of their own labour at independence time. In Kenya, there are certain commodities, such as coffee and tea, where payment was awarded to the title deed owner (the Gusii man), rather than the cultivator (the Gusii woman)<sup>46</sup>. This created critical problems around the keeping of the proceeds of women's own labour. Even in a situation where women had invested their labour in producing coffee and tea, it was their husbands, as legal title owners under statutory law who gained access to the proceeds of women labour.<sup>47</sup>

In theory, under statutory law, women had the right to own land. However, in the formal legal sphere, women faced many obstacles in owning land. First of all, the cost

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<sup>44</sup> Economic Survey 1967. Government printers

<sup>45</sup> Economic Survey 1961. Government Printers

<sup>46</sup> Group Discussion with women from Kitutu Chache north

<sup>47</sup> Verma, R. (2001). *Gender, Land and Livelihoods in East Africa: Through Farmers Eyes*. Ottawa: International Development Research Centre.

of legal procedures prevented many women from using the courts to uphold their land rights. Furthermore, women were subjected to violence if they attempted to take land disputes to court, as male members of the family considered land issues a “family matter,” instead of a state one. Thus, although women had land rights under formal law at independence, quite often, they lacked the means to enforce these rights, meaning that only a few wealthy women would own land. This state of affairs was detrimental to land ownership, access and control at independence as it meant that women could not fully participate in social and economic development, even though they made up half of the population.

In this regard, Kenya is undoubtedly the stellar example of the negative effects of formal land registration and titling. The ideology of exclusive rights over land, set forth by European settlers, was followed after independence as the government continued the policy of consolidating land under individual ownership. According to Davison <sup>48</sup> these policies gave “precedence to individual ownership invested in male heads of households and in turn marginalized the usufruct rights of women formerly guaranteed under customary lineage tenure.”

The issues afore discussed made women's property rights highly vulnerable. Women who lost their land or whose land was encroached upon by neighbours appear to have had a choice in terms of which type of adjudicatory structure to pursue their complaint, the formal court system (which incorporates some customary elements) or

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<sup>48</sup> Davison, Jean, (1988). "Who Owns What? Land Registration and Tensions in Gender Relations of Production in Kenya." In Jean Davison, ed., *Agriculture, Women and Land: The African Experience*. Boulder: Westview Press, 157-76, at 165.

the informal use of clan elders and chiefs, which was the forum of choice for dispute resolution of conflicts over “family” or customary land.<sup>49</sup>

In 1963, The Colonial Land Tenure Reform continued in independent Kenya as a matter of policy. For instance, the Development Plan (1970-1974) pointed out that, the land tenure system in Kenya should be changed so that farmers could be issued with title deeds to their lands and that, fragments of land be consolidated into one bigger holding (Development Plan, 1970-1974). Thus, in the post-colonial period, the process of tenure reform involved three distinct stages: adjudication, consolidation and registration.

In the context of the post-colonial land reform, consolidation was a measure designed to remedy the division of rural property into undersized units unfit for rational exploitation and excessive dispersion parcels forming parts of one farm. The process was also contained in The Land Consolidation Act (1968) CAP 283 of the Laws of Kenya. The Land Consolidation Act, which was based on recommendations of Swynnerton’s Plan was complemented, in certain areas, by the Land Adjudication Act (1968)<sup>50</sup>.

According to International Women’s Human Rights Clinic (IWHRC), land adjudication and consolidation were enacted to determine existing customary rights to land and convert them to single, registered freehold parcels of land. Because customary law prescribes that men control land and property but women do not, the bodies that determined these land rights did not recognize women’s claims. The

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<sup>49</sup>Kiagayu, N. N. (1979). *Property Ownership Structure among the Kikuyus: Its Impact on the Status of Women*. MA Thesis. Nairobi: University of Nairobi.

<sup>50</sup> H.W.O Okoth-Ogendo tenants of the crown

organization further argues that these Acts were bound to exclude most women from acquiring titles to land.

Registration of titles was the final step after land adjudication and consolidation. The Lands Registrar prepared registers under the laws of Kenya, the Registered Land Act 1963, CAP 300. The impact of this was to transform the land owners as contained in the Land Adjudication Act into the proprietors of the Registered Land Act.

When these circumstances combined with the traditional Gusii attachment to land, it became clear why there were many land disputes in Kisii.<sup>51</sup> Private land ownership was the foundation of the colonial economy and administration, and it subsequently became part of the Land Law in independent Kenya. This was done without regard to the existing cultural concepts of land ownership and use, and so there remained tension, particularly in densely populated areas like Gusii, between the traditional concept of land and the imposed law of private property ownership.

Private land ownership was justified on the basis that it was necessary for efficient sale and transfer; that it would establish and maintain well defined, legally enforceable rights to land; that it would be used as collateral for agricultural loans; that it would enhance land management and conservation; and that it would allow for mechanization of agriculture.<sup>52</sup> Unfortunately, none of the foregoing justifications considered the gendered socio-cultural aspects of land, and so land became just another commodity to be transferred on a “willing seller-willing buyer” basis.

Reference to the 1964-1970 National Development Plan shows that, changes and continuity in land policy was inevitable. In the period, the Land Use Committee was

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<sup>51</sup> Group Discussion with men of Bonchari Jan 20120

<sup>52</sup> Swynnerton Plan.1954

established with the primary objective of advising the Government on the best use of land where conflicting interests existed<sup>53</sup>. In Kisii for instance, the land use committee was to strike a stable gender balance between male dominated agriculture especially of coffee and pyrethrum and the female straddled production with maize taking the lead. Besides the advice on use, the land change and continuity policy prioritised land adjudication and registration programme in Kisii which was a pre-condition for the gendered rapid agricultural development in the area. For instance, the Land Adjudication Act of 1965 notes that by 1965, a total of 1,845,809 acres had been registered in 15 districts including Kisii<sup>54</sup>. In Kisii in particular, the 1966 Economic Survey indicates that between 1956 and 1963 no adjudication had been declared in the area. But, between 1964 and 1966, 7,000 acres in Kisii had been registered and declared for adjudication<sup>55</sup>. This registration and declaration designated the engendered change in the land registration in Kisii while at the same time it showed continuity of policy in the land usufruct among Gusii women. Land registration had steadily spread from central province to every other province including Nyanza that Kisii was part of. In addition land was speedily registered and adjudicated for transition purposes from the colonial to the independence regime<sup>56</sup>. With the increased registration and adjudication in Kisii, women were the major beneficiaries.

The 1969 Economic Survey observed that the most noticeable change was the continued decline in the acreage of coffee (a male dominated crop) due to the coffee disease in favour of maize, a women dominated crop<sup>57</sup>. This was unlike the pre-independence time when the gender question was cultured. Neigus reiterates this

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<sup>53</sup> Development Plan 1964-1970. Government Printer

<sup>54</sup> Economic Survey, 1966. Government Printer

<sup>55</sup> Ibid.

