CULTURE AND WOMEN EMPOWERMENT IN KENYA: A PHILOSOPHICAL ANALYSIS

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A PHILOSOPHICAL EVALUATION OF THE IMPACT OF CULTURAL CHALLENGES TO WOMEN EMPOWERMENT IN KENYA

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SSC/PGP/07/04

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Declarations

DECLARATION BY THE CANDIDATE

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Dedication

This work is dedicated to
My beloved mama,
The late Agnes Nanjala
Whose determination taught me
That it is possible
To find a way even where there is no means.
And to
My father
John Wamalwa
Who believes that nobody knows better than I do.
They are the most valuable gifts that God ever gave me.
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Abstract

There is a contention that the status of women in many parts of the world is low compared to that of men. This, therefore, makes the question concerning the position of women in society an important issue. In this context, the Kenyan government in conjunction with other stakeholders has acknowledged that women are disadvantaged, and has made a formal commitment to alleviate their situation. Nevertheless, such attempts have not been successful as the process has been hampered by different factors such as social, economic, religious and political. Thus, women subordination and empowerment constitute a social problem that persists in Kenya today. The findings of "The Millennium Development Goals, Kenya Status Reports 2005," indicate that women are still under-represented in all sectors of the government.

The specific objectives of the study include: to investigate whether culture has a direct impact on the situation and position of women in Kenya; to examine critically some cultural practices that negatively affect women in Kenya thereby inhibiting them from realizing their full person-hood and potentiality; and to produce an evaluation of women’s experiences that explicates the articulation between tradition and the status of women.

The study hypothesized that some socio-cultural practices or their interpretation have been used as a tool to subordinate women in contemporary Kenya; and that as much as women demand emancipation and empowerment, a great deal of subordination is supported by women themselves. The justifications of this research study entail the fact that a holistic approach which characterizes philosophy is important in studying social problems affecting women, and to discern some pragmatic remedies. The critical-analytical, speculative and existential methods of philosophical investigation were utilized in the study. Therefore, this project was a library-based research.

By assuming that some cultural aspects are outmoded, the study found that there is no conclusive basis for all retrogressive socio-cultural practices to be tolerated particularly in the present time. The thesis is thus a useful source of information to scholars and policy-makers in government and non-governmental institutions concerned with solutions to the social ills that undermine women's right, dignity, freedom and empowerment in the practice of democracy in Kenya.

In this thesis, the researcher has established that women, as individuals, have nothing inherent in them that warrant their exclusion from the processes of education, property ownership and the right to inherit assets. When women are deprived of such privileges, it affects the process of their empowerment. Like men, they have the ability to reason, but instead, culture has created and maintained ideologies that have militated against them. The study thus recommends that adequate education can help to empower, propagate human rights, and liberate women and society from negative cultural practices that impede women’s contribution to development.
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Chapter One

1.0 GENERAL INTRODUCTION

1.1 Background

"All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood." 1 This first article of the Universal Declaration of Human Rights summarizes the primacy of equality among human beings. It highlights the obligation of persons to one another which is anchored on the premise of equality as a natural right. Each individual, regardless of age, race, sex, nationality or religion is entitled to this natural right. The declaration argues no special consideration to any individual. In this sense, "women are entitled to the rights deemed natural and inalienable by men...(and) are endowed by their creator with certain inalienable rights; that among these are life, liberty, and the pursuit of happiness." 2 Any structure or system that frustrates, undermines or interferes with one's realization of these rights interferes with human development, and should not be tolerated or encouraged. It is in these rights that one realizes and utilizes his or her capabilities as a human person.

However, a close examination of different epochs of philosophy, from ancient, medieval, modern to contemporary, reveals a lack of equality and rights among human beings. Popular opinion among most renowned philosophers of different ages had it "...that there is a 'natural' place for women in accord with the dictates of culture, religion, and tradition." 3 That according to how nature has shaped and arranged things, women are subordinate to men and this is beyond any human beings’ control. In the ancient period, the great Greek philosophers of the time, Plato (427-
347 BC), and Aristotle (384-322 BC), set the pace for philosophy and also for the views concerning women, in relation to men, which have been held for many centuries. The position of the two was that women were inferior to men. In Plato’s understanding of the ideal state as expounded in his book, *The Republic*, women and men can perform the same function. He, however, affirms that “…one sex is superior to the other in almost everything.”4 The female sex is inferior to male physically, mentally and even in the way they carry out their duties. So far, it was only in reincarnation that a bad man’s soul would degenerate to this state of inferiority5, otherwise, in the normal life, men are superior.

These views were shared by his student, Aristotle, who asked, “What are women for? Whereas about men he asked “what is man?”6 The question “what for?” is asked of tools and their functions. According to Aristotle, the essence of a thing is to be identified with its function, or with what it is 'for' from the point of view of some organic whole to which it belongs. 'What,' as asked of man implies a position or personality as far as one stands in the realm of duties. This question is only asked about the subject. Man stands as the subject whereas a woman is the object. As asked of women, the question reflects the role of women in life. In Aristotle’s understanding, the ‘what for’ points to the reproductive function of women. Women are only seen and understood in light of giving birth, apart from which they do not have any other importance. To this fact, women are inferior to men. This inferiority is established right from the beginning of life when the soul begins to develop in the human person. On this, Aristotle held that “…the foetus did not develop a human soul for some time after conception, the male after forty days, the female after ninety.”7 This difference indicated the male superiority, and a measure of human
quality. It pointed to the fact that the soul belonged to the man before the woman implying that the essence of humanity was something male, and not female. Women are second, thus second class.

In light of Plato and Aristotle’s views, one would conclude of the lack of equality between men and women in the ancient Greek world.

A change would have been expected in the medieval period, which was characterized by philosopher-theologians and the Christian ideals of love, brotherhood and equality. The situation however seemed to remain the same as the general opinion of women was hardly better. The early medieval philosophers such as John Chrysostom (347-407 AD), Tertullian (160-) and St. Augustine, (354-430 A.D) interpreted reality in the light of Platonic dualism through which they likened the soul to the divine element and as superior to the body that is composed of matter. Plato had conceptualized two kinds of reality, the sensual world as characterized by matter, and formal world which is more real and beyond sense experience. He insisted that the sensual world is inferior to transcendent forms. That anything material is just a reflection of what is actual that cannot be experienced. Form is more real and divine. In this conception, man was seen as superior to the woman as he provided the soul and woman the body, therefore matter during conception. The soul was seen as a reflection of and coming from God through man.

In this connection, Tertullian observed that women are vulnerable to temptation since they do not represent the divine. They are the devil’s gateway, and forsaker of the divine. This weakness was experienced when the devil found it difficult to tempt man
directly, and instead, went through the woman.⁸ This displays the inferior nature of a woman. According to Augustine, woman is flesh, hence, matter which is evil. He thus “…saw relations with women…as a serious impediment to the fulfillment of the spiritual life…”⁹ It was, therefore, quite in order if man, who is soul (spirit) could stay without marriage or enter into a union with a woman who in flesh represents evil.

The assimilation of Aristotelianism into theology further provided new conceptual tools for fixing women's place in the universe. The most influential philosopher-theologian of the scholastic period, Saint Thomas Aquinas (1225-1274) re-asserted Aristotle's teachings that women are misbegotten males, whose existence is due to some defect in the active force (father) or to some material indisposition, or some external influence,¹⁰ meaning that the birth of a woman is accidental and not intended. According to Aristotle, and his followers such as Hippocrates, women have no active part in conception, but only facilitate and provide ground for living seed provided by the man to grow. In the whole process of conception, “the fetus arose from the union of sperm and menstrual blood, woman furnishing only passive matter while the male principle contributed force, activity, movement, life.”¹¹ In short, the male provided everything during the process. Male is the determinant of whatever results from his union with female. “Woman is nothing more than the matter in which the fully formed human is implanted by the divine sperm.”¹² For him, a woman is subject to man on account of the weakness of her nature, both of mind and of body. Women are only needed for generation, "since a man can be more efficiently helped by another man in other works.”¹³ According to Aquinas, women are best suited in carrying pregnancies and rearing of children. A woman can only be conceptualized in her
function, which is seen as minor to that of man. Woman is unequal and inferior to man.

In the modern period, the attack was directed to the women's capacity to acquire knowledge and live a full human life. Immanuel Kant (1724-1804) on his part excluded women from the moral spheres and considered them as "…morally immature, virtual slaves to the passions." Implicit in Kant's view of women is that they cannot mature to make independent moral decisions. Women are guided by what Aristotle referred to as appetites. In this case, if left alone, women might become immoral. What he implied was that women need always to be under men so that they can be assisted to live a moral life. Morality, as such, belongs to men. Kant, however, expressed the possibility that through instructions, women could be formed to live a moral life. Given time to live with men, women could also become moral. With this, he accordingly saw men as legally supported to be in charge for they have superior ability to further the interests of the community.

Kant was supported in this by Hegel (1770-1831) who excluded women from both reason and history. Reason, for Hegel, is both the substance and form of all aspects of human life, while history is the process of change through the intervention of reason. The unity of the two in a person propels him beyond subjectivity towards objectivity, thus being aware of the reality as such. A woman, according to Hegel “…remains undeveloped in her unity…“ and lacks reason and history. Women, therefore, cannot have a critical approach to reality.
The contemporary period did not bring any startling changes in the general attitude towards women. Despite the struggle for equal rights by philosophers such as John Stuart Mill (1869) in England, women still maintained their subordinate position. Notable in Mill’s struggle was the fight for women’s political rights especially the right to vote. In his writings, he also demanded equality for women and men both within the family and in society as a whole. According to him, the social arrangement which favour one sex is biased, suppressive, and should be done away with. This struggle did not, however, make much impact as it was over-shadowed by the more influential opinion of people like Martin Luther who could not find any other reason for women's existence apart from serving man and giving birth. He observed that:

   Women are created for no other purpose than to serve man and be their helpers. If women grow weary or even die while bearing children, that doesn't harm anything. Let them bear children to death; they are created for that.\(^\text{18}\)

Like Aquinas, Luther reduced women to mere objects at man’s disposal to use for his convenience. Women, apart from their ‘natural role’ of giving birth, and to serve man, they are not useful in any other way.

The traditional African communities were no exception to these negative attitudes towards the female folk as were expounded in the history of Western philosophy. In pre-colonial Kenya, like in other traditional African societies, the exploitation of women was experienced in social, economic, political and sexual realm of women's lives. It seemed acceptable for women to be oppressed and subjugated by men as the societal structure indicated. Women, for example, could neither inherit nor own property in the proper sense.\(^\text{19}\) Whatever a woman ‘owned’ was generally counted as belonging to the husband who was considered the overall head of the family or
society. In fact, a woman was counted among the properties owned by man as experienced in the practice of dowry in which Speranza Muthoni Ndege observes that “the only pride for a man in having daughters was that he could get dowry in exchange for a hand in marriage…a woman was a man’s property to be owned just as he owned land, cattle, e.t.c…”

Here, again a woman was seen as property, and her worth was not in what she was; a human being, but how she could benefit the society.

This trend was further carried out in the colonial Kenya in which Masheti observes, "women existed as appendages of the male ’bread winner’ and were popularized as social butterflies whose sole responsibility was to stand behind their husbands and provide the obligatory moral support.” This implied that women were not expected or allowed to involve themselves in activities that would demand their individual and independent decision and commitment without men’s presence or permission. In short, women would not be allowed independence as they were supposed to depend on men for their survival. Nevertheless, this period also experienced some mild steps towards improving the situation of women. Worthy mentioning was the introduction of formal education by the colonialists who also encouraged the natives to send their female children to school.

Whereas the contemporary period has witnessed significant changes in gender relations, such as involving them partly in education, employment, decision-making positions, among others, there are indications which point to the persistence of the problem of women discrimination, as there seem to be inequality in all these relations. This can be attested to by the various worldwide conferences convened with the specific purpose of addressing the problem of inequality between men and women. Such conferences include the 1975 Women's World Conference held in Mexico, The
Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW) in 1979, the 1980 Copenhagen Conference, the Nairobi Conference, 1985, and the 1995 Beijing Conference among many others. Central in all these conferences was the issue of women; how to improve their status by abolishing all the discriminatory tendencies, as well as identifying and fighting the obstacles that hinder women from realizing their full potentialities. The resolutions advanced in these conferences were directed towards bringing about equality between men and women. In any case, these conferences highlighted the point that the issue of women was not only particular to one state or locality, but it was a global issue that needed to be addressed.

Still, the urgency to address the same problem in Kenya's social, economic and political fabric has led to the growth of women-led organizations to address and champion for women’s welfare. Among them are: The International Federation of Women Lawyers in Kenya (FIDA-K). This is the worldwide body established in 1944, in Mexico, by a group of women lawyers seeking to protect women’s rights globally. It was founded in Kenya in 1985 with the mission of monitoring women’s rights. Its objectives being to offer free legal advice and court representation to needy women in case of violation of their rights, provide professional and moral support to victims of women’s rights violation, and to create public awareness on women’s rights issues.22 The Coalition of Violence Against Women (COVAW). Founded in 1995, the coalition’s mission was to work for a violence free society. Its objectives were to strengthen women’s human rights networks in Kenya, to facilitate the collective works of organizations and individuals who want to eradicate violence against women.23 The Kenya Women Finance Trust (KWFT), another association for
women was founded in Kenya in 1981 to advance and promote the direct participation of economically active women in viable business to improve their economic and social status. Its objectives being to access credit and non-financial services to women entrepreneurs and to mobilize resources to support women. It was intended to empower women economically, making them not to be dependent on their male partners. The Association of African Women for Research and Development (AAWORD) was founded in 1988 to articulate problems, issues and concerns of women through research with the aim of improving the status of women and quality of life in general.

From the foregoing illustration, we realize that the problem of equality and rights concerning men and women is as old as human existence. It spans from the ancient period of Plato and Aristotle, through the whole history of philosophy to the contemporary period. The majority of renowned philosophers who touched the issue seem to have suffered a suspension of their critical powers when it came to this question, and by large, the infrapersonal conceptualizations of women have been conserved and promulgated by them. Plato who held that one sex is superior to the other in almost everything seem not to have realized the contradiction to his prior statement that both men and women are fit for the same function. He seemed to have dwelt much on physical and biological differences thereby making a general conclusion. The same mistake was repeated by his student Aristotle. Women could not be reduced to their ‘natural role’ without doing the same for men. If women are meant to give birth, then men have the natural role of making them pregnant. The question ‘what are women for’ could as well be asked of men, hence, ‘what are men
for?” Male and female are two individuals that complement each other and as such they require each other.

The medieval period was influenced by the growing Christianity and, thus, the views of the time were greatly influenced by this new faith. If, according to Tertullian, women are weak and easily convinced, and they in turn are able to convince men, then if follows that men are weaker than women if not the same. This influence of faith also spilled into the scholastic and contemporary periods such that Aquinas and Luther did not comprehend critically the whole process of fertilization, where sperm and ovum fuse and mark the process of conception. Such must not necessarily take place in the womb, but even, as scientists have tried to prove, in the test tube provided the conducive environment for the process is granted. Even in the contemporary period, the majority of renowned individuals as Kant, Hegel, and those who hold negative views on women in the present time, could not come to terms with the reality of women who have made impact in the field of science, morality, arts, and education among others.

1.2 Statement of the Problem

The Millennium Development Goal, Kenya Status Report, 2005, a scoreboard prepared by Kenyan ministry of Planning and National Development, indicates that women are under-represented in all sectors of the government such as in the economics, political and even in decision-making area. This was echoed by Beth Mugo, the Kenyan assistant Minister for Education when she remarked that “the country’s underdevelopment has a direct link with the failure to realize fully gender issue.” This implies that the problem of gender discrimination is prevalent in
Kenya. It also implies that whatever measures adopted and implemented by the government, some non-governmental organizations, and religious institutions, have not sufficiently addressed the problem of gender inequality.

Gender equality as such means that women and men as,

individuals are accorded equal treatment under the law and equal opportunities to enjoy their rights and develop their potential talents and skill so that they can participate in national political, economic, social and cultural development and can benefit from its results.\textsuperscript{25}

Equality of gender requires equal enjoyment by women and men of socially-valued goods, opportunities, resources and rewards, and contributes equally to the development of their communities. It is making sure that one is not denied a chance for advancing and sharing the fruits of this advancement. This has to begin with an understanding of the current status of women and men, their relations to each other and the connections between gender and other societal factors. This is due to the fact that it is through human being's relationship to each other and the structures such as social, political and economic which they establish to govern them that opportunities can be granted or denied. If a relationship or structure grants opportunities and conditions for personal development, the individual is free to determine his or her life, but if denied, the structure or relations can be said to undermine or subordinate an individual and, therefore, in need of empowerment. Women empowerment demands that the many aspects through which they are subordinated be brought to light to ensure a holistic approach towards gender equality.

Culture, according to the sociologist Edward Taylor, is "that complex whole which includes knowledge, belief, art, morals, law, custom, and other capabilities and habits acquired by human beings as members of a society."\textsuperscript{26} Alternatively, as Alyward
Shorter puts it, "culture is an aspect of what it means to be human, and therefore a basic human right." In addressing any aspect of life, therefore, one is addressing the culture of a people. It is thus in addressing a culture that one addresses the status of women in it. It is in addressing ourselves to such questions as; how does a given culture address women? What are the traditional and cultural practices prescribed by a given community for women? And what is the metaphysical grounding of these practices? Or what are their moral justifications. Since it is in culture that one finds identity, it is in this same culture that we find the grounding of women’s problems and their solution. The study, therefore, attempted to investigate whether culture has anything to do with the way women are viewed in society.

1.3 Objectives of the Study

The study aimed at analyzing two prevalent cultural traditions namely: discrimination in property and inheritance rights and discrimination in education, and to point out the missing link in the emancipation and empowerment process. The study attempted to produce an evaluation of women’s experiences that explicate the articulation between tradition and the status of women. The core of the study entailed a critical analysis of how women are subordinated through traditional and cultural practices. A philosophical evaluation of the mentioned cultural practices and women's status was central. The study highlighted the extent of women's empowerment in Kenya and whether or not the subordination of women was naturally ordained or came to existence and thus grew with time.
1.4 Theoretical Framework

The study adopted a number of ideals as propounded by the international human rights instruments and by individual philosophers.

The International Bill of Human Rights elucidates the ideals of a human society. The first article of its chapter on "The Universal Declaration of Human Rights" states that "All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood." The article, thus, defines the basic assumptions of the declaration: that the right to liberty and equality is human being's birthright and cannot be alienated. That, because human being is a rational and moral being, he is different from other creatures on earth and entitled to certain rights and freedoms which other creatures do not enjoy. The article provides that all peoples have the right of self-determination. It adds that by virtue of that right they can freely determine their political status and freely pursue their economic, social and cultural development. Conceived as a common standard of achievement for all peoples and all nations, the Universal Declaration of Human Rights becomes a yardstick by which to measure the degree of respect for, and compliance with, international human rights standards.

In Mill's principle of Utility, any institution that does not promote the welfare of the entire humanity is subject to criticism and reform. Reform has to be aimed at the promotion of general utility as opposed to the individualistic tendencies that promote the interest of a few. He observes in the "Subjection of Women"

...the principle which regulates the existing social relations between the two sexes-the legal subordination of one sex to the other is wrong itself, and now one of the chief hindrances to human improvement; and that it ought to be
The superiority of men's status and women's inferior status is not morally justified. It reflects inequality in which women as a subordinate lot are hampered from improving their situation. This is because the power to determine what is fit or good for them is beyond their control and this becomes an obstacle to their development. This subordinate status of women in most African settings affects the whole human society and its development. There is, therefore, the need to re-evaluate the whole setting with the aim of promoting equality. ''Changing the relation between men and women to one of equality will force both parties to curb their self-interest and broaden their social sympathies to include others.'' If women have the same opportunities to develop and enjoy their human rights as men, then there will exist a fair ground for both to execute personal and societal development. Each will respect the part the other plays as there will be no egoistic tendencies, but utility will be the guiding principle.

Understanding Jean-Jacques Rousseau's (1712-1778) function of the social contract provides impetus to the study. In Rousseau's observation, there are two forms of inequality: natural inequality and moral inequality. The social inequality between men and women is an evolution from the natural inequality to the moral inequality. To safeguard society from inequality, people should cede authority to some group or institution for the betterment of the community and safety of individuals. That "without the freedom guaranteed by the social contract men will become dependent on their fellows, for physical inequality would lead to injustice and oppression." However, when such group or institution fails to guarantee community and safety, the governed are free to disobey and establish new contract.
In Rousseauan theory, the modern Kenyan society is constructed on an imperfect social contract, since it engenders inequality and subordination. Rousseau would advocate the rebuilding of the social contract in order to ensure equality and freedom. These views if understood and pursued, would help one realize that gender equality does not imply that men and women become the same, but that their opportunities and chances are to be made equal.

In this respect, the research sought to adopt the ideals of equality as propounded in the Universal Declaration of Human Rights, John Stuart Mill's principle of Utility and Jean-Jacque Rousseau's Social Contract theory to cushion it. A blend of these three principles will lead to a just and moral society.