<sup>56</sup> Neigus, 1971. Conflict over Land

<sup>57</sup> Economic Survey, 1969. Government Printer

when he noted that the 1960s saw Africans engage more in cash crop farming than waged labour. The northern areas of Kisii were encouraged to grow cash crops because they were doing well there. Further, he notes that the men from Kitutu, north Mogirango and parts of Nyaribari abandoned labour migration after independence and embarked on cash crop farming in their own plots<sup>58</sup> after registration and adjudication, where they got more money than labour wages.

With the enthusiasm to engage in more production of cash crops and the quick shrinking of the land under occupation in Kisii, the Gusii agitated and advocated for more land inclusion under their territory after independence. Led by Washington Ondicho a member of the ADC, the Gusii petitioned the government to affix the Kisii boundaries to bring Sotik under them in order to allow the Gusii benefit from the Sotik Settlement Scheme<sup>59</sup>. The petition in read part:

We Kisii people claim that a large portion of our land was included in Kericho reserve ... if we are joined to them, the dangerous feeling would wash away. If there is a boundary between Kisii and Kipsigis, it will mean endless troubles ... it will increase tribal war ...<sup>60</sup>

While the petition from the outlook would be a genuine case of peace and tranquillity, the covert motive by the Gusii men was the hunger for more expansive portion of land to be registered under their name for cash crop production as the Gusii women were increasingly after independence securing land for maize production as compared to the former years.

A study on women's land rights in sub-Saharan Africa observed that local level land-management fora "... make moral and material evaluations of inputs and behaviour

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<sup>58</sup> Neigus 1971. Conflict over Land

<sup>59</sup> Ibid.

<sup>60</sup> R.M Maxon: British Rule in Gusii Land, 1907 - 1963

between male and female household members over a very wide spectrum when adjudicating land claims".<sup>61</sup>

In the 1960s, the former reserves, including Kisii, were densely populated. According to the 1962 Kenya census, Kisii district had a total population count of 519,148 of which approximately 518,000 were Gusii<sup>62</sup>. This population growth resulted in unsustainable subdivision of land, causing land degradation, soil erosion, and eventually, increased poverty as shown in table 6.1 below.

**Table 6.1: Gusii population Density per square mile**

Location	1948	1962
Bubaasi	231	505
Kitutu	349	864
Machoge	302	651
Wanjare	302	480
North Mugirango	314	808
Nyaribari	368	632
South Mugirango	262	502

Source: R.M. Maxon (1989). *Conflict and Accommodation in Western Kenya: The Gusii and the British 1907 – 1963*.

As table 6.1 illustrates, the population in all locations in Kisii more than doubled in a decade. This evidenced the excess pressure mounted not only on the population to produce more to feed themselves and the market but also the strain on the limited land available for gendered production in Kisii. This justified the fore discussed Gusii quest for more land resource in the Sotik area.

<sup>61</sup>Whitehead, A & Tsikata, D. (2003). Policy Discourses on Women's Land Rights in Sub-Saharan Africa: The Implications of the Re-turn to the Customary. 3 *J. of Agrarian Change*, 67- 112.

<sup>62</sup> Morgan, W.T & Shaffer Manfred N, 1966. *Population of Kenya: Density and Distribution*. Nairobi; Government printer

When these circumstances combined with the traditional Gusii attachment to land, it became clear why there were many land disputes in Kisii. Private land ownership was the foundation of the colonial economy and administration, and it subsequently became part of the Land Law in independent Kenya. This was done without regard to the existing cultural concepts of land ownership and use, and so there remained tension, particularly in densely populated areas like Gusii, between the traditional concept of land and the imposed law of private property ownership.

### **6.7 The Impact of Kenya's Post Colonial Land Policies on Gender Relations in Kisii**

All over Africa and Kenya in particular, powerful groups and people were in control of expansive land, while large powerless sections of the peasantry were still marginalized and excluded from getting access to land<sup>63</sup> at independence. Essentially, at independence, the nature of the land tenure system in most parts of Africa was still male-dominated and existing social organization and institutions were designed to meet that goal. Accordingly, Gusii rural women were one of the disadvantaged sections of the peasantry when one looks at their ownership, control and use of land.<sup>64</sup>

In the 1960s, therefore, women comparatively gained their influence and power when patriarchy and colonial continuity changed gender relations. Men dominated the transfer of the former white farms at independence as the economy became more and more dependent on cash crops for exports especially coffee, pyrethrum and tea<sup>65</sup> in Kisii while maize was dominated by Gusii women. This further peripherally mainstreamed Gusii women where they were forced into the informal economy with

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<sup>63</sup>Cotula, L. (2007). (ed.) *Changes in "Customary" Land Tenure Systems in Africa*. Great Britain: IIED.

<sup>64</sup> Ibid

<sup>65</sup> Development Plan 1970-1974. Government Printers.



women trading their maize through informal market channels. This was illustrated in the 1966 Economic Survey which noted women's response to the stringent policies of the Maize Marketing Board. The survey noted that the actual sales of maize were larger than deliveries to the Maize Marketing Board and large quantities were exported illegally to Tanzania or sold in the internal black market at prices well above those paid by the Maize Marketing Board<sup>66</sup>. While these reveals Gusii women's active role in their economic life, it shows the continuity for them from the subsistence production and marketing in the pre independence days to the affirmative change and their firm grip to cash crop maize production in the independence period.

The customary land-tenure systems that once provided women with access, ownership and use of the land was substituted for land commercialization which favoured those with access to wealth earned from the sale of cash crops. Moreover, the access to European-type education at independence widened the gendered gap in favour of boys over girls<sup>67</sup>. It is important to state that title deeds just like identity cards rarely came in the hands of women, thus alienating them from control over land. Thus, land titles were invariably in the name of men, and a woman's limited access, control and use of land was only through her relation to men. With land titling, the customary rights of men gained legal force and market value over women ones. When land was registered, the registered person was conferred with absolute rights and could, therefore, evict any occupier at his discretion. This according Mzee Samson Nyandusi<sup>68</sup> saw women's security of tenure in the land that they occupied or had accessed and utilised threatened by these independence adjudications.

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<sup>66</sup> Economic Survey, 1966. Government Printers

<sup>67</sup> Group Discussion with Bonchari men and women

<sup>68</sup> Samson Nyandusi, 81 years. Nyaribari Chache

Gusii women in the mid and late 1960s gallantly faced the market forces as a redemption strategy and tact out of the Gusii socio-cultural complexities of the 1950s. The dissolution of communal land tenure system hinged on the Swynnerton charter of 1954 that was polished out in the 1964-1970 Development Plan partially liberated Gusii women dependent on male dominated market production forces of cash crops. The 1967 Economic Survey<sup>69</sup> plots this redemption graph as it noted, sales to the maize and produce board and minor crops increased between 1965 and 1966 with all this increased production derived from the traditional small-farming areas<sup>70</sup> like Kisii which at the time was dominated by women compared to the male dominated production of the cash crops in the pre independence period. This made the Gusii women to increase their production for the market unlike the former period when they largely produced for subsistence. Therefore, independence to the Gusii women came with the accentuating continuity in their economic and land liberation struggles. This was evidenced in the 1968 economic survey<sup>71</sup> which indicated that, the predominance of small-holders (Gusii women) in maize production had already been mentioned. In Kisii in particular, women had been highly responsive to the exhortation of the market<sup>72</sup> incentives to grow more maize for the market than for food as was the case in the 1940s and 50s as already discussed.