1.5 Literature Review

The debate on women emancipation and empowerment seems to be concerned with two issues. The first is the question of what really is the cause of women subordination, and second how and what can be the solution. Rosemarie Tong, a Feminist Philosopher, categorizes the approaches to this problem into five different trends. (1) Liberal feminist schools on one hand believe that human rights apply to both men and women and, therefore, equal opportunity should be accorded to all. On the other hand, (2) Marxist feminist school believe that men's domination of workforce is what brings about inequality and subordination. That equality demands that roles are shared equally in division of labour. In this sense, even domestic work and child care which are deemed in the African culture as women's duties should be socialized. (3) Radical feminists blame the whole problem of women subordination on their reproductive role. Thus, they claim, "unless women set their own reproductive
goals, (childlessness is a legitimate alternative to motherhood) and their own sexual
agendas (lesbianism, autoeroticism, and celibacy are alternatives to heterosexuality),
women will remain less than free."

For (4) Psychoanalytic feminists, nurture shapes
women into subordinate beings. What one becomes depends on the societal
formation. (5) Existentialists view the situation as related to women's passive nature,
which has allowed men to define them according to their patriarchal thoughts.
According to these feminist trends, women find themselves in the subordinate state
simply because they are not men. The equality and empowerment they champion for
is a situation where women will be the same as men. This literature is important to
the study as it provides guidance to evaluate the true empowerment of women, which
will recognize the uniqueness of both men and women.

In the light of these trends, Emma Goldman, in her work, *The Tragedy of Women
Emancipation*, explicates the tragedy of misunderstanding the objectives of women
empowerment. She seems to pose the question, what really entails women
subordination,? The empowerment in the above sense is grounded on the
understanding that men are the oppressors, and women must make all attempts to free
themselves from men's world. The indications are that such understanding seems to be
wrongly based. She observes that women in the end suffer the same consequences.

The great movement of true emancipation has not met with a great race of
women who could look liberty in the face. Their narrow puritanical vision
banished man, as a disturber and doubtful character, out of their emotional
life. Man was not to be tolerated at any price, except perhaps as the father of
a child; since a child could (sic) not very well come to life without a father.
Fortunately, the most puritans never will be strong enough to kill the craving
for motherhood...Unfortunately, it is this narrow conception of human
relations that has brought about a great tragedy in the lives of the modern
man and women.

Goldman highlights the importance of a critical approach to this question of women
empowerment. Given the nature of the problem, one easily loses objectivity in his/her
assessment and settles on a wrong conclusion. The tendency to accuse and blame one another hinders one's objective evaluation of the whole problem.

This challenges the whole rationale of women empowerment. To what extent should one talk of women empowerment? How, and what effects will the process have on the society? Does women empowerment imply dis-empowering men? Elizabeth Wilson, argues, in "Women in the Community," that women empowerment threatens men in their position. That such demands seek to end privileges from which men profit and exploit women. An equality conscious society seeks not to dis-empower one of its members in an attempt to empower the other, rather it attempts to elevate the status of the disadvantaged to that of the already advantaged. This attempt has to be preceded by an identification of all the areas in which the members are disadvantaged. In this view, Wilson does not address the mechanism through which women are subordinated by men. The work hastens this study to examine how men oppress or subordinate women, and the effects of women empowerment on the society.

It is increasingly recognized that women do not participate on equal basis with men in many avenues of life. The findings of The Millenium Development Goals, Kenya Status Reports 2005, indicate that women are underrepresented in all sectors of the government. The causes of these discrepancies include, as Patrick Nzioka, reports, low enrolment of females in tertiary institutions and puny number in decision-making positions. In addition, lack of leadership skills has also been mentioned as playing a decisive role in this. In an attempt to arrest the situation, "the government's free primary education programme gives equal opportunities to both boys and girls while,
at the same time lowering entry points to ensure a big number of female students is 
admitted to public universities.”

The findings of this report are vital and valid factors, but some of the approaches to 
address emancipation and empowerment cannot pass muster. For instance, lowering 
of the entry points for female students for admission to public universities has been 
singled out as a measure of empowerment. In line with this approach is the Chapter 
Six on the Bill of Rights, in the Proposed Kenyan Constitution, 2005, article 38, 
clause 4. It states that the state shall (a) protect women and their rights, taking into 
account their unique status and natural maternal role in society; and (b) provide 
reasonable facilities and opportunities to enhance the welfare of women to enable 
them realize their full potential and advancement. Reports in recent years, however, 
indicate that some girl schools have performed better in the national examinations, 
and some girls performing far much better than boys. The approach of lowering 
women's entry points to the university as taken by the government, therefore, is on the 
one hand meant to ensure a balance in number of boy and girls who access university 
entry. But on the other hand, the approach reasserts the false but widely held 
conception that females are not academically well oriented like males. Implicit in 
these views is the position that women cannot compete men on equal basis. The 
special case accorded them indicates that they are weak and even inferior. This 
questions empowerment conceived in terms of gender equality.

Equality does not entail favouritism, but should be conceived in terms of fairness and 
justice to all. In this case, if one talks of women's 'unique status and natural maternal 
role' then by implication also talks of 'men's unique status and natural paternal role.'
This means that equality has no uniqueness, but only considers rights. This calls for the best alternative ways of empowering women, which do not necessarily require favouritism. This work attempt to propose the best alternative way of women empowerment.

Egara Kabaji, in his work, *Women in Development*, notes that women as individuals have participated in essentially all activities in the society. He, however, adds that their effort has gone unregistered and that their male counterparts have taken all the credit. He sees this in light of economic empowerment noting further that the subordinate status of women is alien to traditional African societies, but it was initiated by the colonialist. He summarizes this, thus:

> In modern times, women's role has steadily diminished. The colonial economy brought about certain development that tended to erode women's status, paving way for men's increased involvement in new economic structures. During the colonial period in Kenya, for instance, land alienation by settlers left many families in the country landless. Women were thus forced to work on farms owned by settlers for production of cash crops. On another level, the impoverishment of rural women is rooted in misconception about women and their reproductive role, cultural stereotypes and the inattention of males. Through years, of indoctrination, women have come to share the male language that devalues their existence and efforts, hence creating an image of a non-working, home-based, child-raring group of people.

Kabaji's work raises a number of areas crucial to the issue of women. His observation on male domination is well placed, as well as the assumption of linking women's abilities to their reproductive role. The work, however, does not evaluate the relationship between culture and the issue of women empowerment as this thesis attempts to do. Furthermore, whereas the economic empowerment is a step towards women empowerment, it is still tied together with other factors such as access to education, ownership of property, equal opportunities to advance and many others, which seem to be tied to culture. The unanswered question is, how well disposed is
the African, more so, Kenyan woman, to enjoy these rights if she will continue to live in the culture that does not recognize her right?

Maria Nzomo, in her book, *Women in Politics and Public Decision Making*, echoes Kabaji that men dominate in avenues concerning responsibility and power, politics, and public decision making. She blames this discrepancy on issues related to socio-cultural beliefs and myths, among others. She further adds that women who ever rose to the position of power in the past "initially derived at least part of their political legitimacy from their association with a prominent male politician." Nzomo indicates the connection between male domination and women suffrage, and socio-cultural beliefs and myths. The implication is that neither men nor women are born superior or inferior, but both are born into a culture that believes in the inequality of the two, and makes them so. Subordination of women is neither divine nor natural, this gives room for the deconstruction of the social relationship between men and women. This is one of the objectives of this study.

An individual's participation in the formulation of community's rules, laws and customs is vital especially to his or her benefit. In reference to the current Kenyan constitution, Nancy Barasa points out in her article, "The Question and Equation of Women in Law Review," that women's situation is not well articulated mainly because they did not participate in its formulation. The constitution has "…served as a tool not for enhancing women's enjoyment of human rights but for the entrenchment of oppression and marginalisation of women socially, economically, and politically." Barasa, in any case, does not discuss the reasons that underlie women's non-participation in constitutional making. Maybe at the time, women's participation
in public matters were minimal as culture barred them from taking part. Women's participation may be enhanced with women gaining freedom from cultures that limit them and contribute towards development according to their capacity. Barasa does not make this connection. This study attempts to bring that connection.

Men and women are two different individuals each with unique natural qualities. For a just and complete society, the two have to complement each other. Fr. Peter Muiruri, in *Women, Politics and the Church: A Grassroots’ Perspective*, sees this as lacking in our political systems and churches in whose majority of members are women. The point to note here, however, is that those churches are mostly patriarchal in structure, and the faith professed pass without question. Challenging a preacher, for example, or criticizing a sermon is taken as unchristian and contrary to the biblical teachings. This conditions members to be passive receivers of the doctrine. Is this also translated in acceptance of culture and its dictates as part of living the gospel? Most religions in Africa are foreign to the natives. Islam, Christianity, Hinduism, Buddhism, and many others were introduced to the Africans by outsiders who had come with different reasons such as trade and colonization of the African and, thus, in a way not compatible with the African way of life. Muiruri’s literature prompts a critical re-examination of western religion and their part in the situation of women as this study does.

Simone de Beauvoir thinks of the whole women problem as embedded in how they conceive themselves and are conceived by others. Biological make-up of being a woman has nothing to do with their subordination. Women have no identity of their own, but what they have is the identity imposed on them. Women exist as 'other' and
cannot be really equal to men. This conception affects them negatively in that they see themselves as inferior to men. She explains that "the problem for women is that, whereas they exist as other for men, men are not in the same way the ‘other’ for women. Women are defined in relation to men, but not vice versa." This indicates that a person's psychological disposition determines his or her personality and relationship with others. Understanding this fact is vital in deconstruction and reconstruction of women's personal identity and self perception. The real change, hence empowerment has to begin in the self as it is a psychological issue. Women need to cultivate an identity of their own as independent entities from men. This work tries to explore the possibility of this task.

According to John Stuart Mill (1806-1873), the great deal of subordination is propagated by women themselves by submitting to the cultural demands that in a way affect them negatively. The way to women emancipation and empowerment is to attack the popular custom. He says,

…custom hardens human beings to any kind of degradation, by deadening the part of their nature which would resist it. And the case of women is, in this respect, even a peculiar one, for no other inferior caste that we have heard of have been taught to their degradation as their honour. They are taught to think, that to repel actively even an admitted injustice done to themselves, is somewhat unfeminine, and had better be left to some male friend or protector.

In this view, culture affects and conditions an individual to act, behave, and view himself or herself in a given way. Such conditioning can have both negative and positive effects or impacts on an individual. This implies that some cultures and their practices are not healthy to an individual. This approach to culture is a necessary one as it warrants the researcher to point out cultural practices that affect women negatively.
The Proposed New Constitution of Kenya talks of culture as the "...foundation of the nation, the cumulative civilization of the Kenyan people and communities, and the bedrock on which all spheres of individual and collective lives are based." In article 27, clause 2(c), it legislates to promote and protect culture. The study finds this article relevant in that it recognizes the primacy of culture to the individual's societal well being. The draft, however, lacks in its presentation, as some cultural practices do not promote the same societal well being of an individual, and are not worthy to be promoted and protected. The proposed constitution does not discuss any machinery on how to deal with such negative practices, neither does it point out any such practice. The study seeks to establish these facts.

Elvin Hutch agrees that indeed culture is a way of life of a people. The way an individual thinks and behaves is guided and learned from a given culture. People are therefore conditioned by values, norms, beliefs, or rules of their culture. He highlights the views of anthropologists Edward B. Tylor, and Lewis Henry Mayer who viewed culture as "...the conscious creation of rational minds for the purpose of improving the lives of society's members." It follows from this that the main purpose of culture is to improve the life of societal members. Culture has to provide conducive atmosphere for all the societal members and guide their operation and relations. This conception on culture helps the study to evaluate how culture as a conscious creation has improved the lives of women in Kenya.

Such views are reasserted in socio-cultural theories as explained by Henrietta Abena, in her article, "Towards Research in Wife Battering in Ghana: Some Methodological Issues." According to her, violence between male and female can be explained in
terms of social construction whereby the two are identified with unequal social values. That "the institution of patriarchy…conditions women psychologically into accepting a secondary status by embracing a process of sex-role stereotyping." In view of Abena's observation, its not men's nature to dominate or women's to be subordinate, but there is an outside force that dictates the whole situation. Implicit is the view that culture is not all that just and absolute. The effect of its injustice can be experienced in social instability and other problems that befall the society. Whereas Abena concentrates mainly on wife battering, her work, nonetheless, is important as it acts as a catalyst for the researcher to inquire into other societal problems and how they are connected to culture.

Eunice Sibeya, in *Thoughts of an African Woman*, shares the same views. She explains our lives as revolving around mental attitudes either conditioned positively or negatively. More often, she contends, people are slaves of negative conditioning, and they do not allow any challenge or contraries to their thought. She, however, stresses the need for flexibility saying:

...we must cease going through life like bullets. Once a bullet is fired it will continue on its course, even if it is off target. Instead, we must be like missiles. Bullets and missiles are both released with the object of destruction in mind—how are they different? A missile changes its direction towards the targeted goal.

She relates this to our culture, highlighting its importance as the fountain of wealth and wisdom, and the need to preserve and refine it to be relevant to current trends. To understand why people do what they do, it is not enough to know the constructs of a society; but it is also necessary to study how actors internalize those constructs.
Complementarily, Marjorie Hall, in her book, *Sisters Under the Sun: The Story of Sudanese Women*, explains the difficulties associated with an attempt to discard the old systems of culture, and adopting to the new cultures. Some of the traditional attitudes that were viable sometime in history cannot automatically be so in the present time. Nevertheless, in attempt to bring any social change, people "...are faced with reconciling the old with the new and with conflicts regarding their social identity and personal re-adjustment in intra-family relations."\(^{45}\) Despite the difficulties associated with cultural change, cultures are meant for the people, and not vice versa. Whereas the reference was made to the Sudanese situation, this work is relevant as issues analyzed pose the challenges to Kenyan society, and across the globe. It also poses the questions of repercussions associated with change in cultural systems. It implies that there are repercussions related to culture that threaten individuals in their attempt to change. This, becomes important to this study as the understanding of what lies under people's fears is the starting point in the search for the solution to women's problems.

J. M. Waliggo, in his book, *Struggle For Equality: Women and Empowerment in Uganda* mentions family, community and church as the main areas where discrimination and factors responsible for it originate and abound. Taboos that accompany any cultural practice strengthens all the reasons for its propagation. He argues:

> Traditional African cultures everywhere go with established taboos. The taboos effectively work on people's fears of death, sickness, deformation, misfortune, dangers, barrenness, e.t.c. Instead of analyzing the deeper meaning of these taboos, many people began to accept the taboos as a given dogma with no exception.\(^{46}\)

This understanding is important to the study especially in an attempt to seek a viable approach to the impediments posed by culture against the status of women. It
presents taboos as mainly affecting people's psychology and, therefore, lacking justification.

1.6 Hypothesis

Kenya is a multi-cultural nation comprising of diverse ethnic groups with different traditions. Although not homogeneous, most of these groups share some general or common practices hence one can talk of African culture or Kenyan culture or society. Some of these practices, for example, respect for ones seniors, care for the needy, among others, are healthy for an individual’s growth and societal well being whereas others have become outmoded and can no longer be held as viable in the present time. This is due to the fact that they have some negative implications and impacts on the femalefolk in the society by denying them equal chances as men to realize their full person-hood. Such are either biased or discriminative in their practice. The study hypothesized that:

i. As much as they demand empowerment, a great deal of subordination is supported by women themselves.

ii. Some cultural practices or their interpretation have been used as a tool to subordinate women in contemporary Kenya.

iii. Some traditional and cultural practices have questionable metaphysical, moral and epistemological grounding to justify their prevalence in the present time.

1.7 Methodology

1.7.1 Scope and Limitation

The research was mainly a library based. For this reason, the libraries to be consulted were determined by their accessibility to the researcher and the availability of the
material related to the study. Such material included philosophical texts, journals, seminar/discussion papers among other materials related to the topic.

The research work restricted itself to the study of the situation of women in Kenya and their position and role in the society. It mainly focused on discrimination in property and inheritance rights and discrimination in education as the two cultural practices that are tantamount to undermining the realization of the potentiality of the female folk. The concept of inheritance was limited only to the issue of property ownership, and did not apply to the culture of wife inheritance as practiced in some communities. The consideration of the two practices was due to the fact that they seem to cut across the various cultures in Kenya, and other parts of Africa.

1.7.2 Methodologies

Philosophy, as an academic discipline, has various research methodologies. The methodologies to be adopted are largely determined by the nature of the contemplated problem of inquiry. In this work, the researcher aimed at evaluating the position of women in modern Kenya and the issue of their empowerment. This demanded a critical evaluation and assessment of their past situation in comparison with the present in so far as the issue of their empowerment was concerned. There was an analysis of some social factors in traditional and contemporary cultural practices that formed the missing link in the accomplishment of their liberation and empowerment and as tools used to subordinate them, as we look for a solution to the whole issue. In respect to all these, therefore, several philosophical methodologies were adopted in the research;
1.7.2.1 Existential method
The study aims at bringing about women's full participation in their own empowerment. This can only be possible if women and the society at large understand culture and women's existential position in it. It is in trying to bring about this understanding that the study took recourse to existential approach, which involves one's involvement in the situation at hand and in shaping his or her own destiny. The method assumes that the human being has no essential self, and is no more than what he is. The human person is only the sum of life is so far as he has created and achieved for himself. The method advocates for inventiveness and creativity as one tries to shape his or her own destiny. The understanding here is that each individual has the power to determine his or her life.

1.7.2.2 Critical/rational method
This study further involved a cultural study and an evaluation was carried to establish how culture affect women. In doing this, each of the aspect considered in the study was approached open-mindedly through the application of critical and rational analysis for an objective conclusion. This method finds its origin from the Socratic approach of continuous critical questioning of reality. It assumes that there is no end to seeking the truth about any given reality. Every step of an inquiry is proceeded by a critical examination of what is already known and held as true.

1.7.2.3 Phenomenological method
The researcher being part and parcel of the cultures evaluated, the objectivity of the study further warranted his detachment from any aspect under analysis by 'bracketing off' all his biases, and subjective opinion. The method, as used and propagated by Husserl assumes that,

…the way things appear to someone, the way one perceives or experiences things, (phenomena), may differ from the way they appear to others…the
This philosophical method aims to describe the everyday experience of the world, or the world as given in immediate experience independent of and prior to any scientific interpretation.

1.7.2.4 Speculative method
In dealing with the question of cultural practices and the position of women in society, one is dealing with a culture that has been in practice for long. Whereas the assumption is that some of these cultural practices cannot stand the test of time, still one could not deny their viability sometime in history. The change that has taken place implies a revolution in the human mind. Therefore, in determining this transformation in time, one would be dealing with a transformation in human thought in an attempt to answer the question 'why.' What the method advocates for is the use of human reason rather than faith in clarifying issues. In doing this, Njoroge contends that "…philosophers tend to be very cautious in their approach; for this reason they rely mainly on …rational speculation or speculative thinking" in giving solutions to problems that cannot be solved by other means.

1.8 Significance of the Study
Empowerment of women entails bringing about gender equality, thus, it is hoped that this study will provide an important perspective on traditional and cultural practices that tend to undermine such equality. In Kenya, women occupy a subordinate place in most cultures. It is hoped that this work, to an extent, will lead to a significant dis-enchantment with some cultural practices in Kenya and other African nations.
Women cannot participate in and benefit equitably from economic activities and decision-making in their communities if they occupy a subordinate place. There is need thus of identifying and describing all of the contributing factors and how they operate to negatively affect women. This research is intended to work as a means of raising awareness and helping to find solutions to the problem of women subordination and empowerment to policy makers, non-governmental organizations and scholars.

This research was aimed to be an empowerment guide for women to be able to fight for their rights and for the future of all women. Women have sought to free themselves from male defined gender roles and define for themselves what it means to be a woman and thus how women should live. This, however, has not been successful enough, as the root cause of their status has not been clearly identified, thus their effort not properly directed. Empowerment should not be construed as freedom from our moral obligations, responsibilities or a separation from our fellow human beings. This work is intended to work as a guide towards elimination of negative cultural attitudes and practices that militate against women, hence, undermining their personalities. This work is a means towards building a healthy social equality.
Endnotes

1 The International Bill of Rights, www.unhchr.ch/html as retrieved on 13/Oct/2005
6 Ibid.
7 Lisa Isherwood and Dorothea McEwan, Introducing Feminist Theology, 2nd ed. (Sheffield: Sheffield Academy Press, 1997), 30.
9 Ibid., 56.
10 St. Thomas Aquinas. Summa Theologica, 1,92,1,ad 1.
12 Isherwood and McEwan, op.cit., 61.
13 Summa, op.cit., 1,92, 1c.
23 Ibid.
27 Ibid., 24.
34 Patrick Nzioka, "Women Yet to get a Fair Share" in *Daily Nation*, Wednesday, August 17, 2005.
39 John Stuart Mill, [http://www.spartacus.schoonet.co.uk](http://www.spartacus.schoonet.co.uk) as retrieved on 7/Oct/2005
43 *ibid.*
Chapter Two

2.0 WOMEN EMPOWERMENT IN KENYA: ISSUES AND CONSTRAINTS

2.1 Introduction

The concept of empowerment has become a special word in today's world. One often hears of financial empowerment, political empowerment, community empowerment, group empowerment, among others. Empowerment, thus, is a construct shared across many disciplines and arenas, ranging from community development, politics, education, and economics to studies of social movements and organizations. This wider usage of the concept warrants one to ask: what is empowerment? How can one recognize it, evaluate it, and even talk about it? Understanding this concept then becomes a critical issue in grappling with the task of women empowerment.

This chapter attempts to analyze the problem of women empowerment in Kenya. It has been noted that "there are gross inequalities between men and women." In this chapter, it is argued that by understanding empowerment, and what women empowerment entails, one would be in a position to identify issues and factors that are central in either promoting or downplaying the effort directed towards the achievement of the same. In effect, one will be able to evaluate and make decisions that pertain to the problems affecting women and society and their moral standing.
2.2 A Critical Analysis of the Concept of Empowerment

The Webster dictionary defines the verb 'empower' as to "give authority or power to" or to "enable." The Longman dictionary explains the same as "to give someone more control over their own life or situation." To give authority or to enable or to give someone more authority connotes some sort of deficiency or lack of something or existence of some sort of inequality in authority, power, or that one, or a group is disabled in this sense. Empowerment, as such, becomes a process or an act of giving authority or power to someone, or to a group of people. It is giving power or authority with an intention of bringing about some sort of balance.

Implicit in this concept of empowerment are two presuppositions. On the one hand, this concept brings out a negative connotation as it implies some form of disempowerment or powerlessness. For an individual to be empowered, by implication it means that he or she does not possess that power or if he or she does, it is not total empowerment. The understanding here is that if one is fully empowered, or possesses power, there will not be room for further empowerment. But, if there is room for more, then it means that one is lacking, or can create room for comparison. If comparison is possible, then it means that situations are not the same. Empowerment presupposes the existence of some sort of inequality. In this case, this inequality can be as a result of some individual beings denied opportunities or resources, or chance, or are subjected to some ideologies or social practices that define them as inferior beings.
On the other hand, this concept can be seen positively and progressively as a process which increases an individual's or a group's power, self-reliance and strength. Jill Bystydzienski sees empowerment as:

…a process by which oppressed persons gain some control over their lives by taking part with others in development of activities and structures that allow peoples increased involvement in matters which affect them directly. In its course, people become enabled to govern themselves effectively.4

The process of empowerment targets those deemed dis-empowered, and it aims at uplifting them to the position at which they will be able to take control of their own situation. If one is not empowered, it implies that he or she is not in full control of his or her life, but is controlled by others. This process seeks to break the gap that exists between the empowered and the dis-empowered. It is not an exclusive and discriminatory process that targets only to improve the dis-empowered at the expense of those already empowered. Rather, it focuses on bringing the two groups to be at the same level. It is at the same time a continuous process that challenges individual's assumptions about the way things are and can be thereby improving the already existing situation.

2.2.1 Empowerment as Power

At the core of the concept of empowerment is the idea of power. By talking about empowerment, *ipso-facto* one will be talking about power and power sharing, and how it is utilized.5 How power is distributed among the members of a society, and how the same power is used will determine the kind of relationship that exists in the same society. In a society where people wield equal powers, relationship will tend to be that of mutual respect, whereas where there is difference in the same, relationship is likely not to be mutual. The process of empowerment depends on the change or shift in power, as Nanette Page says,
The possibility of empowerment depends on two things. First, empowerment requires that power can change. If power cannot change, if it is inherent in positions or people, then empowerment is not possible, nor is empowerment conceivable in any meaningful way...second, the concept of empowerment depends upon the idea that power can expand.

The fact that power relation can change implies that in a way, power possession can shift from one person or group to another. This gives possibility for those who do not have power to acquire it and at the same time imply that those who already possess it can as well lose it. And if power can expand, then it implies that it can be shared. This means that those who do not possess it fully can also improve their situation by gaining some power.

There are different dimensions of power. Bystydzienski mentions two dimensions; that power can be conceived either as 'power over' which implies dominance or 'power to' or power as competence which is generated and shared by the disenfranchised in order for them to share and participate in affairs affecting their life. Power over or power as domination presupposes inequality. For an individual or a group of people to be over, he or they have to be over somebody, or other. Over implies "above or higher" and at the same time points to that which is below or under. Power perceived this way will mean inequality, and therefore, not healthy for human relationships. 'Power to' points to the ability and willingness to initiate the process of change. This is an acknowledgment of the way things are, and thus becomes a positive indication that change is possible.

Sonpar and Kapur adds a third dimension which they say,

...recognises that conflict of interest may not be suppressed only from the decision agenda, but also from the consciousness of the parties involved. Here, both the dominant and the subordinate parties subscribe to accounts of social reality that they deny that any inequality exist.
This implies an acceptance of the status quo. Both the power holders and those who lack power recognise the existing inequality but resign to powerlessness, hence, do not initiate any change. This is the power to suppress the self and is limiting one's potentialities. Its practice promotes and maintains inequality.

Janet Parpart talks of 'power-within' and 'power to work with'\textsuperscript{10}, which can appropriately reflect empowerment as a process that brings about equality between individuals. To be empowered, and to allow empowerment to take place, one has to have that motivation from within that will propel the realization of power differences and work towards change. At the same time, power to work with makes the process to be a collective task that involves both the empowered and the dis-empowered to work together towards equality. Empowerment, therefore, should be a process of acquiring and a state of 'having power to' and 'power to work with' which necessitates an individual to have control over his or her life.

### 2.3 Women Empowerment

From the above discussion when one talks of women empowerment, one presupposes that to some extent women are dis-empowered or women do not possess power. Women empowerment also connotes a process that the existence of this state of disempowerment or lack of power on the side of women has been affirmed to exist. Women empowerment involves identifying causes of disempowerment and reconciling them with the state of equality. Empowerment should be construed as a process of giving women authority to participate in the affairs affecting them and the entire society in which they live.
The first step towards this process, however, should involve establishing the facts that, indeed, women are deprived of their human rights, and that given equal opportunities as men, they will prove that they are equally good, contrary to the theories, assumptions and explanations advanced to assert that in general, they are inferior and weak, thus, their subordination is justified. There are those who have argued that women are physically inferior to men (Plato). Others like Kant and Hegel have argued that mentally, women are not as good as men. Whereas others, such as Aristotle and Aquinas have seen women as inferior in all aspects, mentally, morally, and physically, thus, inferior to men on account of being female. All these can be termed as assumptions until proved to be so, and therefore the logical criterion adopted in drawing up such general assumptions, however, can be contested. On account of sex and physiological make-up, women and men are different entities, but this should not be the basis, or should not contribute to any other difference that might arise, such as in their physical or mental capabilities.

To avoid this, logic should be the guiding principle. Logically, a general conclusion cannot follow from particular cases. If some women were found weaker and maybe inferior to men in some aspects, one cannot conclude from this that all women are weaker than, or inferior to, men. Such a conclusion defies logical criterion and becomes fallacious. Or more specifically, one tends to commit a fallacy of *hasty generalization*. Such a "fallacy occurs when there is a likelihood that the sample is not representative of the group."¹¹ Until there is enough evidence that women are indeed inferior, such a general conclusion cannot hold. The mere fact that some women are weaker either mentally or physically does not necessarily follow that all women are inferior. If a case can be found to the contrary, that some women are stronger than
men, then the argument becomes invalid. Again, if the premise that some women are weaker than men (which is true) can be adopted, then it follows by implication that some men are also weaker than women.

Even in the cases of disparities, one finds that it is not a total exclusion of women, rather it is some women. This gives us a better starting point of inquiring into the issue of gender inequality. A question that one starts by asking is why some women have been excluded from societal matters? If it were the case that no women have ever accomplished what men have accomplished, we would have easily concluded that it is in their nature that women cannot accomplish what men can and, thus, grant their subordination. More so, this would not even have allowed an inquiry into such an affair that pertains to the nature of being as no one can alter it as Elizabeth M. Borgese duly observes. She points out that, "if women were indeed inferior or at least handicapped by nature, how could they justify their claim to equal rights?" The struggle by some women and some men for equal treatment as it has were indicates that women subordination is not justified, and that deep within them, they believe in equality of human beings. The struggle for equality and women empowerment indicates that women's position as second class is not natural.

Women empowerment cannot solely be accomplished by merely achieving what men have achieved. Rather, the task entails giving women the opportunity to determine their own goals, objectives, and the course of action to achieve them. True empowerment likewise necessitates gaining control of all other aspects of their lives. It is about giving them the power to improve the cultural, social, economic and political aspects of their life. This implies that women have to be involved in the
formulation and construction of cultural and social norms and ideals that directly affect them. They have to determine which cultural practices promote their lives as women, hence, improve their status and also reject those that undermine their status and life. They also need to be allowed by society to participate in economic affairs both in generating and enjoying the benefits. The same should be true with politics.

Women's empowerment also does not mean taking away the power from men as Khakhudu Aguda presupposes that, to many men, struggle for gender equality is a concerted effort to kick them out of their 'God-given' roles in society. This means that men are reluctant to accept and support the call for women empowerment as it is intended to challenge their role as rulers and overall heads in the society. Such a belief is not founded in that, if men's domination over women was divinely ordained, no human being would have dared to challenge what is beyond his or her control. But it is not divine that men should have all the powers while women hold the subordinate position. More accurately, empowerment implies power sharing between men and women. This makes the task of development a collective task requiring efforts from both. Since both men and women have special needs, power sharing would enable these special needs to be addressed. Both will need to take a pro-active role to ensure that development is responsive or helpful.

This also implies that women empowerment should not be confused with favouritism. Empowerment presupposes that individuals have the same capacity to achieve the same results, but unfavorable circumstances and conditions have worked against some individuals, thereby, affecting or undermining their performance. The effort is channeled towards establishing fair circumstances and conditions. Favouritism
implies unfairness\textsuperscript{14} and also presupposes inequality. It points to the fact that individuals do not have the same capacity to achieve, and to bring about equality in results, such that some individuals or group should be given special attention. Such an act in itself testifies to inequality and cannot be said to be directed to bring about equality. Women empowerment is not giving women special attention, as this will assert their incapability, but effort should be directed towards removing obstacles that stand on their way thereby affecting their performance.

2.4 Women Empowerment in Kenya

The concept of women empowerment in Kenya presupposes that women in Kenya do not share the same status as men. As pointed out earlier, empowerment presupposes some movements, the concept also highlights the fact that women empowerment in Kenya is not a static process, but it involves some action or movements. An investigation into this situation warrants establishing the facts about the status of women both in the past and the present, if there was at any time in history that women would have been termed as empowered. Moreover, if there were periods when women were truly empowered, when did the situation change and what were the circumstances that brought about these changes that women become disempowered. Such an investigation also will automatically lead to an evaluation concerning the efforts to combat the problem.

There are contradicting views regarding the status of women in the traditional African societies. There are those who hold the view that in the traditional Africa, the society operated on the equality basis as reflected in the way men and women complimented each other, hence, each one’s role was seen as important. Each society had an intricate
system of societal management and mutual interdependence in which everyone played a constructive and symbiotic role.\textsuperscript{15} Men and women saw each other and their roles as part and parcel of what makes the society as they mutually benefited from each other. For those who hold these views, such as former Kenyan president, Daniel arap Moi, in the traditional society, the communal aspect and organization allowed each individual space to utilize and exercise his or her potentiality without any hindrances; That "in traditional Kenyan societies, the societal fabric and systems of operation stressed the communal role without inhibiting the productivity and creativity of the individual."\textsuperscript{16} This reflects or portrays the initial society as that in which women and men accepted their social place in the society.

These views are contradicted by those of Jomo Kenyatta and Moore who do not subscribe to the communal ownership. According to Kenyatta, communal ownership did not exist. For example, he points out that there was no,

\textit{...land that belonged to everybody, or what is called 'no man's land.' The term 'communal or tribal ownership of land' has been misused in describing the land, as though the whole of it was owned collectively by every member of the community.}\textsuperscript{17}

Ownership, according to these views only belonged to individual men. Women in this context only shared in the properties of their husbands or parents. Although they had rights, for example, in cultivating land and what they produced, the overall ownership belonged to men.

In any case, what is not explicit in these views is whether women were conscious of their status as subordinates. What comes out is that, men and women seem to have existed peacefully with each other, and they performed their assigned roles without complaint.
The realization of the status of men and women and the struggle for women empowerment in Kenya was by far occasioned by external forces, mainly in two ways. In the first place, as M. B. Gleave observes, "colonial rule implied a change in political and economic organization which in itself had many far-reaching and sometimes profound effects." The changes brought about by the colonial rule in Kenya interfered with the social set-up of their way of life, and their way and means of production. These changes, which were seen as a shift from African socialism to capitalism introduced some independence and competition in which individuals had to strive to acquire private property. Since women had been socialized to depend on their male relations, the pressure was on those who did not have male relations such as husbands or parents. In this way, they began to realize how the system had been unfair to them. This was because women had not been allowed independence, and because the system and conditions had abruptly changed, and demanded independence even on the side of women, it posed a great challenge to the society.

Secondly, the feminist movements which began in Europe had stretched their influence to many corners of the globe of which Kenya was not an exception. These movements, as Yassine Fall explains had "…developed in a significant manner within the Western capitalist system when women were compelled under the most oppressive labour laws and productions relations to fight for their dignity and against capitalist exploitation." Women in Kenya through this influence now compared their situation to that of women in other parts of the world, and sought to establish the possibilities of improving their situation. The changes they resolved to pursue implied
equal rights and non-discrimination in all spheres of life. This marked the struggle for what is generally called women empowerment in Kenya.

Like in other parts of the world, this realization was responded to by the formation of groups and organizations as machinery and channels through which women might be in a position to air their grievances. An example of this in Kenya was the *Maendeleo ya Wanawake* organization which was formed in 1952 with the objectives to improve the status of women socially, economically and politically; to fight against illiteracy and ignorance, poverty, joblessness and unfair discrimination against women. Through continued formation of such organizations and movements, the status of women in Kenya has experienced some improvement. Nevertheless, women empowerment is still an issue in Kenya and struggle still persists by both women and men to see equal treatment and representation between men and women.

### 2.5 A Critical Assessment of the Situation of Women in Kenya

The concept of empowerment points to the fact that there exists a state of subordination or oppression in that given any sphere of life, there will be two groups of people; the dominant group and the subordinate group, the majority and the minority group. The subordinate or minority group is generally disadvantaged and does not enjoy its rights fully. According to the Kenyan government, “Kenya’s women have limited control over resources, economic opportunities and political power…women generally have less access than men to social services and resources.” This fact does not point at women as the subordinate, suppressed or minority group, but it does suggests that to some extent, there is a gap as far as the situation of men and women is concerned. FIDA has termed women's status in Kenya
as that of second-class citizens\textsuperscript{23} as they still trail behind men in many aspects of life. This fact can well be elaborated by considering what Janice Peterson and Doug Brown have called three measures of inequality namely, power, economy and status.\textsuperscript{24} In the light of these three aspects, the position of women can be assessed by asking and finding answers to the questions such as; what is the percentage of women compared to that of men in these area?, what position do they occupy? and what is their influence in the same?

### 2.5.1 Women and Power in Kenya

The distribution of power between men and women can be evaluated in both the private and public spheres. The private sphere would refer to the domestic matters pertaining to household management, and public sphere would imply the affairs beyond the household. An investigation into various positions of power and decision-making indicate that there are few women compared to men. As a general trend, many women are concentrated in humble positions which are less demanding, less prestigious, and mainly subordinate and of less influence. Philomena Njeri considers this from the civil service and concludes that,

\begin{quote}
...women are concentrated in job groups A-G, where they have consistently averaged over 22 percent of all persons employed in these cadres. In the top echelons of the civil service, job group P and above women average about 4.5 [sic] of all personnel in positions.\textsuperscript{25}
\end{quote}

This indicates that women, by the virtue of holding these subordinate positions are not involved in decision-making both on issues affecting their work and themselves as well. This scenario is also captured in the political arena where women are yet to make an impact. Although it can be noted that in all elections in Kenya since independence women have exercised their right to vote to the same extent as men,
their representation among candidates remain negligible. The political field has always been seen as a male engagement, while women seem to be viewed as unfit not only for the political involvement, but also for holding high offices. Of the country’s two hundred and twenty-two members in the ninth parliament, only eighteen are women, ten elected and eight nominated.\textsuperscript{26} This implies that only ten women made it to parliament by contesting and being voted in in an election process. Otherwise, the rest were just appointed. In the cabinet, there are only two women who are cabinet ministers out of a total of twenty nine ministers.\textsuperscript{27} In relation to this, Cecily Mbarire explains that,

Most political parties…are dominated by men and have few women holding top positions. When a political party is asked to bring on board certain MPs, you might find that it has few women or none at all in the party’s hierarchy and men end up nominating themselves.\textsuperscript{28}

Implicit in this is that women are not involved in the running of the country. Whereas parliament is the forum where all the decisions concerning the affairs of the state are discussed, if women are not represented, it also becomes difficult for their issues to be represented well. If there are only eighteen women members of parliament, it means that the eighteen are working against two-hundred and four male members of parliament. What follows from this is that if issues will be decided on a gender basis, then men will always carry the day while women will always lose.

Women have also been deprived of holding positions of power in most religious organizations. The major religions in the world such as Christianity, Islam and Hindu have continually excluded women from their leadership positions by relegating them to secondary roles. Because of the influence that religion has on people, one would easily understand how women are forced to accept their position in religious matters.
The discrepancies in the public realms can be said to originate from the private spheres, specifically the family and community. Whatever is exhibited in the public is a reflection of socialization at family and community levels. In relation to this, Gudpa says that “men are constructed as public leaders, thinkers, decision-makers and property-owners. Women are constructed primarily as domestic beings, who belong to the home or in the kitchen. They are mothers, wives, dependent on the property of their husbands, brothers, or fathers.”

In most of African families and communities, women are socialized right from childhood to accept second positions and they grow up taking it as normal. From their tender age, men are trained to be the overall heads of families while at the same time women are relegated to the second position and to be submissive to the head. Thus, “…a woman traditionally remained under the “power” (potestas) of the father or under the “hand” (manus) of her husband.”

The understanding here is that women have no power of decision-making and in most cases their destinies are shaped by either their parents or husbands. Even in cases where women might have the potentiality and support to ascend to influential positions, sometimes the final decision rests with their male partners who in turn consider them unfit for such high positions.

2.5.2 Women and Economy

There are considerable differences in women’s and men’s access to and opportunities to exert power over economic structures. In most cases, women are virtually absent or are poorly represented in economic decision-making, including the formulation of financial, monetary, commercial and economic policies. Since it is within the framework of these policies that individual men and women make their decisions inter alia, their formulation and development has a direct impact on their access to
economic resources, their economic power and subsequently the extent of equality between them at the individual and family levels as well as in society as a whole.

According to Annelie Odendaal, “…women are an essentially productive force in all economies and are increasingly recognised as being at the heart of development.”\(^{31}\) It is further established that in most third world countries, particularly in Africa, women are responsible for more than 80 percent of the food produced.\(^{32}\) This, however, falls under what can be termed as informal sector, where productivity does not correspond to the benefits an individual receives in return. It is important to note that much of women’s contribution to the economy is in most cases unrecognized. Their contribution is often treated as domestic work not worthy of financial compensation as Holcomb indicates “… much of women’s work is unpaid labor at home and in fields which is not valued by nor calculated as part of the gross national product.”\(^{33}\)

In the formal sector, women are still the majority in the lowly positions such as copy typists, secretaries, cleaners, among others, where they perform mostly odd jobs. In general, they are integrated in most professions at the lowest levels.\(^{34}\) In these positions, women are also the most affected particularly by economic situations and restructuring process which often change the nature of employment and in some cases resulted in loss of jobs. In most of the societies, men are the owners of the means of production, control over labour and control over the distribution of wealth. Women do not directly benefit from what they produce. In this context Rowbothan observes, “…whereas women do about two thirds (2/3) of the world’s work, they receive less than one-tenth (1/10) of the world’s income.”\(^{35}\) In general, “…most women do not have access to resources in their own right; their fathers, husbands and sons control
their access, and women’s endowment depends on their relations with these men.”36
This implies that in most cases, women who do not get access to employment also lack capital to initiate self-help projects in order to be economically independent.

2.5.3 Status of Women in Kenya

By status we refer to ones “…social rank or position considered in relation to other people.”37 Rank or position presupposes comparison, and by social position of an individual, it implies his or her position in society in comparison to others. This boils down to how one is seen and taken in the society, and his or her chances of enjoying social, economic and political rights.

Considering the aspects of power and economy as already discussed, one would conclude the third aspect, which is women’s social position. Power and economy are the main determinants of an individual’s social status, as the three are mutually interrelated and interconnected. Those who control the economy in most cases also wield power in the society, and in turn command higher social rank than those who do not possess either of the two. Since it is noted that women have no power to influence any decision in the community affairs, and at the same time, they are not well endowed economically, they are relegated to the secondary position. They are the disadvantaged lot, while men are the advantaged ones. As Peterson and Brown observes, “all advantages that men gather to themselves make men the centre of existence and push women out onto the margins making women almost invisible in the lofty world of men.”38 Men in most African societies are looked upon as the providers, the protectors and as the caretakers of their families as well as the community and, thus, the controller of all that pertains to society. This elevates their
social position or status because to provide for the family, one has to be economically endowed, and to have power in order to protect and caretake. Men's status in the society can be said to originate from their ascribed roles, which places them at an advantaged position than women. Men's status in the community, thus, is ascribed.

2.6 A Philosophical Grounding of the Subordination of Women

2.6.1 Culture

Aylward Shorter has pointed out that "culture is an aspect of what it means to be human, and therefore a basic human right." It follows from this that culture is an integral part of a human being, and that no person can be exempted from its influence. It also follows that a human being is a product of his culture. Vivien Burr underpins this fact when he says that "the way in which we commonly understand the world, the categories and concepts we use, are historically and culturally specific." Culture provides an individual with the 'glasses' through which he perceives reality, the language to use, and the way to relate with the same reality. These provisions are the established patterns that define a particular culture, and in general they include the dos and don’ts. In the light of these aspects, an individual is born tabula rasa and through enculturation or socialization process becomes a product of his or her culture, and in turn "half-creates" what he or she has perceived.