Gusii household ability to respond to market opportunities or independence agricultural policy initiatives in a given agricultural enterprise was expansive because the availability of resources spread across numerous sectors by the independence government. The 1964-70 Development Plan, corroborates these by explicitly revealing government commitment to support the agricultural hardware and software

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<sup>69</sup> Economic Survey 1967. Government Printers

<sup>70</sup> Ibid.

<sup>71</sup> Economic Survey 1968. Government Printers

<sup>72</sup> Ibid.

when it asserted that, a high proportion of agricultural development funds was to be used for programmes intended to help a large proportion of farmers<sup>73</sup> including Gusii women to increase production. For example, the 1964 economic survey noted that surpluses for most food crops were higher which meant that greater quantities were available for the markets. For the software aspect the plan went further to devote K£2.2 million for agricultural education and extension while K£3.2 million was invested in agricultural research.<sup>74</sup> The 1962 as well as the 1970 economic surveys affirmed this by indicating the development and introduction of drought-resistant varieties of maize<sup>75</sup>. Moreover, K£4.7 million was designated as credit for farmers like Gusii women in small-scale farming for them not only to intensify their production efforts, but to economically liberate themselves compared to the 1940s and 50s where they were economically chained to their men or husbands. With regards to the hardware, Agricultural Finance Corporation sunk K£2.4 million worth of agricultural credit besides the government's K£4.7 million. To ensure Gusii women benefited more from their production liberation efforts after independence as compared to the pre independence period, the government through the department of physical planning expanded urban centres, market and rural centres in Kisii. To facilitate women effective and efficient access to the markets to sale their crops, the government invested in the roads network worth of K£1.7 million in addition to the K£1.6 million already committed for the same<sup>76</sup>.

Increased agricultural production became intimately intertwined with independence. The independence decade on the whole witnessed increased agricultural production largely attributed to small-holder production characterised by women like in Kisii and

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<sup>73</sup> Development Plan 1964-1970. Government Printer

<sup>74</sup> Ibid.

<sup>75</sup> Economic Survey, 1962. Government Printers & Economic Survey, 1970. Government Printers

<sup>76</sup> Development Plan, 1964-1970. Government Printer

the transfer of former settler farms to Kenyans. As the 1962 economic survey noted, African (Kenyan) farmers commenced farming in the scheduled areas<sup>77</sup>, in Kisii and particular with reference to Sotik, the Gusii received allocations of land through the land development and settlement board<sup>78</sup>. In Kisii, people who received land from the Land Development and Settlement Board were the political elites who were exclusively male<sup>79</sup>. According Robert Maxon and backed by oral interviews, the political elites were exemplified with James Nyamweya, Laurence Akini, Zephania Anyeni, Anmd Thomas Masaki among others<sup>80</sup>. While this represents the continuity from the colonial days of male grip on land, the Gusii men's struggle for land in Sotik on the converse permitted the Gusii women an opportunity to access the conventional Gusii land and control it for maize production, an element that was exclusively elusive in the colonial period especially with the rolling out of land registration in 1954 as envisaged by the Swynnerton plan where land was registered in men's name.

With the Gusii women able to access and control land as their men and husbands tussled for more in Sotik area, as Samson Omwenga, a member the ADC had indicated in the petition to government<sup>81</sup>, Gusii women devoted their time, energy and labour on production of the crops under their domain as denoted by maize hence the increased production was inevitable. The 1962 economic survey opened the graph of sustained increased production in Kisii by singling out the expansion in the area under maize production and that of pyrethrum<sup>82</sup>.

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<sup>77</sup> Economic Survey 1962. Government Printers

<sup>78</sup> Development plan 1964-1970. Government printer

<sup>79</sup> Women Discussion Group of Kitutu Chache

<sup>80</sup> Maxon R.M British Rule in Gusiiland, 1907-1963.

<sup>81</sup> Orvis 1989. Political economy of agriculture

<sup>82</sup> Economic Survey 1962. Government Printers

On independence year 1963, despite the heightened political temperatures in the country, the Gusii women were more determined to maximise from the market by producing more. The economic survey for the year affirmed a notable expansion in the year in the acreage under coffee and tea<sup>83</sup>. The increased production was motivated in part by the anticipated higher cash earnings from cash crops as exemplified by the 9 percent rise in the maize prices of 1964<sup>84</sup>. This was not exclusive to the women controlled maize but covered coffee, tea and pyrethrum. This signifies Gusii women's amplified agency in the struggle to access, control and utilize land which was minimal in the 1950s just before independence. The women efforts were recognised in 1965 with the increased production which indicated that the upward movement of marketed production during the last 2 years of independence was encouraging and its magnitude in small scale production areas<sup>85</sup> like Kisii is relatively steady, something that could not be mentioned in the area before independence.

### **6.8 Gusii Women Agentive Response to constricted economic space.**

As the independence government settled the many Kenyan citizens in the former settler farms, it became clear to the Gusii women that the colonial land policy would still be practiced in independent Kenya. Because it was clear that all land registration would be individual and that the whole purchasing exercise would be a men affair, a few hard working women acquired land for themselves using their husband's names, while widows used their brothers in law names for registration.

Gusii traditional brewed beer and processed sugarcane liquor were common women enterprises in independence years. The 1960s witnessed Gusii women agency in form of increased commercial beer brewing as an alternate means to make money as it

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<sup>83</sup> Economic Survey 1963. Government Printers

<sup>84</sup> Economic Survey 1964. Government Printers

<sup>85</sup> Economic Survey 1965. Government Printers

mainly required subsistence farm inputs and could be done at home.<sup>86</sup> The 1964 economic survey confirmed this by affirming that most of the agricultural production in the small farm Gusii women sector was retained on the farm for home consumption<sup>87</sup> and entered the monetary economy in a different form. The different form referenced here was through Gusii women enterprising agency like beer brewing where the same was harnessed for raw materials for beer brewing. Men with cash income were already frequenting local bars owned by non-Gusii traders in Kisii urban centres and other townships in the Kisii region. Women's entrance into this venture allowed them to increase their share of men's income. Even if a woman was receiving very little of her husband's off-farm wages, she could receive a share of other men's wages by selling them the local beer at a profit<sup>88</sup>. This reduced her dependence on her husband for key investments and house needs, and therefore lessened her economic insecurity.

This was followed especially in the independence era, by an explosion of these forms of businesses and an expansion on the part of businesswomen into other types of endeavours involving both breweries and other forms of trade. Initially, commercialized beer brewing began as a farm-supplied enterprise, requiring only maize, finger millet, and a large clay pot which served as a container for beer<sup>89</sup>. This not only confirmed the women enterprise agency among Gusii women, but reveals their active and dynamic perception of maize production both for delivery to the maize boards, but also for the informal domestic market in the area. Therefore, Gusii

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<sup>86</sup> Group discussion with women from Kitutu Chache, Dec, 2019

<sup>87</sup> Economic Survey, 1964. Government Printers

<sup>88</sup> Norah Kemuma, 75, Bomachoge

<sup>89</sup> Ibid.

women local breweries were reputed to be most enterprising for the Gusii women as narrated by Norah Kemuma<sup>90</sup>.