Through this process, an individual is taught to uphold what is expected of him or her as a member of that society. These expectations condition an individual to behave and act in a particular way, and can impact either positively or negatively on an individual. Aguda gives a case of this when she points out that "in many countries, women are treated as second class citizens not because of any biological deficiencies,
but because of traditions and beliefs that have been perpetuated over the years by men." This is a reflection of patriarchal culture which characterises most of the African societies, and "operates on the premise that men are biologically superior to women and that as a result women are weak and have to depend on men for their survival." 

Masinjila goes on to explain that "within this frame of patriarchal understanding, male leadership at all level is seen as the only legitimate leadership for the protection of women." Through cultural beliefs, women are excluded from the affairs of the society. Culture creates and maintains beliefs and stereotypes that provide narrower, more distorted and harmful images about women than men. Through culture conditioned socialization process, a woman has been constantly diminished, her sexuality commodified, her work and characteristics devalued, her identity shaped by an environment that reduces her to her most biological functions. Women are seen in terms of wives, and not as individuals. Seen this way, they are further reduced to their ascribed roles, thus, losing the self. In culture then, there are no women, but wives, mothers, child-bearers, among many such roles.

### 2.6.2 Religion

Religion is an aspect of culture that also influence people's attitudes towards themselves, others and what happens in their world. Since there is no individual person without culture, it can also be asserted that there are no known societies that do not have some form of religion. Whereas religious beliefs and practices vary from culture to culture, all religions involve a set of symbols, invoking feelings of reverence linked to rituals practiced by a community of believers. These symbols and
rituals are used as mediums to condition the believer to act and behave in a particular way as a way of living the faith he or she professes. Through these symbols, rituals and practices, religious movements have played a very central part in influencing most aspects of social life of all human beings. Individuals have come to associate conformity with blessings and non-conformity with defiance or sin. Of importance, however, is how women have been socialized in the religious circles and how this has affected their life.

In general, the majority of religions are dominated by men, and even the rituals, images and symbols that accompany them are mostly masculine. Female images stress gentleness, passivity, and conformity. Isabel Apawo Phiri has highlighted the fact that "rituals have been identified as being very important in African culture and religion. The general observation is that most of these rituals seem to favour African men, and put women in oppressive positions."46 This portrayal is particularly in line with the Christian teaching which conceptualizes the superior being (God) as masculine in nature and should be rightly represented with male figures here on earth. God is said to be Father, King, Lord, and even God the Son. There is no God the mother, queen, or God the daughter. Karen Torjesen captures this when she observes that "the Vatican's 1976 Declaration on the question of admitting women to the priesthood justifies its exclusion of women on the grounds that the female body does not resemble the body of Christ."47 As a whole, the Catholic Church can be pointed out as one that has for a long time excluded women from its ministerial positions assigning them only minor duties. One notes that the church has not allowed women’s ordination to priesthood, or as deaconess, bishops or even cardinals. Women are
found in low ranks such as catechists or choir members. C.K. Omari explains this further saying that

As a whole religious teachings tend to strengthen traditional roles of women: motherhood, reproductive roles and social services. Even with the modernization of religious thoughts and practices, which seems to come with secularization, the tendency of religion in fostering conservatism seems to persist.

In their teachings and tradition, religions have perpetuated and socialized women as different from men, with specific roles to play in religious matters. In most cases, women have been perceived in terms of, and inseparable from, their sexual natures and that, if given or admitted to the spiritual positions in the religious world, they would bring sexuality into the realm of the sacred. Richard P. McBrien counters this, saying that

Women are equal to men in human dignity and before God. The exclusion of women on the basis of sex assumes a radical inferiority of women and men, therefore, a basic incapacity, if not unworthiness, to act on behalf of the church in the presence of God.

Both men and women are said to have been created by, and in the image of, God, and that in this, they both possess the dignity of a person. If both man and woman are the image of God, then, God is beyond gender, and if not, He is both male and female. An exclusion of women then contradicts the nature of human beings and the nature of God whom they believe in.

During the advent of Christianity in Africa, the missionaries favoured men and tried to improve their situation while at the same time neglecting women. Generally, men were admitted to missionary schools in large numbers. Later they were taught religious doctrines that prepared them for admission into the sacred ministry. This tendency of discrimination had a tremendous effect on Africans. Patrick Uchendu has pointed out that the missionaries'
attitude towards female education made parents, who looked on them as models of modern civilization despondent on women education, as it was the parents' belief that if female education was important, the missionaries would have established enough female schools.

The justification of this seem to be based on the biblical experience. The argument put forward is that even Jesus himself did not have women among the twelve disciples. Instead, they only operated from the background. In 'following the footsteps of Jesus,' the early missionaries excluded women from their mission. Nonetheless, the situation, circumstances and time in which their Jesus lived were quite different from theirs (missionaries). In reading and interpreting the Holy book, the missionaries failed to apply a critical approach in their interpretation of the same. Exclusion of women indicates literal approach in reading the bible and, thus, their faith can be said not to be compatible with their times.

In any case, Isabel Apawo Phiri finds an apparent contradiction between theory and practice in Christianity and other religious organizations. She wonders how the Church in Africa has preached about the equality of all humanity in Jesus Christ and at the same time excluded women from its ministries. This contradiction goes even deeper in the African Traditional Religion in which women performed religious functions as opposed to what is experienced in Christianity. The traditional African religion had both priests and priestess who attended to the religious matters of their people. Even the Christian bible acknowledges the existence of priests and priestess in the old days. This questions the genesis of discriminations and exclusion of women in priesthood and other sacred positions. Women exclusion from religious issues is not divine and not compatible with the faith most religions profess.
2.6.3 Colonialism

Colonialism is credited with introducing significant changes in African society in general. These changes have been viewed by different writers as having impacted either negatively or positively on the African society and, hence, contributing to the problems facing it now. Nang'oli (2002), Dorthe, Uchendu (1995) and Jiggins believe that women and men in the pre-colonial societies complimented each other, and that the whole issues of subordination came with the colonialists who interfered with the entire traditional socio-economic system. The social, economic and political way of life was disrupted as totally new systems were introduced. This change is summarized by Musamaali Nang'oli:

Once upon a time in Africa, we paid no taxes, there was no crime, there was no police, there was no inflation, there was no unemployment, men did not beat or divorce their wives, then the white man came to improve things! The good old days! Tragically, those days are gone.54

The communal way of life guaranteed that each member played a part in the community affairs, contributing as much as he or she can, and benefiting accordingly. Some scholars contend that in the traditional setting there was no private ownership of property and, thus, no basis for discrimination or oppression.55 In the community, one is deprived of the power to subjugate the labor of others by means of private appropriation.56 In the same way, position, status, and power of both men and women was a community issue and was based on seniority in terms of age, rather than gender.

The position and status of the two improved as they brought up families and advanced in age, and earned approval from its older members. It was expected that the young, both male and female were to accord their seniors respect, thus "all women in Africa are regarded as mothers,"57 and older men as fathers. These titles conferred status to the individual. It meant that whoever had achieved such a title had acquired the
responsibilities of a caretaker and was capable of looking after the family and the entire community. In this context, there were duties performed specifically by women while there were those performed by men. This did not mean that some duties were inferior and, therefore, performed by inferior individuals, rather it was a complementarity and through mutual understanding. Men's and women's sphere of operation complemented each other.

Men were generally assigned the responsibility of taking care and protecting the community from external invasion and, therefore, their orientation seemed more external and public. This, however, did not imply that they dominated in status, but the society also offered opportunities for women to participate in the same by involving them in activities such as manufacturing and trade, which also gave them some exposure. Such activities did not go unrecognized, but the society considered them as complementary to the work performed by men. Hence, women achieved impressive status in the economic and social realms of society. In general, there were no feelings or complaint about oppression or subordination. Dorthe Von Bulow has argued that:

…female subordination is not universal but the result of transformation in productive relations. Due to colonization and integration in the world-wide capitalist system, female-male complementarity in egalitarian and ranking societies has been replaced by gender stratification and women's dependence on men.58

Implicit here is that female subordination is not natural to any society but it is a result of some changes in their way of life introduced to them by foreigners. The shift from farm work to white collar job, especially in industries which also saw much movements on the side of men, as most of these jobs were assigned particularly to them, left women, helpless and dependent on men. Uchendu puts this succinctly that
The problems of women started with the advent of colonialism with the "Victorian concept of women." This concept forced in and in turn, minimized the economic, political and social role ...society and left them behind men.\(^59\) According to the victorian concept, women were only allowed to be 'seen' and not to be 'heard.' This was accompanied by the tendency of men being over-protective of women thus inducing in them a feeling of weakness, and helplessness. Women were expected to be under the guardianship of men. Uchendu further explains:

The British colonial government's view of women carried with it a mentality which emphasized the public invisibility of women and the notion that women were mere properties. It over-protected the women and minimized their capabilities.\(^60\)

This socialization also to an extent induced in women feelings of inferiority. They saw themselves not as good as men. Similarly, African men in turn assumed the role of natural superiors, guardians and sole caretakers of their families and societies. Although this mentality had been there in the African traditional setting, the mutuality and complementarity that existed had vanished and replaced by dependency.

Apart from the socialization process, the colonial system also introduced laws and rules, which to some extent favoured men, and strengthened the secondary position of women. Such was experienced mainly in the economic sector, and thus Jiggins comments,

Most developing countries have a long history of colonial rule which imposed laws and social structures particularly harmful to women. Among these are inheritance laws, legislation on land-ownership and transfer, and social restrictions on women which seriously limit their activities and aspirations...Inheritance laws and communal rights to land which once allowed access by women have been replaced by title-deed systems which, by law or custom, restrict land-ownership to individual men.\(^61\)

One can conclude that in establishing the subordinate status of women, the colonialists interfered with the traditional African way of life in two ways; first, they distorted their psychology by promoting in them both feelings of inferiority in women
and superiority in men. Secondly, they distorted the social and economic structures and gave men full responsibility over land and other economic aspects. Thus, Anne Akeroyd explains that,

Women’s confinement to the status of jural minors under the tutelage of husbands, fathers or other kinsmen in the colonial period limited, and may still constrain, their freedom of action and their economic and decision-making powers. Particularly difficult is women’s position with regard to property rights: they usually have minimal or non-existent control over marital property, and sometimes even their own.  

The end of the colonial era in Africa did not bring to an end most of the practices established during this period. As a matter of fact, what followed was the neo-colonialism era in which Africans carried forward what they had inherited from their colonial masters. This is how the position of men and women in the society has been maintained to date.

Nevertheless, colonialists cannot entirely be seen negatively as they also had positive contributions towards the Africans’ way of life. So far their legacy still hounds the African continent as Laurence Cockroft has noted.

The disruption of colonial rule created the shifting sands upon which the emerging independent nations had to build. The new ambivalence towards traditional forms of religion, of commerce, of authority and even of families, was a direct consequence of the profound mis-match between Africa’s traditional values and those promoted by the European powers during their period of formal control.  

This encounter precipitated new approaches to reality as individuals had to look for the appropriate way to cope with the changes that had been introduced. These even implied new approaches to relationships between individuals, and more importantly between men and women. For example, as the population continued to grow and resources became scarce, men as the sole providers of the family could not effectively meet the family or societal needs, while at the same time women had to think of an alternative way to supplement what the men could not provide. This situation acted as
an eye-opener which hastened women’s enrollment into formal education and subsequently being trained to get access to employment in the white man's government.

2.6.4 False Consciousness

Consciousness implies the realization or being aware of oneself. It is a condition or a state of mind or being aware and understanding what is happening around you\(^6^4\) and in you. It involves knowledge of the surrounding environment. In other words, consciousness involves and reflects personal identity; knowing who you are or “the qualities and attitudes you have that makes you feel you have your own character and are different from other people.”\(^6^5\) False consciousness, thus, is having a wrong or distorted self awareness. It is presenting or portraying a self contrary to the real self. Such perception can be occasioned and propagated by either protracted ideologies or stereotypes advanced by individuals or societies. By ideology, is meant “…a representation of the imaginary relationship of an individual to their real conditions of existence.”\(^6^6\) One is conditioned to exist in a particular way contrary or different to what would have been the case in absence of the conditions. This can be referred to as existing inauthentically as opposed to authentic existence. Inauthentic existence “…is characterized by a lack of self-awareness that is rooted in our absorption in the ways of living that others provide us.”\(^6^7\) In such an existence, the human being hides from freedom by self-deception, acting as if he or she is a subject, instead of realizing the authentic being for the human being; this is living in 'bad faith.'\(^6^8\) In bad faith, the human being shelters himself from noticing the dimensions of alternative courses of action facing him or her. One behaves as others demand of him or her by conforming to the standards of accepted values and by adopting roles designed for him or her.
Here, the human being loses the autonomy of his moral will, freedom to decide, and imprisons himself with inauthenticity for he refuses to take the challenges of responsibility and the anxiety that comes along with his freedom.

Sigmund Freud, in his Oedipus complex phenomenon, explains women as “weaker than men, passive, and generally masochistic in their human relation because they had discovered as little girls that they and their mothers had no penises.” This he calls *penis envy*, the conflict which hounds and affects women's later gender relations with males and females. He further asserts that “…when girls discover they lack a penis, they feel that they have somehow come off worse…” Implicit in Freud’s exposition is that to the girl-child, the penis is a sign or a mark of superiority and, therefore, lack of it symbolizes inferiority. Women are haunted by feelings of inferiority because they are not men. Their self-perception is of the ‘other’ while men are the subjects. According to Roscoe and Kemp, however, Freud tends to define a woman from Descartes' *cogito*. By defining men first as the one with a penis, Freud draws from this and defines a woman as that who does not possess one. Therefore, “while Descartes declared ‘I think therefore I am,’ Freud seems to have thought: She has no penis, therefore, she is not.” Cognitively, Descarte’s cogito ‘I think therefore I am’ refers to men and not women. A man can think, therefore he is, or thus has an identity, while this is different for a woman. ‘She cannot think, therefore she is not, or cannot be.’ Hence, a woman has no self identity as she cannot think.

Horney relates this biological definition to intellectual achievement and observes that based on this biological disposition, men are well disposed towards using their
mind and develop their moral sense while women, in accepting their uterus, and reproductive function give up intellectual striving.

Adler, defined women in line with Freud as weak, submissive, inhibited deficient, cowardly, obedient, shy, masochist and poor. He observed that this definition is derived from the experience a child receives from the relationship that exists between male and female parents. From this experience, the child comes to conclude that the male parent is stronger and superior to the female parent. From this, the girl-child grows up knowing that men are meant to be stronger and superior, and thus they do not attempt to challenge them.

Simone de Beauvoir, in the Second Sex, notes that “woman is defined only by her relation to man, whereas man is defined in himself; he is essential subjectivity, she is inessential; he is subject, she is other; he is agent, she is object; he is complete, she is lack.” The implication here is that women cannot stand on their own in the absence of male figures. They are made to believe that their value is attached to the men in their lives and what they accomplish should be measured in relation to men’s accomplishment, for they are the ‘other.’ This situation hinders women from effectively participating in societal development as free elements.

Janice Peterson and Doug Brown have observed that “otherness and motivational ambiguity it invokes makes it difficult for women to perform non-traditional roles with the joy and creativity that men can easily bring to bear on them.” Whereas the authenticity of such assertions is questionable, they, however, precipitate one to investigate into what could be the real situation of women. Although it cannot be
directly affirmed, how women are brought up and handled in most African societies has a lot to contribute on how they later perceive themselves as this affects their conscience and identity. According to Larsson, Mapello and Schlyter, fathers and mothers seem to respond differently to their children.\textsuperscript{78}

According to Odhiambo, Kirui, Ndiritu and Muriithi,

> Girls are perceived to be fragile, dependent, non-aggressive, subjective, yielding, receptive and emotionally unstable. It is upon this that girls are prepared in such a way that immediately they mature they can get a man who is independent, aggressive, objective, analytic-minded, has some control, so as to control her.\textsuperscript{78}

This indicates that in general, women are seen as incapable of leading independent lives. They are perceived as being vulnerable to many temptations and hardships if granted to stay alone and, thus, their marriage is justified, as it gives men a chance to help them in their daily lives.

Since this socialization begins at early childhood, it becomes very difficult later in life for girls to contradict the system. They will see and internalize it as natural and in accordance with the traditions and customs of their culture. Hence, some women may think that it is not right to struggle against established cultural practices. Some women believe that “the women who are struggling to get on top of men are fighting against their own consciousness. They know and are brought up to know that men are above them.”\textsuperscript{80} It is, therefore, not in the women’s nature that they remain subordinate to men, but the environment has taught them how to relate and behave in the society.
2.7 Philosophical Justification of Women Empowerment

2.7.1 Partners in Development

Women form more than half of the world's population and no development can be attained by developing only half of that population. In other words, any programme or project that neglects, forgets, discriminates, or otherwise ignores half of the population … is bound not to succeed.\textsuperscript{81}

Women are not an isolated entity. They are part of, and take part in, the economic, political and cultural structures of any society they belong to. On the one hand, their non-participation in the socio-political and development affairs of a society will constitute a part of the societal problems. On the other, their participation can contribute to the solution of some societal problems. As indicated in the previous analysis, women are discriminated from, and have no influence in, the affairs of the community. In any case, that their population is higher than that of men raises some economic concerns. If women are isolated and discriminated from the affairs of the community that are projected towards development, then, it implicitly means that their contribution to the same is affected. This automatically, will impact negatively on the economy, development and wellbeing of the society. The evidence of poverty and underdevelopment are clear indications that men alone, who are the minority, cannot effectively develop society. As Muiruri contends, “that women comprise the majority of the Kenyan population is a telling fact about the necessity of empowering them for total social transformation to equitable gender participation.”\textsuperscript{82} If the principle of proportionality will be applied, this means that women, if given the same opportunity as men and equipped with necessary skills, will perform more than men due to their majority in number. Rose Mwoya aptly comments:

\begin{quote}
During the last national population census carried out in August 1999, Kenya's population was found to be 28 million. Fifty one percent (51\%) of this population are women. The women's role in the society however, does not reflect 51\% contribution. In order to correct this imbalance, planning for
\end{quote}
gender equity is a must for a developing country like Kenya since both women and men have important roles to play in gender sensitive planning.\textsuperscript{83}

The contribution of women should be proportionate to their population. Their absence impacts negatively on the economy of the entire society. Their not being involved means that those involved have to do double share to make up for the deficiency. This cannot be very reliable as it also implies overburdening the little manpower available.

The United Nation’s observation that “attention is being drawn to women’s empowerment and gender equality as both a means and an end in the fight against the ancient enemy of poverty”\textsuperscript{84} is affirmed. The contribution that women make to the economic, social and political lives of their nations, communities and families and the next generation make them key actors in effective development. Their empowerment is a critical factor in the eradication of poverty as well as getting solution to other societal problems. According to Shanyisa Khasiani,

\begin{quote}
The potential for the poverty Reduction Strategy Consultation to succeed it needs ‘inclusiveness, participatory and involvement of all Kenyans in District and Communities, and especially by the poor and vulnerable groups, traditionally excluded from development planning especially women…’\textsuperscript{85}
\end{quote}

Equitable social development that recognizes empowering the poor, particularly women, to utilize resources is a necessary foundation for sustainable development. This complements the effort directed towards development of countries in general and Kenya in particular in meeting the goals of their strategic plans.

Limitations on women’s legal rights and participation in civil society hamper their ability to acquire productive assets and to reduce their vulnerability when family, societal or otherwise national crises affect them. These not only impede women’s ability to live full and productive lives, but also restrict their contributions to family,
society and economic development. The situation often leads to other problems such as starvation, disease, family disintegration among others. This can be explained with the hunger and starvation caused by prolonged drought in many parts of the country in 2005/2006. Most of those affected are women and children. This is because they depend on their male relations who, due to their egoistic tendencies, as Hobbes presupposes, attend to their needs first before thinking of women and children.

2.7.2 Social Stability

Social problems are systematic and common to all societies. Cases of gender violence, unjust distributions of resources, family disintegration, prostitution, child labour are just but a few examples, which often lead to social instability. Social problems, hence, social instability arise as a result of gendered power differences between members of a society in which one group is seen as superior to the other. This causes domination and oppression by the superior group to the inferior one.

As observed earlier, women in most societies are the underdog while men the upperdog. The power relation between the two often lead to tension as men would like to take full prerogative and control over women, who in turn also want autonomy, and in the long run it results into social instability. Citing violence against women, which has been at the centre of discussion in many world conferences, Vasques Y. Tamayo explains that

Causes of battery are many, including unequal relations between men and women; the sexual hierarchy; domestic isolation of women with men figures as the final authority; early marriages before women have developed a sense of autonomy, the family as the sole institution that shapes women’s identity; the representation of masculinity via the domination of women.86
In this understanding, violence against women and abuse of their rights can be seen as a display of male power and domination, the outcome of social relations in which women are kept in a position of inferiority to men. Men take prerogative of being responsible for and protectors of women. Due to the nature of a human being, women would not subscribe to this situation for long, hence, they will seek autonomy. Women also need to have a say in the societal affairs and on issues affecting them. This empowerment is an invitation to their participation in solving world’s problems. The United Nations affirms that “women’s equality to men must be a central component of any attempt to solve the world’s social economic and political problems.” Implicit in this view is the assumption that women’s inequality to men is a barrier to the efforts of solving societal problems. Women, just as men, have a stake and “…they constitute a key cohesiveness of the social fabric that can help change the quality of life and society.”

2.7.3 Moral Obligation

A human being is a moral agent. By moral agent we imply that he or she can be accountable for his or her actions which can either be good or bad. According to Odera Oruka, “a moral agent is any being which has the right to be treated and respected as a human being or a person.” No other being or creature can be treated as a human being. What Odera implies here is that some human beings or persons can be treated as less humans if they cannot meet or qualify to the standards that determine or define a person, being responsible or accountable for one's own actions. Such persons are either "…mad, very juvenile or very senile or abnormal in some special ways…” Such individuals are non-responsible persons who cannot distinguish between right and wrong, and cannot be blamed for the wrongs they may
do. Like other non-human animals, they have no power of judgment. They cannot judge between what is good, and what is wrong. Therefore, a sane and normal person *ipso facto* is a moral being, capable of moral judgment, and ought to pursue and promote moral good.

How can one determine what is morally good and pursue it, while at the same time avoiding the moral wrong? According to Immanuel Kant’s categorical imperative proposition, the guiding principle is: “act only according to the maxim by which you can at the same time will that it should become a universal law.” Implicit in Kant’s formulation is the understanding that no one would legislate or promote a bad law that would in turn affect him or her negatively. Therefore, in considering whether an action is morally right or wrong, one should ask himself or herself whether he or she would want everyone similarly situated to act in that manner without making exceptions for oneself. For D.D Raphael, this has to do with treating one as an end, and not as a means to an end; that “to regard someone as an end is to respect (a) his desires, (b) his power of decision.” Respecting one’s desires and power of decision implies allowing him or her freedom to determine his or her life. It is acknowledging that one is rational and that accordingly he or she can act rationally. Denying this fact is denying the humanity of an individual as Peter Muiruri has pointed out;

Denying women participation in decision-making process, be it in politics or church matters…deprives them their rightful place as complete human beings in society. In so doing, we project a social image of a de-humanized and incomplete society.

Apparently this observation implies that women also are human beings and moral agents who can act morally. Failure to recognize this fact is in itself immoral as it depicts women as people incapable of making sound and independent decision. The act of subordination or discrimination and, thus, inequality is not in accordance with
the nature of a moral being. It debases a human person as a rational being. Equality between sexes is the highest way to display moral maturity. As H.B. Danesh puts it: “equality is a sign of maturity, and maturity is the process of an even increasing ability to integrate and unite rather than to separate and individualize.” Continuous subordination or discrimination alienates human beings from one another and thus promotes individuality which reflects immaturity.

2.7.4 Promotion of Democracy

Democracy has become the accepted standard of governance in today's world. Most of the member-states of the United Nations lay claim to democratic principles within their system of governance. From this point of view, democracy has acquired the status of at least a pass mark in the international world. Part of this emphasis is attributed to the democratic principles which have been enshrined in the Charter of the United Nations and especially the influence of rich nations such as the United States of America, England and France in supporting the provisions of that same document in 1945.

Whereas it is not the intention of this work to lift democracy high above other forms of governments, its strengths are quite clear. Of all the forms of government, it is the one that comes closest to recognizing the basic rights and the needs for people to actively participate in the decision making process itself. This is a key feature in understanding democracy as a 'government of people, for the people, by the people.' Enshrined in this definition, apart from the participatory character, are other values of democracy such as freedom and equality. Freedom here is understood as a matter of giving people a say in political and other avenues of life particularly on those matters affecting them. Equality, on the other hand, lies in the fact that this freedom is given
to all. Therefore, a true democracy will ensure that both men and women are involved on equal basis in all sectors of governance. Karen Fogg asserts that "…participation of women is an important litmus test of the quality of our democracies."

Whether it is the direct form of democracy as was practiced in the ancient Greek world, or representative as commonly and widely practiced in the present world, if it has to remain the “…rule of the people, for the people and by the people," then a reflection on who the people are will reveal that they are neither men nor women exclusively, but both. Democracy is the form of government in which both men and women are involved in governing themselves. Thus, "…if women are still commonly excluded from full participation in economic, social, cultural, and political decision-making," then this becomes a vague kind of democracy. True democracy, thus, can only be reflected where both men and women are consulted and involved as equally as possible in the economic, social, cultural and political issues of their societies.

### 2.8 Concluding Remarks

From the above discussion, it should be realized that women, if empowered, have a greater part to play in the development of their community and country as a whole. It is further noted that despite their limited position, they have given their best in their various fields of operation. It indicates that, if given equal opportunity as men, women's contribution will rise as a result of their being involved in the societal matters. This situation makes women's empowerment imperative.

Nevertheless, as already noted, the position of women, is complicated by a social problem arising from patriarchal mentality occasioned by various structures which in effect have affected their empowerment. Among these factors are religion,
colonialism, false consciousness and culture. Culture, as Joshua Akong’a has pointed out "...provides individuals in society with guidelines for behaviour, specifying prescriptions and proscriptions...culture therefore moulds and shapes perceptions, attitudes, tastes, needs and aspirations among others."97 Whereas this is true, such conditioning and expectations are sometimes accompanied by discriminations which in most cases affect the individual negatively. Such is the case of cultural discriminations in education and property ownership.
Endnotes

5 Ibid.
7 Bystydzienski, op.cit.
8 The Longman Dictionaries, op.cit.
14 Longman Dictionary, op.cit.
16 Ibid., 9.
19 Masinjila, op.cit.
20 Yassine Fall (ed), Africa: Gender, Globalization and Resistance (AAWORD Book Series, 1999), 1.
21 Moi, op.cit., 111.
27 Ibid.
28 Ibid.


Longman Oxford Dictionary

Janice Peterson and Doug Brown op.cit., 8.


The term is used by Shorter to imply reproduce or re-create.

Aguda, op.cit.


Ibid.

Tursken and Holcomb, op.cit., 106.


Torjesen, op.cit, 3.

This is an experience found in most local catholic churches. The case of women catechist is very recent and not found in many places.


According to Marxist theory of communism, private ownership of property is the beginning of subjugation.


Nang'oli op.cit., 82.


Patrick Uchendu, op.cit., 20.

Ibid., 21.


Longman Dictionary, op.cit.

Ibid.


This phrase was used by Jean Paul Sartre to refer to inauthentic existence.


Ibid.

Ibid.

Ibid.
Ibid.
75 Ibid., 62.
76 Kim Atkins (ed.), Self and Subjectivity (UK.: Blackwell Publishing ………….), 238.
77 Peterson and Brown, op.cit., 6.
79 Ibid.
80 Akeroyd, op.cit.
82 Kabira and Masinjila, op.cit., 39.
86 Vasques y Tamayo, quoted in Turshen and Holcomb, op.cit., 106.
88 Kabira, Oduol and Nzomo op.cit., 9.
90 Ibid.
93 Kabira and Masinjilai op.cit., 38.
Chapter Three

3.0 A PHILOSOPHICAL EVALUATION OF WOMEN DISCRIMINATION IN EDUCATION IN KENYA

3.1 Introduction

Education is the process by which one acquires knowledge, values, attitudes and skills necessary for him or her to fit in society. It enhances one's social status as well as development of his or her personality. Through education, an individual is prepared to take up his or her respective position within a social setting. Such positions were prescribed in the indigenous African societies, and it was the responsibility of a community as a whole to ensure that each member was well prepared for it. In today's world, however, “social positions or status can be achieved through competition and formal education is recognized as one of the tools for achieving social mobility.”¹

This fact makes education a vital tool for survival in today's world, not only for an individual person, but also for individual nations and the world as a whole. Although education is intended in the first place to improve an individual person, however, it becomes not the responsibility of an individual but the responsibility of the community at large. This is because an individual is part of the society. It is from this realization that the government of Kenya in 2003 made the primary education free for all. This move was necessary as it confirmed the centrality of education and the country’s effort and commitment to make basic education available to all its citizens. This indicated that the case of cost-sharing in education as it had been the case in previous years, denied others, especially the poor, the chance to acquire basic education. With free primary education, therefore, the government encourages its citizens to have formal education.
Nevertheless, it has been generally observed that the education of the ‘girl-child’ is generally not held with identical level of seriousness as that of the ‘boy-child’ in most African communities.\textsuperscript{2} This warrants an inquiry into why the education of girl-child and not boy-child, and why particular to Africa? It necessarily follows from this that there are some cultural factors particular to Africa that makes girl-child education not to be held with identical level of seriousness as that of the boy-child. With reference to Kenya, this chapter seeks to establish the facts about the discrimination of women in education. The chapter looks at the position of a woman in the traditional African societies and how she has survived in various educational systems. The chapter also aims to establish the various reasons and causes of discrimination and its implications on women’s lives as well as the society as a whole.

### 3.2 Education

Education comes from the Latin word \textit{education}, which is derived from the verb \textit{educare}, which refers to the “general process of growing up, of rearing, of bringing up.”\textsuperscript{3} Education, in this context, thus means looking after, or taking care by providing necessary requirements to necessitate the process of growth. In its early use in the Roman and Greek world, education “primarily referred to the physical process of rearing but not excluding the mental process…”\textsuperscript{4} It is a process that encompasses and ensures both physical and mental growth of an individual. In this context, education has been defined as the process by which one's mind develops through learning.\textsuperscript{5} With education, it is assumed that an individual’s mind is empty at birth, but develops as one grows and is exposed to various ways of learning. Learning is a process that equips one's mind with knowledge. It is a process that begins at the time of birth and ends with death.\textsuperscript{6} Learning thus is an unending process.
According to George Eshiwani, "education has a function of transmitting skills, knowledge, norms and values from generation to generation; also everywhere; it has the function of the formation of social personalities." Education as a process, therefore, is aimed at equipping one with the necessary tools to explore his or her environment, as well as forming his or her personality on how to relate with the same environment, and fellow human beings. In other words, education prepares one to live effectively and efficiently in his or her environment. It necessitates the comparison between the past situation and the present with the aim of preparing an individual for the future.

Education can be said to be a very patent factor in social and economic development. Through education, individuals become more aware of issues, more adaptable to change and less passive to their conditions. It is a revolutionary process that enables one to see where society has gone wrong, and take concrete steps to shape the future. Education changes an individual and his outlook; it is a movement, according to Plato, from the cave to the light, as one tends to see things in their totality. It is “the progress of the mind from the lowest state of unenlightenment to knowledge of the Good…” This means that education as a process enables one to make independent and right judgment in regard to issues of life such as morality, justice, freedom, peace, among others. Education, in this sense, opens up one’s mind to reality so that he or she can make sense out of what he or she experiences. It implies an evaluation of what one holds as true with an intention of proving its truthfulness.

In relation to this, R.J. Njoroge and G.A. Benaars have advanced what they call four dimensions of education. These are cognitive, normative, creative and dialogical
dimensions. Cognitive dimension has to do with the “process of knowing, understanding, and learning something.” Education, thus, becomes a process of acquiring some form of knowledge. This form of knowledge, however, has much to do with mental development. It is the kind of knowledge “supposed to be concerned with reason and intelligent.” Being critical is a central aspect of education as cognition. Through education, an individual transcends beliefs, myths, assumptions, or conventions thereby relying on what come as a result of critical or rational deliberation. Education in this sense according to John Dewey, brings about the “development of critical and creative intelligence.”

In the normative aspect, education becomes a process through which an individual is formed into a social being. An individual, as a social being implies the relationships and interactions between human beings. No human person exists as an isolated entity, but rather exists in a community of people which, demands constant interaction. Such interactions are only healthy when an individual knows the norms that make up a healthy relationship. This has to do with the dos and don’ts. As a normative enterprise, education, therefore, concerns itself with how “…to identify and justify the standards or criteria of what is morally right, wrong, obligatory, and so on.” This implies that education imparts into an individual the knowledge of what is good for him or her as well as for the whole society, or the utility of his behaviour as well as actions; it also has to deal with the aims and goals of the community as well as teaching ones duty in the society. As Dewey further points out, education requires “a transformation of the quality of experience till it partakes of the interests, purposes, and ideals current in the social group.” Through education, an individual is formed to fit into his or her social set-up.
The creative dimension as propounded by Njoroge and Benaars points to education as growth to imply “a process of growth whereby the individual child learns-through experience-to adjust himself to his environment, be it physical social or cultural.” This asserts the psychological change or transformation that accompanies the educational process. The understanding here is that education brings about some psychological growth that orientates an individual towards objectivity as opposed to subjectivity. It makes one more accommodative and acknowledging of others. This means adjusting oneself to the environment, and not adjusting the environment to oneself.

Lastly, there is the dialogical dimension of education. Derived from the concept of ‘dialogue,’ it presupposes the social aspect of education where “education is seen as a dialogue.” Here, the function of education is to develop one’s personality so that he or she can adjust to the environment in his or her own way. The individual’s uniqueness is important here in that as individuals are not the same, so will be their contribution to the society. The dialogical dimension ensures that each member of a community has to develop to the best of his or her ability in order to contribute fully towards a social setting.

In all these, we concur with Njoroge and Benaars when they say that the concept of education is complex, general and relational. Education cannot be pinpointed to one aspect of an individual’s growth, but it encompasses many aspects such as intellectual, moral, and social aspects which define an individual. These aspects cannot be approached singly, but in relation to one another, with the purpose of
transforming the world for better. A knowledgeable person, as Plato observed will always choose and do what is right, thus act for better.

3.2.1 Indigenous Education

Indigenous African education was the kind of education offered within the various African communities prior to the coming of Arabs and the Europeans. Indigenous education here refers to the fact that this form of education was produced, grew and practiced within the African set-up. It was particular to Africans and to their way of life. It was a product of people’s culture. In this context, there was no single indigenous form of education in Africa. Each society developed its own system of education to transmit its own particular knowledge and skills to its members. This was due to the differences in culture occasioned by differences in geographical locations. To this end, Horton comments that “African educational thought is the product of a closed society, which tended to preserve and value the traditional knowledge of the past.” This shows that indigenous education did not open up to foreign ideas. It was marked by a repetition of issues as the content, objective and methodology was more or less the same from time to time.

The main objective of indigenous education was to inculcate a sense of social responsibility of the community to individuals in order to become contributing members of the society. This education was marked by an elaborate division of labour with its main feature being apprenticeship mode of learning. Boys were brought up to take to whatever occupation their fathers and male members of the society engaged in such as being blacksmiths, hunting, gathering and farming. Girls, on their part, were often expected to stay back home to learn domestic duties such as cooking, sweeping,
weaving, among others from their mothers and other female members of society. The knowledge learned by an individual was preserved and without distortion passed on to the offsprings or next generation. This preservation indicated that the society controlled what was to be passed over at different stages of an individual’s growth. Njoroge and Benaars further comment that

> The acquisition of knowledge, and therefore of power, through indigenous education was very much socially controlled. Knowledge was seen primarily as a social phenomenon, inherited from past society and to be transmitted without much questioning to the future generation.\(^{21}\)

It can be said that traditional education was the process by which every society attempted to preserve and upgrade the accumulated knowledge, skills and attitudes in its cultural settings and heritage to foster continuously the well being of society. Knowledge in the cultural setting was not just knowledge, but it gave an individual power and prestige as it was part of initiation into the societal life as a member.

The content of the curriculum of traditional education included the necessary knowledge to better the individual, and was based on the philosophy underlying the various work responsibilities within the society. It was quite pragmatic in that learning entailed doing, and was designed to form a gateway to the life of the society. It trained individuals to fit usefully into the society by learning and practicing economic skills for self-sustenance, adopting to their role expectations and contributing to the development of society. Joyce A. Asiimwe grounds this opinion saying,

> From the African homestead, which was the school before colonialism, children were taught their different roles in society. Girls were taught the art of domestic work and the organization of the household in preparation for their role as future housewives and ‘homemakers.’ As for boys who were perceived as future ‘bread winners,’ they had to be involved in productive and defensive processes.\(^{22}\)
From this, one notes that both men and women had access to this kind of education, although different in the content of what each learned. Each individual knew exactly what was expected of him or her and it was just a matter of learning how to cope. Since the well being of the community was the end, and education did not have any personal gain, every member in the society was contented with whatever was offered in the syllabus.

Nevertheless, Odusola Dibu Ojerinde and Kagode Aloa note that the content of this informal education was designed to promote and sustain male supremacy, and on the other hand to make girls submissive and later to become mothers and housewives. They observe that girls in the system were brought up to be passive, obedient, and submissive to men. Boys, on the other hand were reared to be aggressive, competitive and independent minded. This was in accordance with the nature of responsibilities that boys and girls were expected to perform in future. The aggressiveness expected of boys could be linked to the responsibilities such as hunting which did require sharpness and quickness in acting. Such orientation was necessary in the setting as the environment that boys were later to be exposed to was more hostile than that which women were later to occupy.

3.2.2 Formal Education

Formal education refers to the kind of institutionalized learning by which an organized body of knowledge is passed on through class instructions. More specifically it is “…where the learning and teaching activities are formalized into a classroom situation.” This kind of education, unlike the informal education, is structured and follows an organized syllabus for the different stages that make up the
whole system. It was characterized by evaluations in form of examinations at the end every stage which determined whether the individual had mastered the necessary knowledge or training particular to a given stage. In this respect, individuals were categorized according to the performance in evaluations. Particular to this formal education also was the awarding of certificates at the end of every curriculum to indicate ones successful completion of it.

The introduction of formal education in Kenya, as in other parts of Africa was done by two groups of people, namely, the Arabs and Persians on the one hand and Europeans on the other. The Arabs and the Persians were the first to come to Kenya around 700 AD, and introduced specifically Islamic education with the aim of instilling Islamic faith and religion to the natives. The system, as some scholars observed, did not so much concern itself with the intellectual well being of the individuals but rather concentrated on their moral and character formation in accordance with the Islamic faith. According to Sorobe Nyachieo Bogonko, Islamic education “…trained the learners in sensibility and discipline in a manner that whatever they did and felt, they were governed by deeply felt ethical values of Islam.”25 From the already discussed dimensions, education is more than discipline. It has also to do with cognition, which means improvement in reasoning. Proper education has to include all the dimensions; cognitive, normative, creative and dialogical. In this respect, it can only be said that what was important to the Africans from Arabs and Persians was contact with the outside world. This, by itself, had an influence on their way of looking at reality. Njoroge and Benaars comment, “traditionally, Islamic education has always been greatly concerned with the transmission of Islamic religious values; as such, it provided the required socialization
and initiation into the Islamic way of life that is similar all over the Islamic world.”\textsuperscript{26}

The Africans who had access to this kind of education, therefore, became part of the worldwide Islamic world. This had much to do with faith and not reason. This means that Islamic education did to improve Africans intellectual wellbeing.

The second phase of formal education in Kenya is traceable to the efforts of European missionaries around 1846, when the Church Missionary Society established the first school in Rabai near Mombasa. Education at the time was considered to be of instrumental importance to the spread of Christianity, yet another religion, and thus education introduced was interwoven with the Christian evangelism. Schools established at the time were projected towards promotion of Christian faith through the formation of catechists, although later they developed to become instrumental in producing skilled labour for the settlers’ farms and clerical staff for the colonial administrators. The syllabus of this kind of education so far was geared towards producing morally upright persons who could fit in a Christian society and also an educated individual to take up responsibilities in the colonial government.

Nevertheless, the missionaries seemed to have borrowed heavily from the patriarchal African culture in order to make their missionary work successful. How they handled men and women did not so much differ from the prominent patriarchal tendency at the time. What comes out clearly is that missionaries and their western education seemed to have considered men as being more important than women in their missionary work. As Phiri, Govinden and Nadar observe, "it is no secret that women were not invited in the 18\textsuperscript{th}-19\textsuperscript{th} century missionary enterprise by the male-led churches and mission societies and boards.”\textsuperscript{27} Since most of these missionaries were men, they
seem to have considered African men as well disposed to further their work, and encouraged women to embrace domestic responsibilities. Through this tendency, they gave men a starting advantage over women as they were enrolled first. Edith Mukudi notes,

The men were identified as the target group and thus became the initial beneficiaries of formal schooling...while the men learned the basic 3Rs (Reading, Writing and Arithmetic), women converts would be brought together and taught how to be good wives, cook well and keep the home environment tidy.

In line with the traditional African thinking, the Europeans considered women's place as within the home, while men as belonging to the public domain. In training women in cooking and how to keep their home tidy, the missionaries seem to have thought of women only in terms of marriage and nothing else. Women in turn saw formal education as a reserve for men and any woman who defied societal expectation and went to school were not so much respected in the society. Mukudi further commented on this saying, “the girls themselves take a share of blame for their attitude. One woman who defied the odds and went to school mentioned that her own sisters laughed at her saying she will take so long in school that she would end up missing a husband.” By socializing them as those who belong to the kitchen and to look after the family, women had to believe that education is a waste of time, and in any case delayed one from taking up her expected position in the society. This can be seen as what Bacon refers to as idols of the cave. He explains that the mind can be corrupted or distorted from receiving the true knowledge by ‘false phantoms.’ He explains that the idols of the cave “…suggest the limitations of the untrained minds, which is shut in the cave of its own environment of customs and opinions, reflecting the …ideas (one) considers significant, and the intellectual authorities to whom he defers.” In this context, the women’s epistemological orientation had been affected by the societal orientation that had come to associate marriage and ascribed roles as the
ultimate end for women. On this account, women lagged behind due to ignorance from both the society and women themselves.