Accordingly, Gusii women maintained their brewing businesses because their husbands occasionally provided needed cash to cushion occasional losses or emergency household needs without consuming their working capital. Machoge women group discussion hinted to the fact that husbands would occasionally give their wives money especially when they were drunk and in some cases when they found out that the brewing was not at its best<sup>91</sup>. Gusii women as revealed in the discussions, invested such monies in pressing needs such as education, illness, or a low harvest could easily destroy the working capital of a brewery if their husbands could not or would not meet unexpected expenses. Women in such circumstances entered brewing and other trades more often than did their wealthier neighbours, but they frequently could not sustain such participation in the face of other crucial and unmet household needs.

Several Gusii women began profitable businesses such as daily fruit and vegetable retailing in the central market of Kisii town and other townships. The 1964 economic survey paints this clear picture by documenting that surpluses for most food crops were higher and this translated to greater quantities being available on the markets.<sup>92</sup> The 1968 economic survey echoed the same noting that as far as food production was concerned, assured satisfactory supplies as the good harvests sufficiently fed the population both directly at home and through commercial enterprise at the markets.<sup>93</sup>

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<sup>90</sup> Ibid.

<sup>91</sup> Machoge women group discussion.

<sup>92</sup> Economic Survey, 1964. Government printers

<sup>93</sup> Economic Survey, 1968. Government printers

Moraa Onyangore indicated the same in oral interactions.<sup>94</sup> The beer enterprise was equally reflexive in the local evening porridge sales at the expansive market centres in Kisii.

Given the return to most women enterprises, they continued to pursue it more strongly after independence. The centrality of Gusii women's agency in motivating their economic behaviour was responsible for the persistence and sustainability of their business enterprises. As indicated by Bonchari women group, the enterprise unlike in the pre independence period ensured that women accessed and controlled money and land in part<sup>95</sup>.

Beside the women business enterprise, Gusii women agency was revealed through self help groups. According to Moraa,<sup>96</sup> in this financial scheme, each member contributed on a weekly basis and the total contribution was given to each woman in turns. This allowed a woman to receive extra earning which was immediately placed in secure savings within the household, such as purchasing livestock that she could later utilise in the acquisition of household goods that were not purchased by the husband. In this regard, many women achieved extra earnings than what was necessary for basic subsistence needs, that their husbands expected them to provide.

Thus, Gusii women's beer brewing and other small-scale businesses represented attempts to increase their share of off-farm income and to meet their household subsistence requirements. In most instances, these activities did allow them to overcome their dependence on men partially through investment in education and agriculture for long-term. As such, these business activities did fundamentally alter

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<sup>94</sup> Moraa Onyangore, 78 years. Nyaribari. A renown businesswoman in Kisii town in the 1960s

<sup>95</sup> Bonchari women group discussion

<sup>96</sup> Moraa Onyansi 85 Bonchari



the colonial entrenched existing gendered power relationships within Kisii and reduced the insecurity Gusii women faced vis-a-vis the market and access, control and utilization of land.

In addition to business and self help groups, Gusii women agentive response at independence was quickly re-organised in labour form. Many families invested in both hired labour and land ownership to be used across the agricultural spectrum in Kisii to enhance income generation and to minimize exposure to price fluctuations that tended to happen in a single agricultural produce. The 1968 economic survey acknowledged this by noting that the present price structure not only led to large losses on exports but because the consumer price was so high, it encouraged black-market dealings outside the official channels<sup>97</sup>. As a result, Gusii women engaged in broader mixed farming activities that were small scale in nature, but with cash crops especially maize unlike the pre-independence times. By 1969, most Gusii women grew substantial amounts of maize, while Gusii men grew coffee, tea, pyrethrum and sugarcane. In this regard, the Bobasi women group observed that no household relied exclusively on one cash crop or subsistence crops such as maize<sup>98</sup>.

Gusii women also diversified investment of their resources, allocating principally their own labour power in both agricultural and non-agricultural endeavours. All women combined labour and land investment in staple and cash crops. In the cash crop sector, women's labour allocation varied with the returns they directly obtained from the crop, which in turn depended on their relations with their husbands. Thus, tea, coffee, pyrethrum and cooperatively marketed milk were sold via official marketing agencies/boards, payment from which was made only occasionally and

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<sup>97</sup> Economic Survey, 1968. Government printers

<sup>98</sup> Bobasi women group discussion.

almost exclusively to the Gusii men. This made the Gusii women invest more of their labour time at independence to maize production and other off-farm ventures which they directly received the payment and controlled their production, as the Bomachoge women group revealed.

Due to the prevailing circumstances at independence, women's networks met emergency needs for food. Men's loans could vary from small amounts for school fees to very substantial amounts needed for medical and other demanding expenses. While it is impossible to ascertain the exact amount of such transactions, it is clear that they were significant for assisting in an emergency, but did not fundamentally alter the distribution of wealth and resources created by economic transitions. Women's networks served different purposes, involved different people and were maintained in different ways than were men's. Most importantly, women's networks principally involved connections within a woman's original native clan, not her husband's. A woman would rarely turn to her neighbour (the wife of her husband's brother or cousin) if she could gain assistance from her own sister or cousin from her original home clan. According to the Bomachoge women discussion group,<sup>99</sup> women married into a given clan, and particularly wives of brothers, were said to distrust one another because they competed over the resources of their husbands who were brothers and cousins. Networks developed among sisters and cousins who were dispersed throughout Kisii, since women married into various clans. This gave women networks greater geographical spread, complexity and diversity than those of men. A woman may well have obtained emergency assistance to cover hospital bills or a young girl to care for her sick child from her mother's brother's granddaughter, involving a 'path' of connections covering four clans and four distinct locations. Most commonly, women's

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<sup>99</sup> Bomachoge group discussion Dec, 2019

networks were used to provide child care, food assistance, health assistance, and served to locate land and labour for hire in distant locations.

Additionally, at independence, Gusii women's networks assisted women to lessen women's dependence on men. While women's businesses did not wholly alter their dependence on men/husbands, they did provide limited independent income that was highly valued by virtually all Gusii women. A wife starting a new business could sometimes acquire her initial capital from her women folk network if her husband could not provide it. Also, if for instance, sickness destroyed the fragile juvenile businesses, the woman according to Machoge women group discussion re-engineered her business anew via assistance from the network established from her enterprises or from the networks established at the elementary training institutions<sup>100</sup> they had began attending at the time of independence. Because of this slight Gusii women liberalism at independence, a number of Gusii men/husbands quietly attempted to limit the degree to which women could use such networks. Thus, while valuing the ability of women to obtain emergency subsistence through such networks, some men attempted to limit women's visits to their business and "school" associates. Yet, their membership was fluid because of alternative demands for women's labour, illness, disagreements among members, and husbands' opposition to them as organizations in which women "gossip" about their ill-treatment at home. According to Richard Ong'esa<sup>101</sup>, this was more than just a 'traditional' desire to limit a woman's agency; it was often an attempt to limit economic independence that might threaten the conjugal contract as the man/husband had been able to negotiate it.