Furthermore, as more and more men were attracted to missionary or formal education, it encouraged the missionaries to reciprocate the effort by building more boys schools than those of girls, hence, enrolling more male children than female. This gave men more chances than girls in pursuing education even to higher levels. This meant that even if women had been encouraged, there was limited room or places for them. This situation was inherited by post-independent Kenya which sought to redress all the ills that existed then in the education sector. The post-independent government started by establishing more girls’ schools to cater for the disparity between female and male students. It also embarked on reworking both the education system and the curriculum to fit both male and female students. This effort has seen a remarkable improvement since independence with the number of girls being enrolled in formal education increasing considerably.

Nevertheless, the number keeps on reducing as the education level advances from primary to university. In this respect, although there is almost the same percentage of girls as boys in the primary schools, the percentage has reduced in the secondary, and reduced even further in the higher education. For example, Nzioka and Waihenya noted that out of 260,665 students who sat the Kenya Certificate of Secondary Education in the year 2005, 46 percent were girls compared to 54 percent boys.\(^31\) They also noted that some regions of the country had higher parity than others. For example, North Eastern province had 26.92% of girls to 73% boys, While Nyanza
39.71% to 60.29%. They further established that women performed well in arts and languages whereas boys excelled in science.

One, therefore, can ask why some places had the higher parity than others, and why the difference in performance in regard to subjects. Indications are that rural places are the most affected with the problem of gender disparity than the urban areas. Horton says that “within a closed society, members are often not open to alternatives, and tend to be conservative…” This implies that a closed society is not open to new ideas that might come with the interaction with the individuals from other cultures. Urban people are prone to external influences as this is normally the centre for different people of different cultural background.

3.3 A Critical Analysis of Women Discrimination in Education in Kenya

The previous section analyzed different education systems: traditional, indigenous, Islamic and European. In the analysis, we noted that each system was marked with a distinctive approach, content, and objectives. These approaches, contents, and objectives also applied to male and female students. How and what female students were taught differed from what and how males were taught. About the indigenous education, Asiimwe observes that,

Without disputing the fact that education at that time provided knowledge, skills, value and morality that were conducive to multi-skilled cultural and economic production, it is important to note that the educational package for boys and girls was structurally different and rigid.

Whereas there was a difference in what the two learned, one fact about the indigenous education was that each individual was trained in what was necessary for his or her future role in the society. The fact that women were discriminated against the training
that involved independence of mind, competitiveness and the outside orientations, can be contested on the ground that men also were discriminated from participating in training and roles particular to women. This makes both men and women victims of discrimination in the traditional African society.

Proper discrimination of women in education, however, was noted clearly with the coming of formal education. Both Islamic and Western Christian education displayed open bias against women both in the content of what they taught, how they taught, the infrastructure and enrollment. Asiimwe contends that the post-independent situation is an extension of the original colonial situation. Girls lag behind in education because during the introduction of formal education, schools for girls were established late, and that women were also discriminated within school establishments and the content of what was taught.\(^{34}\) Whereas male students took up technical and science subjects, female students were encouraged to pursue arts and subject related to domestic affairs.

Mukudi’s opinion is that ”this pathetic situation is attributed to the retrogressive cultural practices in which education of girls was not (perceived) as a priority.”\(^{35}\) If the subordination of women was peculiar to the westerners, the Kenyan government would have addressed the situation. Although physical factors as late establishment of girl schools militated against women's education, they only point to some cultural beliefs in which women are not favoured. This is due to the fact that post-independent Kenya saw the opening of opportunities for access to education for both men and women, with the central concern of achieving equitable distribution of educational opportunities.\(^{36}\) The fact that this effort has not been fully realized
implies that women were not only victims of discrimination in the introductory stages of formal education, but even in the post-independent times. If discrimination of women was introduced by the missionaries and colonialists, then there should be a system in the African society that has maintained this discrimination in that even more than four decades after independence, discrimination still persists in Kenya. The reasons for this can no longer be attributed to Europeans alone, but to the Africans’ own way of life.

3.3.1 Women: Where Do They Belong?

The place of male and female children in the patriarchal societies varies. In light of the marriage institution, women are not considered full members of their biological families, but only as temporal residents. In her father’s home, a girl “was a visitor who would one day go a way.”37 Women’s stay is for a while as they wait for the rightful time to move to where they belong. It is believed that once a woman has reached the right age to marry, she will join her husband and there she becomes part of his family, and participate in its continuation. Women were only members of their biological family until and upto the time they got married, after that, their membership shifted and they became strangers in ‘their home.’ This perception extended into matters pertaining to education.

According to Odusola Dibu Ojarinde and Kagode Aloa, "from the economic perspective, many parents consider female education as a waste of funds. Such parents are of the opinion that money spent on girls’ education becomes a waste as soon as she marries into her husbands’ family."38 For many African parents, education was seen as an investment in human capital and parents seem to be motivated to
invest in education in view of its long term benefits. This is in relation to their own future as well as that of the entire community. The understanding here was that male children did not leave their original home, but they got married there, established their families within and participated in its management and the management of communal property. From this cultural background and belief, one comes to understand that one’s judgment of women in education was not based on their intellectual disposition, nor their biological or physical make-up, but rather was a result of some external conventions that militate against them.

Nevertheless, one point to note is that the institution of marriage comprises two individuals, a man and a woman. In this respect, marriage between a man and a woman automatically leads to the formation of a new and independent family. Whereas children were obliged in the African culture to be responsible for their parents in their old age, once they got married, their first responsibility was to be towards their new family. This is not only the responsibility of women but men as well. The issue of male children being permanent residents in their biological families, and managers of family property was shortsighted. It implied that with marriage, either men got responsibility of looking after two families or that they concentrated on their parents and left their own families for wives to run and manage. This in itself contradicted the traditional family set-up where men were to take responsibility.

One thing that seems to be ignored is the fact that educated men will opt to marry women of their standard in terms of education. In turn, the same parents who do not consider their female children to be educated will expect their daughters to marry
educated men. These expectations from both parents and male children leave women, who are uneducated in a dilemma. If a woman failed to get married ultimately, then her situation is even worse in her community. In such circumstances, women become victims and losers by being denied both education and chance to get married. From a philosophical perspective, such dilemma can be countered effectively by a counter dilemma in which men are challenged either to stay single or get married to educated women. Whichever option they take, it will demand sacrificing their culture.

Even if women end up getting married, it is not always that marriage is permanent. Marriage is a mutual agreement between two individuals who decide to stay together. An agreement is not necessarily permanent, it can be broken. In such cases, or when marriage can no longer be sustained, men who are considered as permanent residents will have nothing to lose, whereas women will lose both the marriage and the home. This becomes another dilemma for women. The only safe place that women with broken marriages will opt for is to return to their biological parents’ home. This implies that even if women are considered temporal family members in African culture, they also in some cases become permanent residents in their parents' homes and in effect they might as well be considered as security to parents and community because their husbands’ places could not sustain them. Their settling in with their parents will mean that they also take the role of looking after their parents. This is due to the belief that children who are near their parents should assume such responsibilities.

Furthermore, even the belief about male children being permanent residents and security to their parents on the ground that they do not move out of family property
can be contested. The way of life has tremendously changed. The shift from traditional African socialism, which placed emphasis on the community to modern capitalistic society that places emphasis on an individual has seen the death of communal property replaced by private property as it will be explained in the next chapter. What used to be communal property that attached individuals to their communities and families has disappeared, and now each individual struggles to acquire his own property and the community does not take care of him any more. The property ownership is neither restricted to place or relationship, but an individual can own property anywhere depending on its availability. In this respect, the communal property for which men were to be educated in order to safeguard is no longer there. It is not obvious that these male children will be there for their parents in their old age. Experience has shown that some male children have neglected their parents, while some female children have taken care of their parents in the old age. This indicates that the issue of ones responsibility over his or her parents and property is not dependent on education or any outside influence, but it is in the nature of a person. It is something an individual cultivates and not taught and, therefore, not particular to men as such but to human nature.

3.3.2 Women and Bride-Wealth

The issue of bride-wealth and the manner and intention in which it was given and received has attracted contradicting reactions. According to Musamaali Nang'oli, bride price was the act by which the groom and his family gave various gifts to the family of the bride. It was a way in which the family of the groom said to the family of the bride 'thanks for giving us such a beautiful girl.” The manner in which it was given, and in which it was to be received was to be understood as an appreciation. For
Laurenti Magesa, bride wealth was "a form of thanksgiving to the wife's people for the care they have taken of their daughter. It fosters and solidifies bonds of relationship that are difficult to sever."\textsuperscript{40} This act, it is said obliges a man to take his marriage and wife seriously. Florence Dolphyne Abena has observed that in the patrilineal societies, bride-wealth was generally a bit high.\textsuperscript{41} This was meant to compensate for the girl's services that her family would miss with her marriage, and that she would have children for the man's family and ensure its continuity.

In line with these views, giving and receiving of bride-wealth has been interpreted as buying and selling of women.\textsuperscript{42} The circumstances under which it is given and received, and the manner in which the transaction takes place, suggests to this reasoning. Most communities look upon their female children as a source of wealth and not as human beings and members of the family. Suzanne Jambo notes that “…once a man could ‘afford’ a girl’s dowry or bride price, she is expected to succumb to this and be taken to her new family.”\textsuperscript{43} The belief was that once girls were of age, they would ease their families’ economic problems including payment of their brothers' bride-wealth. Jomo Kenyatta says that in the African society, it is understood that every girl "will be married and bring wealth to her family so that a poor brother can find the guarantee necessary for marriage."\textsuperscript{44}

On this account, most parents did not take education of their female children seriously, or only allowed them basic education necessary to make them responsible wives. Parents who educated their female children to some higher levels did so knowing they will be compensated in terms of dowry. Educating a girl child was considered as a way of multiplying investments through the bride-wealth which tend
to increase with the level of education. Low level of formal education, for example, if the girl only attained primary education means that her parents did not spend or invest much in her, thus she is not worth much. Highly educated women, for example, those with university education meant that their parents spent quite a fortune on them, thus, it is worth to compensate them. This is confirmed by Dolphyne Abena who further pointed out that what is given by the man, or in some cases demanded by the in-laws from him as bride-wealth is determined by various reasons, among them the status of the woman, namely whether or not she has had any formal education, and if she has, what level she has attained.45

In Bukusu culture, for example, during the time of negotiating bride-wealth, the prospective husband, or his family first has to pay all the costs incurred during her growth and in education, before the fixed bride-wealth is discussed.46 John S. Mbiti challenges this observation saying, "…parents demand costly marriage gifts in view of the fact that they spend their wealth educating their daughter in modern schools. They forget that it also costs the parents and relatives of the bride-groom to educate him."47 If bride wealth is considered as gifts as it is claimed, then it would depend on the giver of the gift to determine its worth. In this case, bride-wealth cannot be claimed to be a gift or it has outlived that meaning. A gift, from its general meaning is that which is given48 and is neither asked for nor determined by the receiver. It is given freely and that is where its worth lies. Its value is not material, but in the intention.

Given this understanding, the culture of bride-wealth seem to have played a significant role in determining the education of female children in Kenyan societies. In some tribes, for example the Maasai of Rift Valley and other nomadic
communities, would-be husbands engage even the unborn baby-girls for wives, and payment of bride-wealth starts with that engagement. They call this tradition, 
esaiyata.\textsuperscript{49} In such cases, girls hardly enroll for primary education as the decision on when to marry lies with the fiancée and the girl's father. It has been experienced that in some circumstances, for example where the family cannot afford to educate their male children with the available resources, girls are taken out of school to be married so that the bride-wealth can be used to educate their male siblings. Female children in these cultures exist as investments which can be disposed of whenever the need arises.

3.3.3 Education and Employment

The advent of formal education in Africa also introduced the concepts of employment and unemployment. The converts to the Christian religion who were the first beneficiaries of missionary education were employed either as teachers, catechists, or clerks in the colonial administration. Most of them, however, were men. As this kind of education expanded, more and more men were employed giving them some financial base to support their families. This experience portrayed male children as more valuable than female children. It also seemed to concur with patriarchal African culture which placed more value on male children than female. This encouraged African parents to concentrate on educating male children with the hope of being repaid after they were employed. George Eshiwani puts this clearly that

"The perceived link between education and employment in an economic system in which males have had a better prospects for wage jobs in the formal sector may have provided additional economic considerations in educating sons ahead of daughters."\textsuperscript{50}

This view is further supported by Gita Gopal and Maryam Salim who explain that "in a society like Kenya's, with deeply rooted cultural values, when families are faced with hard choices such as who to educate with scarce resources, girls come second."\textsuperscript{51}
The combination of the two cultural beliefs, that male children are social security to parents in their old age, and that female children are not permanent members are used to strengthen the importance of educating boys more than girls. Parents have known in the pre-colonial, colonial and even in post-colonial periods that men are strong and hard working, and when educated, their chances of employment are high in the modern society.

Through experience, women have been known to be fragile, delicate and in need of the protection of strong men. To the Africans, the missionaries and colonialists confirmed this by excluding them from both formal education and employment. It had been experienced that even after being educated in the post-colonial period, most women did not access formal employment, but rather ended up marrying and in some cases, their education did not benefit their parents, but their husbands’ families. This, to some extent discouraged some parents from investing in female children, which in turn formed the basis of discrimination against women.

Socrates, however, had said that "the good is the rational end of all our actions. It is for the sake of it that we do everything we do, and we do not do it for the sake of anything else." Education in this case is not taken for its own sake, but seems to be dependent on some material benefits. Education for its own sake cannot be measured in terms of material gains, but in the light of intellectual growth. Ludwig Wittgenstein, an analytic philosopher, clarifies that what one acquires through education is "not a technique; one learns correct judgements." Education, therefore, cannot be focused towards employment, but employment can only come as a result of correct judgment that seeks to improve women's lives and hence entire society.
Aka Kouama links advancements in education to access of formal employment saying that as one's level of education advances, his or her chances of accessing salaried employment expand, while the reverse reduces even the chances of self-employment.\textsuperscript{56} Formal education, thus, becomes a prerequisite for the formal employment and survival in today's world. Characterized by different levels and training, education determines the kind of employment that one accesses or gets access to according to the standard of education he or she has achieved. However, men were the first to access formal education, and thus formal employment, and this put them a step ahead of women in the quest for better employment. This does not imply that they are better than women. Formal education in Kenya was established on the already existing patriarchal culture that provided fertile ground for the advancement of male children. Nobody has wondered what would have been the case if women and men had equal opportunities to education at its introduction. As Zeno of Elea paradoxically explains in \textit{the 'Stadium' and the 'Achilles,' }however faster a runner Achilles can be, he cannot overtake the Tortoise who seemingly is the slowest runner but has a head start advantage.\textsuperscript{57} Women, because of being neglected in the initial stages of formal education were disadvantaged. As Achilles cannot overtake the Tortoise because he must always cover the points already covered by Tortoise, logically, it means that men will always be ahead of women. Nonetheless, if both men and women had been given equal opportunities in the beginning, the assumption is that both would have had equal opportunities to prove their worth, to access formal employment and thus contribute equitably to the economy of their societies.

Fomunyam, Tambi, Ndoping, and Daba, in their research on \textit{Discrimination in Formal Education, Labor Market and Access, Job Progress and Job Compensation in}
Cameroon, found out that "formal education boosts labor market access by 32%. Males have a higher rate 22.2% than females to acquire jobs. Work experience accounts for 18.6% of the rate of job acquisition." If women do not have equal access to formal education as men, how are they expected to access labour market and the necessary job experience and to give the same output as their male counterparts? Epicurus propagates in his moral principle, "nothing is created out of nothing." This philosophically implies that no one should expect something from nothing. If parents do not educate their female children, it is hard to expect them to access employment and in turn be of benefit to society.

3.3.4 Women, Education and Marriage

In most African cultures, marriage and its obligations occupy a position of utmost importance. Marriage is "the very backbone of the community and the core of the African family's interpersonal and social structure." Each individual in the society is expected to marry and contribute to the expansion of his or her family. The life of an individual, therefore, is directed towards fulfillment of this noble duty. As John S. Mbiti has pointed out,

\[\text{...Marriage is a duty, a requirement from the corporate society, and a rhythm of life in which everyone must participate. Otherwise, he who does not participate in it is a curse to the community, he is a rebel and a law-breaker, he is not only abnormal but underhuman. Failure to get married under normal circumstances means that the person concerned has rejected society and society rejects him in return.}\]

Marriage is sacred and was guarded by customs and taboos. Even individuals, who would not have married under normal circumstances, the society encouraged such individuals to marry eventually. All the training and education that an individual received right from childhood was intended towards the fulfillment of marriage. Precisely, Marriage was the focus for existence. Terms such as spinster or bachelor
were hardly heard of, and if there were any case of such, the general attitude towards such women or men was that they were incomplete beings and unfulfilled persons.\textsuperscript{63} Such feelings were not only directed to the individual persons, but their families as a whole. A home with an unmarried individual was looked down upon, and parents were considered to have failed in bringing up their children properly.

With this perception, all the efforts necessary were made to ensure that no individual went astray. Behaviour that seemed to threaten the orientation towards marriage were highly discouraged and all the foreign influences that seemed unfamiliar were not easily accepted. Formal education, therefore, was treated with suspicion since it was alien to the Africans as it had only been introduced by the missionaries. It was considered a process that harbored foreign influences borrowed from other cultures which would threaten and interfere with the marriage institution. The general observation was that formal education was harmful to women as it would destroy morals, traditional values and norms that held the African community together.\textsuperscript{64}

According to Saud Ibrahim Abdi, “traditional notion of the resentment of girls’ exposure to higher education is justified on the grounds that girls should not live among strangers as they can be easily exploited.”\textsuperscript{65} Of particular importance was the observation that the first women, to access this kind of education were approached suspiciously especially on the issue of marriage. Such women were considered to have had foreign influence and in view of their educational background, their new role was perceived to be incompatible with their traditional role, thus, it was difficult for them to get married. This situation came about because initially, formal education was seen as a male venture. A woman who excelled in it was considered not normal,
and was not respected at the time. Even those men who would have been suitors cautiously avoided such women as they were not comfortable with the challenge. These coupled with women's own desire for education caused such women to stay single, thus, causing discomfort to their parents and the entire society. Njeru Kang'ethe explain this fact:

With the advent of education and a change in women's status, more and more women in Africa are opting to finish their education and pursue careers before settling down to marriage. The result is that women are getting married at a more advanced age than previously, and some, due to long years of study and hard work (sometimes in foreign countries) have missed the chance of ever getting married. Others have opted to devote their lives to their careers and professions, and to remain single by choice. Despite these drastic changes in society, the family and society seem to have been caught unawares by the emergence of the older single women who choose to remain single. There was no provisions made for this situation, no checks, no controls no cushioning available to absorb any attendant cultural shock.

This points out a particular problem brought to African social set-up by education, and the dilemma most parents found themselves in. Whichever way women opted in education, it seemed to interfere with their marriage, and therefore, became a societal issue. The only alternative for most parents to cope up with such problems was to respect tradition by denying their female children education.

Nevertheless, a critical examination of the situation reveals some cultural bias against women. Men, who were the first to access western education were allowed and even helped to get married, and particularly to the uneducated women in the community. When women got access to education, they were looked at with suspicion and at the same time not even being helped to get married. One is compelled to ask why there is such a negative cultural influence that women would be exposed to and not men? The system of courtship and marriage in traditional African society favour men over women. For example, when a young man in the society is ready for marriage, the community as a whole takes the initiative of courting. In most cases, a woman is
identified and a group of relatives is sent to negotiate on behalf of the man. They talk with the girl, then the girl's family and relatives, negotiate bride-wealth and even pay it. In short, if a man wants to get married, the process becomes a community affair. This, however, is not done on the side of a woman. Women instead had to be passive and wait for men to identify them and ask for their hand in marriage.

One thing that society fails to understand is the fact that if all women are educated, its men will have no option but to get married to them unless they also stay single. The institution of marriage is not there only for women, but for men as well. Women's failure to marry implies that men also remain single. There is a material equivalent in this situation in that for a man to be called husband, the condition is that he must have a wife. Likewise for a woman: she must have a husband to be called a wife. This means that if all women in the society are educated, then they would not lack husbands as the men or the society will have no other option. However, if some women will be educated and not others, then it implies that men will have alternatives and will not be conditioned to marry educated women.

### 3.3.5 Women, Stereotypes and Domestic Duties

Culture provides an individual with guidelines, by proscribing and prescribing what to do, and not to do. It also moulds ones perceptions and attitudes. Culture defines what is right and what is wrong; it allows and prohibits certain actions and behaviours. In culture, an individual learns necessary skills and knowledge to perform certain duties, while through prohibitions, it restrains an individual from performing certain activities. This aspect of culture created the so-called division of labour in which it prescribed some duties to be fit for men and others to be performed by women. In this
respective, African culture has prescribed all the domestic chores to women, while assigning men the public sphere. To this understanding, women were to deal with duties that were termed beneficial and to the well being of the family, while men dealt with affairs that went beyond family organization to the whole society. Men’s duties therefore, were societal affairs. This has seen women described as belonging to homestead, or private domain. As Jomo Kenyatta clearly puts it "the women are essentially the homemakers, as without them there is no home." Women are seen in terms of what they are for, and not what they are in themselves. There is nothing wrong with domestic chores and doing what they entail but, unfortunately, the situation has been extended to determine the rest of women's life. One thing to note is that most of the so called domestic chores, unlike the other duties, are done on a daily basis, for example cooking, fetching firewood, water, washing among others. This implies that there cannot be any time that one would take leave from such duties.

Most female children in Africa are not exempted from such duties. This has affected their education as Eshiwani further notes "...when there are overriding family chores like looking after young children, or cooking for the family, it is usually the girls that are taken out of school to perform them." Female students are either taken out of school permanently, thus losing their chance for education, or temporarily every while, thus, affecting their performance and chances to advance. According to the research by Deborah Hope Kasente, female students generally have a low self-esteem and would tend to depend on others, especially their family members for encouragement and confidence so that they can advance in education and in other fields. This encouragement, which female students generally need in the Kenyan family is lacking. This situation is experienced in the daily lives where female
children are always called upon to assist with domestic duties while their male siblings take their time to study. This shows the perception that women belong to the kitchen has been internalized by women and in turn reduced their urge for studies.

Even for those in schools, this stereotyping still hounds them and they end up choosing subjects related to their 'proper' roles in the society. Kouama points out that "it is interesting to note that women choose subjects which orientate them towards jobs considered typically feminine." Looking for the confirmation of such observations, one notices that in the 2005 Kenya Certificate of Secondary Education results, girls performed very well in non-science subjects such as English, home-science, music and German while boys did very well in all science subjects. These views are further echoed by Asiimwe who observes that;

Expectations and lived experiences from family, teachers and other community members are bound to influence girls' decisions rather than their innate abilities. Different expectations lead to different experiences, which in turn pave the way for different achievements.

Society, through its stereotyping, has conditioned women not to explore their abilities, but rather to suppress them. In analyzing Kenya Certificate of Primary Education results between 2001 and 2004, Okech Okendo concludes that there is nothing unique to girls that would retain them in the kitchen. Girls, like boys can also compete for the high marks in the examinations. He notes that:

For generations, women have been holding the wrong end of the gender stick, but to belabour sexual stereotyping over and above all other considerations is to imprison the girl child in mistaken assumptions.

Women, through stereotyping, are looked upon in terms of the roles they play instead of who they are as independent entities from those activities. Whereas these so called traditional duties for women have followed them throughout their lives, what used to be specific duties for men have disappeared with time. For example, the protection
that men were expected to offer during the traditional days is no longer necessary since this can be effectively done by law. Hunting and gathering have effectively been replaced with employment, among other duties. Women, however, are stuck with their original domestic roles. These follow them even in their formal working place. Aka Kouama has noted that subordination and inequalities in the job market is built on the division of labour based on sex in the household as well as in the labour market. The two are related as the traditional division of labour by sex contributes to women's unfavorable positions in the labor market and the conflict of roles.\textsuperscript{74} This means that whereas men are evolving and changing with and adapting to time, women are stuck in their past.

3.4 Implications of Women's Discrimination in Education

Education has been equated with both personal and societal development. The development of an individual economically, politically and even spiritually is directly linked to the education standard of that individual. Education involves the all-round development of a human person. Likewise, the development of any community or society can be seen in terms of how developed its individuals are, and thus directly related to education. Inversely, lack of development of any kind can be associated with the lack of education due to ignorance. In this respect, former President Daniel arap Moi points out that "an ignorant nation is in a dangerous state, for ignorance is a debilitating disease, ignorance lowers the potential output of the community because low education attainment is a depressant to national progress."\textsuperscript{75} The implication here is that a nation with ignorant citizens is in a dangerous state. Ignorance means lack of knowledge or awareness. An ignorant person remains in a state of innocence as the mechanism to catalyze the ability to know is lacking, and thus, ignorance becomes a
deprivation which makes one incomplete; Incomplete in the sense that one cannot effectively fit into his or her society. Such an individual is a danger to himself or herself, as well as to his or her entire society.

Education, according to Otiende, Wamahiu and Karugu, "points to both individual and social development process which cause a person's intellectual, emotional and spiritual abilities to mature, thus, enabling him to fully participate in community affairs." It follows from this that education is concerned with one's ability to think and understand one's feelings, as well as his or her innermost self. In short, education is concerned with one's judgement and decision making. Right judgement and, hence, decision can be attributed to the right knowledge or education, while wrong or poor judgement and decision can be attributed to ignorance. As Socrates and Plato contend, "virtue is knowledge." Any human person who really knows what is right will likewise act accordingly by doing that which is right, while he who does not know is not in any position to make the right judgement and decision. In the light of Plato's idea that virtue is knowledge, everyone desires good things as well as to perform good deeds. Naturally, no one desires bad things. In fact, no one does wrong willingly. Wrong acts come about as a result of ignorance or not knowing what good is, or as he puts it, no one can search for what he or she does not know. A virtuous person (virtue is desiring fine things and having the power to achieve them) will always know the right judgement of what to do while an ignorant person will always arrive at a wrong conclusion as he or she does not know what is right or wrong. Ignorance is a disease that can only be treated through education.
Denying one education implies denying one a chance to develop his or her intellectual capacity and, thus, live a fully human life. This is interfering with one's capacity to make judgement and decision on moral, spiritual, political and even economical issues that arise in one's daily life. Any correct judgement and decision on such issues comes from an individual's awareness and understanding of his position and circumstances that surround him or her.

3.4.1 Case of Abortion and Prostitution

The issues of abortion and prostitution pose perennial moral questions that cannot be effectively addressed without raising controversy. In Kenya, the practices have been declared illegal and even condemned within religious circles, yet they persist. This creates a moral question between those who practice and support the acts and those who abhor and condemn them. Chukwu observes in the case of abortion saying,

> In religious circles abortion is uncompromisingly underlined as immoral and hence should be condemned as a counter-culture. However, most of those who adamantly support and accept abortion assert that we should not ignore the harsh facts posed by rapid population growth.\(^8^1\)

Any moral issue poses a challenge to judgment as it presents both the negative and positive effects. For any effective, true and right judgment and decision, the concerned person has to be well informed. Women who happen to be at the center of the two issues and whose judgment and decisions on these issues generate controversy have to be evaluated on their level of awareness. In their acting, do they really know what the moral right involves? Do they know the moral implications that surround their actions? Such moral questions cannot be evaluated in ignorance. Denying women education is denying them an opportunity to make the right judgment, decision and act accordingly in situations like these.
According to John Dewey, "education itself is a process of discovering what values are worth while and are to be pursued as objectives."\textsuperscript{82} Education, thus, is a revelatory process whose function is to lead people out of the cave of ignorance into the world of light.\textsuperscript{83} It brings to light the reality as it is. This revelation necessitates the right and correct judgment that human beings have to make in their daily life. Education is also a practical affair which has to deal with issues and problems existent at a given point in time. In this respect, education assists in evaluating the problems affecting society and in searching for the solutions.

In this case, the issues of abortion and prostitution as moral problems can only be effectively evaluated and judged by women if they are knowledgeable. Philosophically, it is believed that once people know what is right, they will do it. Women will be able to go beyond the opinions, which can be equated to Plato's appearances, to embrace true moral decision. Just as Plato puts it, "education, then, is a matter of conversion, a complete turning around from the world of appearance to world of reality."\textsuperscript{84} The right solution to the societal problems thus can be said to lie in education.

### 3.4.2 Women and the Domestic Sphere

Women are stereotyped as belonging in private sphere and being involved with domestic chores. On this account, they are discriminated from education. Assuming that this is where women legally belong, does denying them education make them better wives and mothers? Does education make women poor cooks, caretakers, and such roles? Contrary to these assumptions, education is meant to improve an individual both as a private and a public person. As Okwach Abagi and Sheila
Wamahiu put it, "education of women enables them to better manage their households, to apply improved hygiene and nutrition practices and to effectively utilize available health services." 85 With respect to the technological advancements of the day, one would wonder how ignorance could be encouraged. Wollstonecraft cites the caring aspect of women saying,

In public schools women, to guard against the errors of ignorance should be taught the elements of anatomy and medicine, not only to enable them to take proper care of their own health, but to make them rational nurses of their infants, parents, and husbands. 86

Uneducated person, according to Wollstonecraft is not different from other animals, as he or she lacks rationality. Uneducated women will not perform their household duties as rational beings; they will be ineffective in their performance. Even when granted that women belong to the domestic domain, education is necessary for their well being as well as for the well being of the entire society. Denying women education or discriminating them from the educational process is denying the whole society education. It is known that "if we educate a boy we educate one person. If we educate a girl we educate a family- a whole nation." 87 Women’s so called domestic duties affect the entire society and if not performed effectively, have negative implications on the society.

We agree with Dewey that education has two aims, "...on the one hand a preparation for sharing and improving the community life, and on the other a growth of the child's power simply for the sake of growth." 88 There cannot be any real ground for denying anyone education be it in private life or in public. On a general ground, education is directed towards the improvement of both individual and society. It is a contradiction if society can deny one half of its populace education on pretext that it is meant for its wellbeing, unless the same society is ignorant of the objectives of education
3.5 Concluding remarks

Women as individuals have nothing inherent in them that warrants their exclusion from the educational process. From the ongoing analysis, we note that some female students have performed extremely well in national examinations and even surpassed their male counterparts. It follows that like men, women have the capacity to excel in academics and consequently become more useful to society.

Nevertheless, the same societies seem to have created structures that have hindered or interfered adversely with the educational process of women. Women have been discriminated against and alienated from education not because of their individual shortcomings which can be said to be peculiar to them, but as a result of societal perception which is biased. This perception has its origin in the patriarchal setting in which a male-child is valued over a female child. Nonetheless, this same favouritism cannot be grounded as it can be proved that a female child is as equally good and important in the society. Discrimination of women in education is, therefore, aimed at suppressing and diminishing women's potentialities and their contribution to the society as well as their personal development. The times and circumstances in which such patriarchal beliefs were formed and maintained have changed giving birth to new ways and approaches to life.
Endnotes

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7 George S. Eshiwani, Education in Kenya Since Independence (Nairobi: East Africa Educational Publishers, 1993), 23.
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28 Mukudi, op.cit., 84.
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33 Asimwe, op.cit.
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37 Speranzia Muthoni Ndege, op.cit., 155.
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Chapter Four

4.0 DISCRIMINATION OF WOMEN IN PROPERTY AND INHERITANCE RIGHTS

4.1 Introduction

It is certain that the right of property is the most sacred of all the rights of citizens and more important in some respects than freedom itself; either because it bears more directly on the preservation of life; or because goods being easier to usurp and more difficult to defend than persons, greater respect ought to be accorded to what can more easily be seized; or, finally, because property is the foundation of civil society; and the true guarantee of citizens’ commitment: for if persons were not answerable with their goods, nothing would be so easy as to elude one’s duties and scoff at the laws.\(^1\)

Jean Jacque Rousseau in propagating his social contract explains property as the foundation on which community and, hence, state is founded. He places property at the centre of human life explaining that its possession and the need to protect the same drives individuals to come together into a community, with the sovereign above them, to ensure the necessary security of both property and individuals. Private property ensures human persons responsibility and commitment to the state and even to one another, since it is directly linked to the preservation of one’s life. Its dispossession, therefore, implies tampering with one’s life. Presumably, property gives an individual the sense of belonging as one is attached to the place where his or her property is located.

The right to property, in Rousseau’s conception is divine and cannot be granted or given by anybody. By the fact that one is human, *ipso facto* one has the right to property. Arguably, forfeiture of this right implies giving up life as it is part and parcel of being human. In the same spirit since this right is not given, it directly
points out that likewise, it cannot be usurped. In this respect, John Locke theorizes that property ownership is a natural right which no human person can be denied. To him, “property must be included along with life and liberty as fundamental rights retained from the state of nature…” According to Locke, while a human person can forego all his other rights from his state of nature and resign to the sovereign’s authority, he retains right to life and to property. This implies that even the sovereign, with all the powers vested upon him by the commonwealth cannot interfere with the subject’s right to property. Locke says that “to do injustice to a person is to take away from him something to which he has a right: for example, his life, his liberty or his material possessions.” It is clear that property and life go hand in hand. It is property that gives meaning to life and one should live in order to own property.

Property ownership is of utmost importance to any individual in society and hence a fundamental right. Genuinely acquired property needs to be safeguarded and protected, and no person should be deprived of a chance to acquire property justly. In line with this, three ways have been identified as genuine, legal and just ways of acquiring property. They are: buying, gifts and inheritance. Buying implies acquisition of property or to get something by paying money for it. Any person can own property or anything in this manner provided he or she pays for it, thereby necessitating the transfer of ownership from the seller to the buyer. A gift, according to the Longman Dictionary is something that one gives or receives on a special occasion or in form of thanks. A gift is given freely and is mostly determined by the giver and not the receiver. Here, the term “inheritance,” would mean “the process in which the property i.e. land, money, bank accounts, homes, cows, goats, e.t.c., of a dead person (the deceased) is shared and distributed to his heirs.” Sometimes, the
individual can accomplish this same process before he or she dies. Whereas both men and women are free in purchasing property as well as receiving them in form of gifts, it is noted that within Kenyan societies, women are alienated from inheriting their family property. According to Gita Gopal and Maryam Salim, this discrimination is occasioned by the fact that in most African communities, inheritance is usually done along the male lineage, and so women, be they wives or daughters, do not inherit family property.\textsuperscript{8} This alienation unavoidably has negative effects on womenfolk.

This chapter is intended to critically examine the issue of women alienation in property and inheritance rights. It analyses the development of the concept of private property in Kenya, and how women fell victims of discrimination. The chapter further looks into cases in which women are sidelined and the underlying reasons for the discrimination, and ends with highlighting some implications of this discrimination.

4.2 Emergence of Private Property and the Question of Inheritance by Women in Kenya

Inheritance as a problem arises as a result of the emergence of private property and ownership. Under the concept of private property and ownership, an individual claims full prerogative and control over property of which he or she can utilize and dispose at will. This phenomenon generates and encourages competition for the limited available property as it is necessary for ones own survival. This practice contradicts the traditional African way of life in which, there was no private but communal ownership of property. In this setting, men who were supposed to be the guardians and protectors of the community were also charged with guardianship of communal property and its allocation for use. Women were charged with the duty of
maintaining the community through the exploitation of the community property, mainly land as the society was majorly agrarian.

In this arrangement, the interest of both men and women were taken care of. Every individual was contented and worried less about the benefits of owning private property or disadvantages of owning nothing. Women, who dominated the property use, derived their security of tenure on this right of usage, while men on their side derived their power of allocation from the patriarchal structure, and hardly interfered with women’s right of usage. In this context, one notes that women’s rights with regard to property like land was not equal with that of men. In practice, as long as property was available and was not seen as the property of any individual owner, to the exclusion of others, women would usually not be entirely excluded from it in accordance with the traditional obligations within the clans or society.

The notion of private property as such, therefore, did not exist in pre-colonial Africa, but is traceable in the colonial period. Again, as stated earlier, the coming and establishment of colonial government in Africa drastically interfered with the social-economic arrangements of the Kenyan people. The colonial regime treated this African customary tenure as inferior, which lacked security, and hindered investment. They introduced changes that fundamentally shaped the pattern of property ownership and usage from community to private individual, and the legality that accompanied the changes had tremendous consequences to both the individual and society. Gita Gopal and Maryam Salim explain:

Many legal and administrative changes were introduced with far-reaching consequences, including scarcity and fragmentation of land; individualism, especially where the demand for land was high because of increased
Notable here is the focus on an individual person at the expense of the community. This contradicted the traditional system in which the clan, composed of several families of the same origin owned land and other property such as cattle and farm produce. The division of land into small portions meant that the community or clan could not be sustained as a unit in one small portion, and hence, disintegration was inevitable. Clan members had to move and settle in different places each in his own portion. Nevertheless, the population explosion meant continual decrease in land portions due to more sub-divisions leading eventually to uncertainty in security of tenure. It is worthy to note that in the traditional setting, security of tenure was provided by property use under the guardianship of male members of every clan. Since there was no land registration, demarcation was based on mutual agreement between different clans depending on what the individual clan regularly used. But the problems posed by population and land subdivision found their solution in land registration as introduced by the colonialists.

…There was a notable shift in the security of tenure because tenureship was now based on an indefeasible title and not on use. Registration gave individual title holders the security and power to deal with their land as they deemed fit. It also meant that those members of the family whose rights were not registered would be excluded from the land.

The system of registration was based on the power of allocation which made the process to be an all male affair as they were the ones who retained these powers. It followed that property was registered under male members of the society. This gave men full rights and prerogative over property while at the same time subordinating all the rights enjoyed by women as users. The basis of this can be traced in the traditional setting in which men were seen as strong and powerful and being entrusted with the responsibility of guardianship and property allocation.
The rights conferred on male members of the society meant that they could also dispose off their property at will as well as including and excluding anybody as they wished. Their decision nonetheless was conditioned by the scarcity of land, which also meant that some members would be disinherited or excluded from sharing in it. In the search for the best possible way to do this, they reverted to culture which readily provided the solution. The traditional rules of inheritance were followed in which women found themselves at the receiving end. Women had to fall victims to the inheritance conflict by being excluded from benefiting in family or parental property. This practice prompts questions about the grounds of exclusion and their validity.

4.3 Critical Evaluation of Inheritance Rights among Women in Kenya

4.3.1 Women and Property Discrimination in Patriarchy and Matriarchy

Traditionally, Kenya is a patriarchal society where lineage is traced paternally. This is the opposite of matriarchal society where lineage is traced to the female parents. The difference between these two forms of genealogy rests in the fact that whereas in the former, men are the rulers and controllers of the society, the later is ruled and controlled by women. With this, one would understand the special place that a male child occupies in the patriarchal society, and a female child in the matriarchal. In Kenya, as in other patriarchal societies, the male-child is valued more than the female child. This is due to the fact that with the male child, the family as well as community is assured of continuity. Mercy Amba Oduyoye captures this saying, "the priority of Patrilineal group is the birth of male infants, for without them, no blood can be transmitted and no ancestors can return to life, thus, dooming the clan to perdition."
For example, in most Kenyan cultures, as in other African cultures, a man is never contented with a woman who gives birth only to girls. It is believed that “if a man dies without a male child his family group comes to an end,” as there would be no one to carry over his name. With this, polygamy has been encouraged in an attempt to bear a male child.

In a patriarchal society, inheritance is also patrilineal, which means the derivation of inheritance originates from the father’s line. It is only the male members from the father’s line, namely his male children, brothers, male cousins or distant cousins that are eligible to benefit from his possession in form of inheritance. According to Marjorie Mbilinyi, even women are among the property to be inherited and cannot be counted among the inheritors. He explains:

In patrilineal societies, inheritance followed the father’s line. If a father died, his wife (wives), children and property would be inherited by members of his extended family unless grown sons existed who could inherit the property and care for the dependent.

This point is further asserted by Beatrice Kimokoti who considers it from the perspective of the Luhya’s of Western Kenya. She observes that among the Tachoni people, “ownership of most property is the responsibility of men. Even wives are regarded as the property of their husbands. Women can never inherit their husbands’ property.” Women in the patriarchal society are dependents, and not independent. The dependents are at the mercy of the provider and have no right to claim a share in the possession of those who provide for them. Once provision can be assured, women in the patriarchal society are commodities that can be passed over among the male members of any society.
These views coincide with Aristotle’s and the scholastic Aristotelians dualists, who conceptualize the human person as composed of the body (matter) and soul (form). The soul was seen as superior to matter and its origin was seen as the father who provide it during conception. The body, which is matter, without the soul is lifeless; “The soul is that in virtue of which a living body is alive.”\textsuperscript{15} This presupposes that women cannot survive or exist without men. Men, apart from having the responsibility of continuing the human race through multiplication of their genes, they also take care of women in the society. Their existence is, therefore, crucial as it is in them that the future of the society rests. Nonetheless, Epicurus’ view regarding the relationship between body and soul seem plausible. He contents that “body and soul are different, but not totally independent; neither can survive without the other.”\textsuperscript{16} The central point here is that as much as women need men, men also need women as much. Neither can do without the other.

Even in the matriarchal society, (although not practiced in within Kenyan societies), where women ruled and controlled the whole society, the so called matrilineal inheritance seemingly favoured men while women remained to be provided for by men. Mbilinyi further observes that “in matriarchal societies, property was inherited along the mother’s line. If a father died, his sisters’ sons or his own matrilineal uncle inherited his goods and his children.”\textsuperscript{17} Even here, one notices that women did not inherit property. Women only determined which male relative was to inherit the dead man’s property. In both the patriarchal and matriarchal societies, women did not benefit from the family property. It would have been expected that while patriarchy favoured male children even with inheritance, matriarchy would have done the same on the side of female children. But since both favoured men with inheritance, the
whole issue makes it difficult to establish the real ground on which women are excluded from inheritance. The importance granted to a male child, however, cannot stand the test of time. The argument that men are responsible for the continuity of the clan is far-fetched. According to the nature of things, man alone cannot bring forth another human person, likewise, with a woman; it needs the joint effort of both men and women to bring forth another human being, thus the importance of both. This traditional philosophy that favour men portrays egoistic tendencies on the side of men in an attempt to own everything while women own nothing. Patriarchy and matriarchy are mental structures that have no moral basis, but only constructed to maintain male supremacy over women.

4.3.2 Women and Property Discrimination based on Marriage

In this sub-section, an evaluation is done on how the understanding of the concept of marriage in the traditional African society affected women in the process of inheritance. Women’s rights to equal inheritance and equal share of matrimonial property are denied within Kenyan communities. Women in Kenyan societies are considered as belonging to their male relations and their rights should abound in these male relations. Also, they are not recognized as legitimate and legal owners of the same property, who could buy, sell, lease and even raise loans with that property as security. One factor that has militated against women’s inheritance has been the consideration that women were not able to look after their original family of birth because of their commitment to the new family after they got married. It is argued that traditionally, a woman left her parent’s home upon her marriage and with it forfeited her rights to inheritance as she became part of her husband’s family.