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<sup>100</sup> Bomachoge women group discussion

<sup>101</sup> Richard Ong'esa, 78 years.

Unlike men's networks, maintenance of women's networks required some degree of reciprocity. Women attempted to maintain close contact with their native families and clan members who may have been willing to help when needed. In this regard, simple reciprocity was all that was needed to maintain these networks because women constituted a dependent and vulnerable group due to their structural position in the economic hierarchy. Consequently, a woman's network consisted of those she had known and trusted for a lifetime who were in the same position she was in with respect to their husbands and the market, and did not compete with her for resources. Reciprocity alone would maintain a network in this situation, doing little to alter fundamentally the structurally dependent and insecure position in which women found themselves, but helped to reduce the consequences such insecurity might entail.

Consequently, between 1960 and 1970, Gusii women attempted to use *ebisangio* to expand their total agricultural labour time (as *amasaga* did) by having them work in the evening (customarily *ebisangio* normally functioned in the morning hours, when virtually all agricultural labour took place). These evening efforts came to be made of women who were members of a new type of morning labour group, the "self-help" group, or *ekiombe* (pl. *ebiombe*). The *ebiombe* were initially intended to be multi-purpose grassroots development organizations at independence in Kisii. They combined communal labour efforts with community investment in a wide variety of self-help development projects.<sup>102</sup> An example of this is one particular *ekiombe* which was started by a female primary school teacher, with assistance from women from other households, and had 50 members at its peak. In addition to working on each member's field in turns like in *ebisangio*, this group pooled community resources to build a nursery school. After the 1960s, nursery school had become an almost

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<sup>102</sup> Holmquist, F. (1975). *Peasant Organization. Clientelism and Dependency: A Case Study of An Agricultural Producer Cooperative in Kenya*. Ph.D. Dissertation, Indiana University.

essential prerequisite to primary school entrance and therefore was extremely important. In addition to the provision of labour and community investment functions, these particular *ebiombe* and others that developed later, hired themselves out “en masse” to any farmer who would pay their price (usually approximately the current market rate). The earnings were either invested in a community project or, more commonly, divided among members at the end of the year.

Nonetheless, disputes between educated and those not educated members became commonplace in *ebiombe*. Problems usually involved battles between leadership and members over the use of funds in the investment projects. Coincidentally, in all groups, leaders were educated, because they had to be able to work with the Ministry of Cooperatives to receive governmental assistance in the investment efforts. Due to these forms of ritually and leadership wrangles several other *ebiombe*, consisting largely or totally of women, rose and fell within short time frames in the first independence decade. They failed for the same reasons *ebisangio* did – alternative demands on labour time, husbands' opposition to them, and disputes over fair division of labour time – and because they could not be used to pick tea, coffee and pyrethrum in the independence decade.

Similar to *ebisangio*, *ebiombe* did not represent a quantum increase in labour power. They were a precise, egalitarian exchange of labour among members. Why, then, did they remain popular, especially among women at independence? First, like *ebisangio*, they slightly increased productivity as the economic surveys of the 1960s indicated and absolute labour time in agriculture. More importantly, they included a savings scheme through which women could physically remove money from their homestead and other family members, and manage it for their own needs. Each *ekiombe* required that a member paid a nominal fee each time the group worked on her fields. At the

end of the year, this money and any earned from hiring themselves out was divided among the members.

In place of community socio-economic support mechanisms that were destroyed by colonialism, women at independence relied on market mechanisms to obtain essential resources. For those without an abundance of market power (relatively high and secure off-farm income) this entailed significant risks of losing access to land and financial resources. Only the comparatively stable women with secure and consistent off-farm incomes provided the power that mitigated the insecurity majority of the Gusii women faced prior to independence.

Researchers who have examined the social milieu of rural Africa, dispute the utility of the standardized conceptualization of households as the chief units of the rural political economy. Guyer<sup>103</sup> for instance, has questioned the utility of the term, arguing that its use often hides crucial relationships of conflict or cooperation between elders and juniors, men and women, women social groups, self help groups, business partners and among other domestic groups in situations of extensive differentiation.<sup>104</sup>

Increasing land stress in Kisii at independence meant that even widows were no longer safe from encroachment. Interview with Getenga group discussion<sup>105</sup> relates: Widows could get title deed of their husbands land according to the law. But men still felt entitled to the land. They sometimes forced themselves on the land and others forced women out of their homes. On the other hand, widows were abandoned by greedy brothers-in-law, which prompted women into land purchasing in the 1960s. This was exemplified by Kerebi Marita, a widow who purchased land in the Borabu

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<sup>103</sup>Guyer, J. I. (1984). *Family and Farm in Southern Cameroon*. Boston: Boston University African Studies Center.

<sup>104</sup>Guyer, J. I. (1981). Household and community studies in African studies. *African Studies Review* 24:(2/3):87.138.

<sup>105</sup>Ibid

settlement scheme and registered it under his brother in-law's name. The brother in-law later turned against her and chased her away, forcing her to go back to her marital home where land was already scarce<sup>106</sup>. Such cases made the Land tribunals that used to solve land disputes more active in the independence period. They used both legal and traditional alternative ways of settling land disputes in the Kisii area. As already mentioned, it is women who always faced the land injustices as they were not represented. Indeed, land disputes became an unending feature of life in Kisii. Land related murders commonly occurred during investigation into land disputes that often took more than ten years, during which the litigant was killed. The Kisii High Court judge pointed out that murder of the litigants in land conflicts was common in Gusii.<sup>107</sup> Murder threats also contributed to injustice as litigants often lost hope and dropped land conflict cases<sup>108</sup>. Land feuds in rural Gusii commonly occurred between neighbours who are often close relatives; between brothers, cousins, uncles, in-laws, parents and their children.

The increased popularity and expansion of education in the 1960s saw girls start joining schools though in limited numbers. Some parent especially those who had gone to school purposed to educate both daughters and sons. The women who got the opportunity to get educated and get employed are among the very few who could purchase land for themselves. Some women who had been widowed saw education for their daughters as the only way they could empower their daughters. Christine Omanga is a good example of a daughter educated by her mother from chang'aa sales. She eventually went to Eregi TTC and became a primary school teacher and eventually trained further to become a teacher of secondary school and even became a

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<sup>106</sup> Kerebi Marita, 86 years

<sup>107</sup> <https://www.standardmedia.co.ke/article/2000024669/anxiety-as-murders-rise-in-kisii-over-land-disputes>

<sup>108</sup> Nyaribari Chache group discussion

headmistress. Others include Wilkister Ongubo and Nyarinda Moikobu. The woman entrepreneurs that were able to access off farm cash now started purchasing land for themselves and utilising it as they wished

## **6.9 Conclusion**

The chapter set out to detail how the agrarian policies pursued by the independent Kenya state between 1960 and 1970 represented elements of continuity and change from those initiated during the colonial era. It has been demonstrated in the chapter that the independence government continued with the policy on land consolidation, registration and titling, agricultural extension support and introduced the provision of credit to small scale farmers like the Gusii women while supporting the expansion of cash crops by the small scale Gusii women farmers. Gendered labour was the key resource limiting improved husbandry as family labour was generally strained because it was diffused over a wide variety of activities.

In few wealthier families, where the agricultural potential and early government development efforts were greater, the transition to capitalism worked. Within this context, most women diversified their labour allocation into local market activities, which were relatively poorly paid in terms of real hourly wage. Their households did not successfully attain a balance between capitalism and subsistence where men's investment and women's labour combined to create relatively highly profitable agricultural and non-agricultural enterprises. In lower income households, where overall income was lower and the development of the agrarian revolution less advanced, Gusii women diversified their labour more widely, as a result of existing market forces.



Historically, Gusii women “straddling” shows how the agrarian revolution developed so quickly, largely self-financed by peasants. Market integration in Gusii introduced rural women to market dynamics. In particular, straddling left Gusii women in positions of relative security and independence. This, combined with straddling's emphasis on education and off-farm income, expanded the degree to which Gusii women were willing to become specialized commodity producers.

The result was the rather counter-intuitive discovery that in Gusiiland, the most densely populated region in Kenya, the rural women was the most significant resource in increasing agricultural productivity. The absolute amount of potential labour power was clearly adequate, but the diverse seasonal agricultural demands under the resource diffusion characteristic of straddling left Gusii women in particular with little labour available to respond to market or policy changes. But, the necessity of off-farm income in straddling meant all men would continue to expend time and resources trying to obtain off-farm employment or business opportunities.

## CHAPTER SEVEN

### SUMMARY, CONCLUSION AND RECOMMENDATIONS

#### 7.1 Summary

The need to improve access to land and strengthen women's land rights in Africa saw this study investigate, with specific reference to the Gusii of Kenya, the effects of gendered land ownership, access, control and use. Gender relations and land tenure issues have been of concern during the pre-colonial, colonial and post-colonial periods globally. The study concerned itself with three issues; gender relations, colonial and post-colonial land policies on property rights, and ownership. It examined Gusii women's responses over time on land access, ownership, control and usage. It problematized the extent to which differentiated access, control and ownership of land has impacted on women in Kisii. The study examined existing historical patterns and evolution of gendered relations and how they affected the utilization of land in Kisii between 1895 and 1970. It established the relationship between indigenous land tenure systems and gendered relations; the effects of colonial land policies on gendered relations, and examined gender rights in relation to land access and ownership in the post-colonial period in Kisii. The general objective was to establish the impact of colonial and post-colonial land policies on gendered relations, property rights and ownership in Kisii. Specifically, it analysed the relationship between pre-colonial land tenure systems and gender relations in Kisii, established the effects of colonial land policies on gender relations and examined gendered responses in relation to land ownership. The study was guided by the following questions: What was the relationship between pre-colonial land tenure systems and gender relations in Kisii? What were the effects of colonial land policies

on gender relations in Gusiiland? How did Gusii women respond to gendered land rights and ownership in the study period?

The analysis was undertaken within the framework of property rights and agency theories. Property rights and agency theories historicized the examination of the gendered land issues during pre-colonial, colonial and post-colonial periods among the Gusii. The study affirmed that Property rights are ‘the rights of individuals to the use of resources supported by the force of etiquette, social custom, ostracism, and formal legally enacted laws. The ‘classical’ form of the property rights theory focuses on the historical and institutional context that shapes and changes property rights. It was further established in the study that rights in land include more than the right of ownership, but also the right to its utilization. In relation to this study therefore, property rights theory provided the basic economic incentive system that shaped resource allocation. Different specifications of property rights arose in Kisii in response to the economic problem of allocating the scarce resource, land. The theory was employed to analyse the relationship between Gusii indigenous land tenure systems and gender relations; established the effects of colonial land policies on gender relations among the Gusii; and gender rights in relation to land right and ownership in the post-colonial period in Kisii.

Agency theory was employed to analyse problem solving that occurred in Kisii in the relationship between principals (land owners/government and men) and the women as self-agents. Agency theory, therefore, examined Gusii women responses in relation to gender, land ownership, use and control under the indigenous land tenure systems. The theory further explored Gusii women responses to the effects of colonial and post-colonial policies pertaining to gender land relations.

The historical research design generated qualitative and quantitative data with verbatim submissions straddled with archival materials. Qualitative approach helped in capturing informants' exclusive experiences in a given historical perspective in order to facilitate cross-checking of data and to increase reliability. The research solicited views, opinions and comments relating to gender in ownership and control of land in Kisii. The study consolidated relevant primary and secondary data to generate adequate information. The primary data was synthesized and synchronized with the extant secondary data. Data collection was done through open-ended questionnaires and verbatim informal/unstructured oral interviews. Data analysis was done thematically and periodically through descriptive accounts, and was presented in form of chronological historicized narratives organized sequentially in chapters

Chapter two discussed indigenous land tenure and gendered relations in Gusii and the impact of initial colonial land policies on gendered land utilization and resource appropriation in Kisii. The chapter detailed the various aspects of indigenous land tenure systems, the interaction between traditional land tenure and how they shaped land reforms among the Gusii. The chapter further examined the concept of land among the Gusii, modes of land acquisition as well as the customary land tenure systems in relation to gendered relations of production. It maintained that indigenous land tenure system among the Gusii was flexible and dynamic providing for a relatively egalitarian access to land by both men and women during the pre-colonial period.<sup>1</sup> The indigenous land tenure system was anchored on the principle that land was owned communally and was handed down from the ancestors to the present and future generations. Therefore, although men remained the custodians of the land, there existed clearly laid down customary laws and norms that guided how land was handed

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<sup>1</sup> Akama J.S & Maxon R.M (2006) *The Ethnography of the Gusii*

down to the next generation. Rules, regulations and communal etiquette guided the community on question of women access to land thus ensuring that women were able to utilize the land to feed their families. Further, the chapter held that customary land tenure systems and norms provided avenues of resolving critical land use issues. For instance, childless women or those without sons were not disinherited from family land for there existed arrangements that allowed them to access and use the land. Land issues were resolved through the Council of elders either at village or clan level.<sup>2</sup> It was argued in the chapter the onset of colonialism destabilized and distorted the traditional marital system of access, ownership and use of the land with women in polygamous marriages resorting to alternative measures such as women to women marriages, witchcraft and in extreme cases homicide<sup>3</sup> to guarantee their safety in family land access control and use. The chapter laid the historical foundation against whose backdrop the analysis of the effects of colonial land policies on land access, control and ownership in Kisii was undertaken.

Chapter three analyzed the effects of nascent colonial policies and the question of land access, control and ownership in Kisii. It emerged that colonial policies between 1920 and 1939 had the net effect of constricting women's access, control, ownership and utilization of land as ownership became more competitive and contested. Key colonial land policies were informed by the post World War I economic meltdown that compelled the enunciation of the dual policy of 1922.<sup>4</sup> The chapter interrogated the impact of these policies on women access, control, and utilization of land in Kisii. Further, the chapter detailed the tormenting effects of the Great Depression on overall colonial agrarian policy and the resultant impact on Gusii women access, control and

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<sup>2</sup> Nigus D.L (1971) Conflicts over Land

<sup>3</sup> Ibid.

<sup>4</sup> Maxon R.M (2003) Going their Separate ways

utilization of land. The chapter addressed alterations and contradictions exhibited in colonial agrarian policy in the wake of Gusii response to the measures instituted to stem the negative consequences engendered by the Great Depression on the colonial economy. It measured the impact of these “control strategies” on Gusii women as pertains to land access, control and utilization. The interwar period exerted pressure on Gusii women which resulted in their agentive response to property rights especially the land usufructs.<sup>5</sup> With majority of the Gusii men providing labour in the adjacent white highlands the resultant wages coupled with gendered education commoditized and individualized both land and marriage (dowry payment) which further narrowed down Gusii women’s access, ownership and use of land. The introduction and entrenchment of coffee in the Kisii region in the pre-World War II period provoked Gusii women’s agentive subsistence response to Post-World War II economic environment as women accorded pride of place to crops which came directly under their control such as maize and groceries. The traditional patterns of collegial labour organization, “amasaga” demonstrated this agentive response as Gusii women sort to cope with emerging changes impinging on questions of land access, ownership and use.

The chapter concluded that in the aftermath of the First World War, the agricultural policies that were introduced favoured and assisted men in Kisii to produce for the market and not for consumption, while Gusii women were seen and treated essentially as a source of cheap labour. However, in an attempt to stem its negative economic repercussions, the Great Depression of 1929-1933 forced the colonial state to direct more attention towards the Kisii native reserve than hitherto. The consequence was that more land was put under the hoe or/and plough to the detriment of soil fertility

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<sup>5</sup> Maxon R.M (1989) Conflict and Accommodation in Western Kenya

and conservation as land use became contested between genders thus further straining gender relations in Kisii. Land degradation in the Post-Great Depression period ushered in new land use policies aimed at promoting agricultural production and soil conservation. Men left the women working on the land as they sought migrant labour employment in the European settlements. The increasing common absence of Gusii men began to affect Gusii women adversely, as they were required to take on a substantially increased share of agricultural labour coupled with other household activities, although with curtailed usufructs. This colonial impact on gender relations presented Gusii women with minimal potential opportunities for the enhancement of their roles in land ownership and usage. The importance of land in agricultural production in Kisii and the resultant gender related issues became more manifest as the colonial state navigated the challenges posed by the Second World War, which chapter four interrogated.

The onset of World War II forced emphasis of official policy on increased agricultural productivity with little regard to soil damage. This was required to provide supplies to military forces and generate more resources needed for war initiatives. The war saw unprecedented mobilisation of human (men) resources to serve the purposes of the war either as soldiers or as carriers.<sup>6</sup> As these policies were applied on the Gusii, they had detrimental effect on women's access, control and use of land. As demonstrated in chapter four, the drive for increased agricultural production triggered more intense land use among the Gusii thereby exacerbating competition and contestation over this resource. The chapter maintained that this scenario exercised a profound impact on gender relations by further constricting control and access of women to land as a key factor of production. It concluded that this particular aspect of the war had the

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<sup>6</sup> Ochieng' W.R (1985) A History of Kenya.

cumulative effect of increasing the agricultural workload for the Gusii women without bestowing any land ownership rights or any other benefit on them.

Chapter four further argued that the emphasis on cash economy privileged during the course of World War II had the effect of forcing Africans either to produce commodities for sale or join wage labour. This led to increased production of maize, coffee, tea and pyrethrum. The pressure for increased production of these crops inclined the Gusii to put the available land into more use. This presaged a scenario characterized by hunger for land both for men and women leading to strained gender relationships over questions of access, use and ownership of this key resource. Improvements in farm technology occasioned by the use of the plough, which was now in good supply, led to more land being put into crop farming. Specifically, Gusii women had to work harder to produce more to meet the demands of the colonial government and for subsistence.<sup>7</sup> However, Gusii women got some form of control over agricultural production when their husbands were away for work. They controlled the planting, harvesting and the sale of their farm produce while the men were away for war and for labour. These gave the women some level of independence to use the money they got from selling their harvests. During the war period, continuous land use throughout the year began as land was getting limited. The use of land in all seasons would lead to land degradation and other related land problems that prompted the colonial state to put in place measures of land preservation. The chapter concluded that the war brought major social and economic changes that eventually affected both the social relations in Gusii households in particular and the rural economy in general. These effects were felt beyond 1945 into the 1950s and 1960s.

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<sup>7</sup> Orvis S.W (1989) *A Political Economy of Agriculture in Kisii*



Chapter five focused on Post World War II agrarian trajectory/reform and the impact of the same on gendered relations in Kisii. It detailed the post-war agricultural reconstruction course, the Swynnerton plan and land kleptocracy<sup>8</sup> in Kisii, as well as the gendered land relations in the area. The chapter examined how the pre-independence dynamics played out in Kisii with the futile attempts by colonial authorities to resolve the gendered Gusii land problem among them being scramble for land, land tenure complexities as well as land degradation. Moreover, it analyzed the impact of agricultural and land dynamics on Gusii women access, control and utilisation of land in the pre-independence period. It emerged that the pre-independence dynamics in Kisii shaped the evolution of land policy pertaining to. The chapter demonstrated how land reforms in access, use and ownership among the Gusii as Kenya attained independence resulted in the issuance of individual land title deeds which legalised and legitimised individual ownership of land Gusii men to the disenfranchisement of Gusii women. This increased land conflicts for such arrangements ignored the traditional overlapping and multiple rights and uses of land, reduced land accessibility and rendered Gusii women “landless”. In response to these economic changes, Gusii women agency became witnessed through such strategies as resorting to education and by channeling produce via the black markets where prices were higher compared to those obtainable through official channels.

The independence period saw the Gusii deeply entrenched into the capitalistic economy as chapter six detailed. It emerged that at independence, the Gusii agrarian trajectory had a restructuring effect on gender relations in Kisii. The effects of the colonial legacy, the Sessional Paper Number 10 of 1965,<sup>9</sup> gendered kleptocracy in

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<sup>8</sup> Odhiambo-Ndege P (2012) Inaugral Lecture: From the Accumulation of Women and Children to “Land Grabbing”: Agrarian Kleptocracy and the Land Quesition in Kenya.

<sup>9</sup> GoK (1965) Sessional Paper No. 10 1965: African Socialism and its Application to Planning in

Kisii and the gendered land relations in the area spurred the Gusii women agency in the independence decade. The chapter explored how the early independence dynamics played out in Kisii with the futile attempts by the state to settle the gender land question among the Gusii. It emerged that in the independence period, the transfer of land rights to Africans (Gusii) failed to fundamentally alter long standing impediments to land access use and ownership by women in Kisii.

Chapter six concluded that households in the independence decade engaged in agricultural expansion, purchasing or hiring of land, labour, and investing in capital inputs to increase their production. This gave Gusii women an opportunity for simple reproduction, permitting them greater share of off-farm income to be used for investments in expanded reproduction. Within this context, most Gusii women diversified their labour allocation into local market activities. However, these initiatives were relatively poorly paid in terms of real hourly wage. As a consequence, their households did not successfully attain a balance between capitalism and subsistence where men's investment and women's labour combined to create relatively highly profitable agricultural and non-agricultural enterprises.<sup>10</sup> In lower income households, where overall income was lower and the development of the agrarian revolution less advanced, Gusii women diversified their labour more widely, as a result of existing market forces. The chapter affirmed that Gusii women “straddling” showed how the agrarian revolution developed so quickly, largely self-financed by peasants. However, market integration in Gusii introduced rural women to market insecurities. In particular, straddling left Gusii women in positions of extreme insecurity. This, combined with straddling's emphasis on education and off-farm

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Kenya.

<sup>10</sup> Orvis S.W (1989) A Political Economy of Agriculture in Kisii

income (which the independence decade cash crops never overcame), limited the degree to which Gusii women were willing to become specialized commodity producers. The result was the rather counter-intuitive discovery that in Gusiiland, the most densely populated region in Kenya, labour was the most severe constraint on increasing agricultural productivity. The absolute amount of potential labour power was clearly not inadequate, but the diverse seasonal agricultural demands under the resource diffusion characteristic of straddling left Gusii women in particular with little labour available to respond to market or policy changes. But, the necessity of off-farm income in straddling meant that Gusii women would continue to expend time and resources trying to obtain off-farm employment or business opportunities for family sustainance

## **7.2 Research Conclusion**

The study shows that in the pre-colonial period, indigenous land laws were cognizant of women land rights which provided them with opportunities to access land resources and use them for agricultural production so as to feed their families.

However, in the colonial and post-colonial period, women's user rights were alienated leaving them with limited or no access to the use of land resources that they had earlier enjoyed.

Most importantly, whereas most studies present women as passive victims of discriminative patriarchal land use practices, The findings of the study demonstrate that women agency among the Gusii was quite evident right from the pre-colonial, colonial and post-colonial period.

### **7.3 Suggestions for Further Research**

The study recommends a post-2010 constitutional impact on Gusii women's land control, access and use. Moreover, the government should ensure that legislation that gives women reserve is fully implemented to insulate women from patriarchal autonomy as regards issues of land. The study also recommends further research on evaluating the opportunities in customary land tenure systems for women, looking at factors influencing women's access to customary land tenure. The worth of land and demands for access to land resources are areas of interest where the study of property rights is concerned.

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**APPENDICES****Appendix I: Informed Consent Letter**

Dear Respondents,

I am a D. Phil. student at Moi University. It is a requirement for the course to carry out a research project. I am thus currently soliciting for information on the topic “Gender relations in ownership and control of land in Gusiiland 1920-1970”. This research is purely academic and any information provided shall be treated with confidentiality. Please kindly participate and respond appropriately to the questions given below. Your contributions are highly appreciated.

Thank you very much in advance.

Questionnaire Number.....Date of interview.....

Let me take this opportunity to thank you for taking part in this study.

Yours sincerely,

MALLION K. ONYAMBU

## **Appendix II: Interview Schedule**

I am a D. Phil. student at Moi University. It is a requirement for the course to carry out a research project. I am thus currently soliciting for information on the topic “Gender relations in ownership and control of land in Gusiiland 1920 - 1970”. This research is purely academic and any information provided shall be treated with confidentiality. Please kindly participate and respond appropriately to the questions given below. Your contributions are highly appreciated.

Thank you very much in advance.

Questionnaire Number.....Date of interview.....

### **INSTRUCTIONS**

Please do not write your name anywhere on this questionnaire. Information provided will be treated with utmost confidentiality. You are requested to read each question carefully and provide your honest response. Please tick (√) on your appropriate response.

### **SECTION A: Background Information**

Age.....

Gender.....

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

Sub-location.....

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

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

If, No, why.....

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

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

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

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

If yes, how did you acquire it?

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

5. Did both Gusii men and women have a right to access land before 1895? [Yes], [No].

6. Did both have a right to use land without any hindrances during Pre-Colonial Period?

7. If both women and men had right of access and use, how were those rights protected in Pre- Colonial Period?

8. Who was the custodian of the individual's land rights in Pre-Colonial Period?

9. In case of violation of these rights, how was justice established in Pre-Colonial Period?

10. Which was the main food crop among the Gusii in Pre-Colonial Period?

11. Were there reasons that would make an individual not have land on which to grow food crops in Pre-Colonial Period?

12. If there was, which gender was most affected and why?

13. Did colonialism have any impact on women ownership of land in this society?

[Yes], [No]. Explain how and why.....

14. Did the White man take any land from your parents/ close relatives or friends?  
[Yes], [No].

15. What effects did land alienation (taking away of African land) have on the rights of access and use between men and women in Gusii land?

16. Do you have the land registered in your name [Yes], [No].....explain your answer
17. Do you have a title deed? [Yes], [No].  
Why.....
18. If you had money, would you buy land and register in your name.....  
Explain your answer.....
19. What factors hinder women from acquiring?
20. According to you, who is the legitimate owner of land?  
Give reason for your answer .....
21. Who is entitled to inherit family land?  
[a] Sons [b].daughters [c] Both.  
Explain your answer .....
22. Do women have the power and authority to transfer or sell land? [Yes], [No]  
Explain your answer .....
23. Is a daughter allowed to inherit land in your clan/family? [Yes], [No]
24. If No, what do you think could be the barriers for women (daughters, divorcee, married) from inheriting land in their clan/family?
25. What are the threatening factors to women' access to land under customary tenure? Clan/family land?
26. How effective are women strategies in increasing their access to land under the current land tenure systems?
27. What measures can be taken to improve women's access to land?

**Appendix III: Interview Schedule For Chiefs/Assistant Chiefs**

1. For how long have you served as a government official in the location?
2. Which crimes are prevalent in the area?
3. What mechanism do you use to deal with these crimes?
4. Is the land in your location surveyed?
5. When land consolidation and registration begin in this location/sub-location?
6. How is land owned in this location?
7. Are there land related cases brought to your office as the chief/assistant for arbitration?
8. How was the land owned/controlled in this community during the pre-colonial period?
9. What was the place of women in regard to land ownership in the pre-colonial period?
10. How did the onset of colonialism impact on women ownership of land in Gusii land?
11. In your own opinion did colonialism hinder or enhance women's rights to land?
12. Do you think the subsequent independent government in Kenya has addressed issues related to land ownership by women?
13. How did policies passed during the Kenyatta regime impact on women?
14. How did the policies passed during Moi regime affect women on land ownership?
15. Did the passage of new constitution during the Kibaki regime enhance women Acquisition of land?
16. Do you find the new constitution of 2010 in tandem with cultural practices as relates to land ownership among the Gusii of Kisii County?






17. When dealing with land ownership disputes between a husband and wife, what informs your decision? (a) the constitution (b) the cultural practice of the community (c) both.....Explain your answer.....
18. What would you suggest to be done to strengthen and empower women to enable them own land in Gusii?.....

#### **Appendix IV: Focus Group Discussion Guide**

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



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<p>This is to Certify that Ms. Mallon Onyambu of Moi University, has been licensed to conduct research in Kisii on the topic: Engendered Land Access, Control and Ownership in Kisii County 1920 - 1970 for the period ending : 16/October/2020.</p>	
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