According to Speranza Ndege,
Traditionally, girls did not inherit property from their parents. A girl was born to get married one day and the issue was not debatable. Although she was in her father’s home, she was actually treated with much care as if she was a visitor who could one day go away.\(^\text{18}\)

The notion of marriage here seems to imply that women were eligible to own property, but only on their husbands’ side. Their being treated as visitors in their own family supports the fear that once they were married, all the property allocated to them would be taken to benefit the husband’s family. Suzanne Jambo points out that “among most tribes, women do not have any rights to ownership of property. For the belief that anything that a woman owns belongs to her husband (the one who paid bride price).”\(^\text{19}\) This was not an acceptable thing in most societies as outsiders were not allowed to share in the family secrets. On this, Speranza further observes that “giving a girl a share of her father’s property was believed to be enriching her husband’s people. It was a taboo to give out ancestral land to strangers.”\(^\text{20}\)

This belief, however, cannot withstand the test of time as one notes that the society today has changed greatly both in form, composition, and function. This is due to the introduction of formal western education and the new religious, economic, political and social structures. The belief in ancestral land is no longer viable considering the issue of immigration, land sub-division and demarcation and population explosion which have seen the death of ancestral lands. More so, the same people meant to form a community are scattered in different places among other peoples of different cultures thus being influenced differently and even a new culture erupting from the mixture. As a result of the impact of the contemporary social factors such as urbanization, education, HIV/AIDS and even human rights campaign, the patriarchal trend is slowly taking a reverse turn.
By urbanization is meant “the social process by which people acquire material and non-material elements of culture, behaviour and ideas that originate in, or are distinctive of the city or town.”\textsuperscript{21} This is necessitated by the migration of people from different cultural backgrounds who come to urban centers in search of new opportunities. With this, traditional values are gradually washed away or modified and a new culture erupts particular to the urban way of life. This implies that people will no longer stick to traditional values, but are challenged by urban life to embrace new values. Such challenges are also posed by education through which individuals are becoming critical in their approach on what have been held as traditional cultural values. People are finding for themselves new meaning in life that do not generally depend on these values. The HIV/AIDS scourge which has devastated families and individuals has also posed a new challenge as regards commitment to marriage. The agony of widows and orphans due to HIV/AIDS pandemic and the uncertainty of ones status and faithfulness in marriage seem to weigh heavily on people’s minds as they grapple with the issue of marriage. This is further given weight by human rights campaigns through which individuals are becoming more aware of their rights, including rights to divorce or right to stay single. In light of all these, men and women are becoming more thoughtful before they commit themselves to marriage, as they are not sure whether it is the right decision in life. Earl puts this clearly;

\begin{quote}
Since marriage is a Good Thing, we have acted as though everybody ought to be married…we treat marriage as a cure for personal shortcomings. We treat single people as though they suffered from some moral defect and we often exclude them from our company…We live at a time, however, when there is no longer any compelling reasons why everyone should be married.\textsuperscript{22}
\end{quote}

What is the case now is that some men and women are opting to stay single while others are becoming single as a result of broken marriages or widowhood.
One question that arises from this experience is whether women will continue being excluded from family property. In this regard, people should not confuse the issue of inheritance and the notion of provision of basic needs in a marriage. It might be true that in some cultures women are provided for by their husbands or husbands’ family once they are married. Such provisions include food, clothing, housing among others, but inheritance implies having a share and claiming ownership in family property. This means that in case of the death of a husband or a father, women either wives or daughters should be given each a share that will privately belong to them. This ownership will imply that women can use and dispose at will as they would have all rights over them. The general belief in patriarchal societies was that it was the duty of a husband and his family and relatives to provide a new bride with land to grow crops necessary for the household. This provision only gave women the right to carry out agricultural practices but not ownership. Women only had the mandate to use and not to own or inherit in case of death of their male relations.

If women do not have rights to inherit their parents’ property, and at the same time excluded from their husbands’ family property, where then, do women’s property right stand? Does this mean that women do not need property? The argument that by women inheriting property they will benefit their husband’s family is unfounded. It is biased and spurred by selfishness and egoism. Given that women will marry in other families, it logically follows that other women will replace them by the virtue of having male relatives. Every family in this case is the ‘other’ given the fact that from traditional perspective, a woman marries into the ‘other’ family. Thus, there is no loss of any kind by one’s daughter marrying into another family as there is the same measure in giving of and receiving of wives. This becomes an exchange of wives as
each family is alternately a wife-giver and wife-receiver. In this case, there will be no loss whatsoever in terms of property if women are allowed to inherit and own property. What it implies is that whatever that will be taken out into the other family by a woman during her marriage will be replaced in the same manner.

One philosopher, Hegel, despite the fact of excluding women from history constituting activity, maintained that women have the rights over their husbands’ property. He asserts that,

> Women are persons, that is, legal-juridical subjects, along with men. They are free to choose their spouse; they can own property, although once married, the man represents the family...Nevertheless, women are entitled to property inheritance in the case of death and even in the case of divorce.

Seyla Benhabib comments that Hegel was against the feudal elements of the law that would either revert family property back to the family, clan, or that would place restrictions on its full inheritance and alienability. The women rights in inheritance should also be seen in the light of other rights in which they make decisions as individuals, and not society making decisions on their behalf. If women should be under parents or husbands, and that these male relations should hold property on their behalf, then these men should also stand in on their behalf in issues such as punishment in case of women commit offences. The fact that men are said to represent women only in cases pertaining to rewards and not blames is a display of egoistic inclination which is not consistent with the maxim that one should only act if he or she would will that his act become a universal law. If men are not ready to allow women a share in inheritance, then it implies that they are not ready to be in the same situation in which they have relegated women, and their action on this ground cannot pass a moral test.
4.3.3 Women and Property Discrimination: Questionable Morality

Education in traditional African society aimed at forming an individual into a responsible and moral person capable of upholding and maintaining societal norms. In patriarchal societies, men were considered more responsible and more morally upright than women. Charged with the responsibility of heading the household, men were seen to be over and above women and as such, were expected to direct and guide them. As a matter of fact, women were not considered any different from children and, in their ‘child-like’ state, women were perceived as inferior to men, and their inferiority both derived from and was based on their lack of social responsibility and control. Women were considered immature throughout their life. While boys grow up to be men, women never grew up. To assert this fact of immaturity, one finds many ‘wise’ sayings and proverbs in many African communities, which indicate that women could not be relied upon. For example, in Luo community, one would find sayings such as, in pok inyuol (ka inyuolo ngiir li lo) or wuoyi siro which is translated as “you have not given birth (if you have only girls)” and “a boy is a pillar,” respectively. These indicated that women were considered as lesser human beings. A man having only a girl-child was considered as having no child until he gave birth to the ‘pillar,’ a boy to lean on. A girl was considered as a wildcat whose home was distant. The Kikuyu saying aka matire cia ndiro na cia nyuniko (women have no upright words but only crooked ones). Clearly, it is aimed at belittling women. Even in Kipsigis, there were sayings such as mokiborchin kwonky ng’olyon nabo unga (do not tell a woman secrets). It implied that women could not be trusted with anything valuable.
All these sentiments, seemingly drawn from the belief that women will marry and leave their parents’ home, hence, are visitors; seem to have been advanced in doubt of women’s rationality. Nonetheless, a human person is said to be a rational being; this definition does not say that man is rational while a woman is not, but it says human being, which is inclusive of both men and women. From this, it follows that by virtue of being human one is rational. The being of women, therefore, cannot be rationalized.\textsuperscript{35} Rationality of a human being is not something to be given or ascribed by anybody or society, but is derived from the nature of being human. It is what distinguishes a human person from other creature such as apes or monkeys. The question on the rationality of women is meant to portray women as unequal to men and possessing a lesser human nature. However, those who portray them so do not tell in what class of creatures then women belong if they are not rational. In the light of Aristotle’s principle of excluded middle, “a being either is or is not; there is no third.”\textsuperscript{36} In this context, either women are human being, hence rational, or they are not human being and thus irrational. Since there is no other term that refers to women in their ‘lesser human state,’ then it is concluded that women are also human beings and rational like men.

In line with this, one factor for consideration even in choosing the overall head of the family after the death of the father was how best or morally upright the person was to minister over family members and management of property. It was customary to use such considerations to disqualify women as inheritors since they did not have moral uprightness to manage property. From the so called ‘wise’ sayings, one thing that clearly stands out is that society did not trust women’s moral and epistemological disposition and, thus, could not be involved in societal issues. Pamela Abuya aptly
states that “in a patrilocal society…a woman is regarded as having no moral or legal rights to own land.”37 The underlying factor here is that if given such an opportunity, women, in their ‘childlike’ state would not effectively manage societal property. Again, with their marriage, they would welcome strangers into the clan-property, thus, interfering with the societal set-up. Societal property was strictly to remain in the clan and in this case, it was exclusively for males. Women would only receive their right for use as wives, daughters, sisters, or in short, they could only access family property through relationship with male members, and not as individuals. Benjamin Adhoji points out that women in the Luo culture, for example, were excluded from inheritance due to the fact they were 'temporal' members in the family. There was no need of being allocated a share as it would be returned to the family, or be sold when women marry. This would have brought a further re-allocation, or in case of disposing, "there would be a lot of chaotic buying and selling."38 This picture portrays women as haphazard, chaotic and irresponsible persons who cannot handle their affairs in a respectful and peaceful way. Nonetheless, the experience in daily life does not exempt men from the same accusations, neither does it portray them as peaceful, dignified and composed. Men in Kenyan societies were entrusted with the affairs of allocating property and in case of selling them off, it was their duty to facilitate the process on behalf of women. It can be argued that since women were excluded from the whole process of property ownership and were socialized to be submissive to men, the conclusion that there would be chaotic buying and selling seems to be inconsistent with the reality. Women would only be responsible for the chaotic process if they had a share in the property or if they had personal property.
Property ownership has been linked with promiscuity among women. Abuya observes that there was a belief that "if women were propertied, this would lead to unprecedented promiscuity." The underlying argument from this is that the beginning of women disinheriting property was aimed at controlling and instilling morals in them. This was seen as a way of disabling them so that they could remain attached to and dependent on men. However, one would be tempted to question as to what extent property ownership was linked to promiscuity. Contrary to the above views, promiscuity, it has been argued, is caused by poverty, which is as lack of property. If property makes women attached to their husbands as it was intended because they have or own property, it follows that women would be attached more to those who own more. However, in the traditional societies, property was under the community with men as the overall controllers. Women only had to use and not to own them. Where then did the society experience that African women would be promiscuous if propertied?

More so, if property causes promiscuity, what can be deduced from the traditional Kenyan societies in which men were the sole owners? If this is granted, then it follows that men were more promiscuous than women. This fact maybe, can be given weight by the practice of polygamy, which was quite prominent in many traditional societies and showed how rich a man was. From this, it can be implied that men, having access to property became more promiscuous and could not be contented with one wife. Experience has also proved that there are well endowed women in terms of property who are morally upright and respectable, while there are also rich men yet not promiscuous. One, therefore, cannot fully link promiscuity with material wealth,
as it depends on the personal upbringing and orientation, there is no logical or moral connection between property ownership and promiscuity.

4.3.4 Property ownership: Statutory vs. Customary Law

Law is said to be “that which is uniform.” According to Woodrow Wilson, it is “that portion of the established thought and habit which has gained distinct and formal recognition in the shape of uniform laws, backed by the authority and power of government.” This uniformity is derived from the fact that the law is applied fairly to all the people who fall under its jurisdiction. The law does not harbor any trace of favoritism. Under the current constitution of Kenya, the law of the land is supreme, and is above what might be termed as tribal laws which govern individual ethnic groupings in the country. The Kenyan law is supposed to govern and provide fair solution to conflicts that might arise due to different cultural practices of these groupings. In relation to this, Section 82 of the same Constitution stipulates that “all people are equal before the law irrespective of their tribe, race, place of origin, political opinion, sex, color and religion.” In this regard, there is equality before the law, and that the rights of both men and women are protected by it.

In the spirit of this equality, under the law of Succession Act, cap 160 of the law of Kenya, “all the children are entitled to inherit from the deceased property in equal shares. It does not matter whether they are daughters or sons, married or unmarried.” In stipulating this, the statutory law recognizes the existence of the customary law, but since it is supreme, the customary law is supposed to give way or be subordinate to it. Nevertheless, the following Ciku’s case indicates that in some given circumstances, the statutory law cannot be relied upon to give equal treatment.
Before her father passed away...he made provision for Ciku in his will. He bequeathed her some property...Her three brothers...contested the will claiming that their father was not in his right mind when he made it. The clan has come out in full support of the sons on the premise that in the Gikuyu tradition women do not inherit land or immovable property, the recent repeal of the Kenya Succession Act notwithstanding.44

In such a conflict, one would expect that women’s rights should be protected under the statutory law, as customary law does not favour them. As a matter of fact, the mention or inclusion of sex in the succession act indicates that it recognizes such conflicts and is aimed at solving them. But Judy Thongori comments that although the constitution stipulates such equality, it also allows discrimination and application of customary law in such cases in which women have been denied their right to property.45 Gita Gopal and Maryam Salim bring this out clearly when they observe that

Within marriage, women under customary law have only users rights over family property. Inheritance is usually along the male lineage. Although the Statutory law of succession allows daughters to inherit property, its enforcement is still very much dictated by customary law and practices.46

The Kenyan Statutory Law as pertains to women and succession is only in theory and not in practice. What affects women is not what the law stipulates, but what is practiced. The status of the statutory law as reflected in the customary law in relation to women succession is unjust as it still favours men. Although it states that the customary law will only apply in so far as it is not repugnant to justice and morality or inconsistent with any written law,47 the Statutory Law seem to contradict itself on this fact.

All the problems or conflicts that the law of the land is supposed to resolve by fair evaluation, and all the rights that should be safeguarded by it, mostly emanate from the society. Such are comprised in the customs and traditions of any given society which can be biased as seen on the issue of women. If the supreme law of the land
can allow a section of its subjects’ decision to override it, then the law is no longer supreme but is subject to bias and can be termed immoral as it is discriminative.

The supremacy of the law of the land lies in the fact of its being absolute and cannot afford to be biased. Kant puts it that “everyone must admit that a law, to hold morally,…must imply absolute necessity.” Absolute necessity here means not subject to corruption or selective application to fit individual interests. In Kant’s language, the law implies categorical imperative or absolute command. Absolute in the sense that “it holds not merely for men but for all rational beings as such.” If the Kenyan law applies selectively, then the logical argument derived from such a situation is that either the law is not absolute, or that women are not part of rational beings. Rationality, as Barber contends is derived from the fact that one ‘is’ and is not subject to discussion. It follows that women are, and their being part of rational beings cannot be debated. It can, therefore, be concluded that the law, by virtue of being applied selectively is not absolute. Hegel says that for the system of the law to fulfill the requirements of totality and absolutism, it “ought to exhibit consistency, coherence, and completeness.” What can be derived from the Kenyan situation concerning inheritance is that the supreme law is not consistent in that it is not uniformly or harmoniously applied. It is not coherent on the same ground, and not complete in that it does not recognize full rights of women as rational beings.
4.4 Philosophical Implications of Discrimination of Women in Property and Inheritance Rights

4.4.1 Moral Implications

Property ownership is significant to a human being as a moral agent in three ways. In the first place, property allows the individual person to be responsible for his or her own survival.\(^52\) The existence of a human person requires some material conditions to sustain it. The possibility to acquire these conditions implies moral decision inherent in the moral being. A human person requires food for sustenance, shelter, clothing, among other needs, which cannot be possible if possibilities for them is hindered. In this case, if the community or individuals in a community would deny others a chance to own property, then the individual is denied a chance to make moral choices that determine his or her future. Jeremy Bentham, in propagating his utility principle, observes that each human being is naturally inclined to pursue pleasure, and this would only be a moral endeavour if others would be put into consideration. He says, “the pursuit of pleasure by the individual as a natural activity must be made compatible with the achievement of the happiness of the community…”\(^53\) He considered a moral act as that which benefits the entire community and not only a few of its members. This is consistent with giving other people or community members a chance to share in life through pursuit of their ends. In this context, one’s action should not deprive another a chance to pursue his or her end.

Secondly, property ownership promotes moral freedom by allowing the individual as a moral agent, to freely discharge his or her moral duty to his or her fellow human beings. The meaningfulness of a human being as a moral agent is only experienced and makes sense among his or her fellow human beings.\(^54\) This implies the
responsibility one has towards others. This responsibility can be displayed in one way through material duties that people owe one another. In this respect, a human person as a moral agent is responsible for according another person a chance to acquire material wealth, and at the same time, "...one cannot be credited as morally praiseworthy for relinquishing wealth that is coercively seized from him (or her)."\textsuperscript{55} It is the right of an individual to access property in order to make sense among his or her fellow being.

Lastly, although spiritual contend does not require property, nevertheless, property ownership guarantees moral freedom by providing the individual with the material media for the full development of his or her person.\textsuperscript{56} An opportunity to own property provides an individual with a chance to display who he or she is through what he or she does and accomplishes. A poet, for example, is known through poetry, which cannot be accomplished without material tools such as pens and papers. This is also true of an artist and play-writer. A medical doctor also cannot display himself without material tools necessary for his profession, such as medications, syringes, and needles. In short, "property "ownership provides a range of volition through which one can become a complete person."\textsuperscript{57} Property is what makes a human being to be what he or she is, and be known by others. In other words, property is part of what gives an individual identity in society. That is why it is common to hear statements like: Jane who owns a white car, John who owns a brick house, or Mary the doctor.

The act of excluding women from inheriting family property apparently involves a deprivation and depravity, both of which can be seen as a moral evil; Deprivation in so far as women are denied their rightful share in the family property, and depravity in
so far as men, or society propagates discriminatory traditions and customs. Deprivation and depravity entail a moral question as far as the society is concerned. The society, by denying women their share in the inheritance implies denying them survival, responsibility towards others’ survival and moral freedom to develop. This in itself is immoral. Likewise, women by accepting and even supporting the same practices that discriminate against them perpetrate the same evil. It weighs, therefore, on both the society and women to really know what the moral good entails, as well as the moral evil. The basic assumption here is that whoever knows what is good cannot do what is bad.\textsuperscript{58} Denial of inheritance implies a denial of a chance to acquire private property, and denial of a chance to be human. This is what Aristotle and John Rawls call injustice. They define justice as refraining from \textit{pleonexia}.\textsuperscript{59} This means ones refraining “…from gaining some advantage for oneself by seizing what belongs to another, his property, his reward…or by denying a person that which is due to him…”\textsuperscript{60} In this context, a just act or person does not entail any trace of individualism, but seeks that which is right and fair. A fair act aims to benefit both the parties concerned in any situation.

In John Stuart Mill’s terms, the guiding principle to this is utility. He propounds what he calls ‘rule of justice.’ Under this rule of justice, a person only acts morally if he follows moral rules that fall under the category of justice. This is “the essentials of human well-being’ and thus as the grounds, in given situations, of specific duties to others.”\textsuperscript{61} What Mill meant is that an act cannot be called morally just if it excludes others and is directed towards ones interests. In relation to this, the act of excluding women from property and inheritance rights does not entail the utilitarian principle. This can be attributed to lack of true knowledge as St. Augustine would point out.
True knowledge in this sense entails love of God and love of neighbour. To love God implies doing His will, which is doing good as exemplified in the service one gives to another human person. This is inclusive of promotion of others’ lives the way one would like his or hers promoted.

4.4.2 Social Implications

Property plays a central role in an individual's social life. How people relate to each other, how they live and where they live and move is largely determined by how much and what they possess. Property, is therefore, said to determine one's social status. It is the "ground work of all personal freedom, activity, and independence." One cannot be said to be free and independent if he or she is not in a position to support himself or herself. Jason Baldwin points out that "certainly it is private property that allows the individual to be independent from the whims of his government and his fellows." Property gives a person some confidence as a social being, and, thus, be in a position to shape his or her life. Likewise, lack of property will force an individual to become the victim of circumstances and pressure posed by both the society and his fellow beings. This will automatically result into some social problems such as prostitution, wife-inheritance, and even violence against women.

4.4.2.1 Wife-Inheritance

Wife inheritance is one of the social problems singled out as perpetuated and maintained partly due to the violation of property and inheritance rights. As a practice, it entails inheritance of a widow by a male relative of her deceased husband. In most cultures in which this practice is upheld, it is said that its intention is to
provide for and take care of the widow and her children. This implies that the widow is unable to or not in a position to take care or provide for herself. What actually is the case here is that, after the death of their husbands, women in such communities are left virtually with nothing as the male relatives of the deceased husbands end up dividing the deceased property amongst themselves. A widow cannot be taken care of if all the property or assets her family possessed with the late husband were left intact, or if she had a share in their division.

What drives both men and women to succumb to the practice of widow inheritance is the desire to have a share in the property. Men seem to be driven by the opportunity to have a greater share as inheritors, while women, forced by the loss of their husbands' property, and the desire to keep what they can, opt for the easy way out by deciding to be inherited. Florence Dolphyne Abena has pointed out that "given the fact that the women in many of these societies have no independent source of livelihood, such re-marriage into husband's family guarantees that she and her children will be taken care of." These views are given strength by Human Rights Watch when it says, "In some areas, widows are forced to engage in risky traditional practices involving unprotected sex in order to keep their property. The practices include wife inheritance…and ritual 'cleansing' which involves sex with a social outcast."

Property tends to force women into unfavorable circumstances against their wishes. This becomes a social issue since the consequences of wife inheritance affect both the individual women as well as the society as a whole. Spread of HIV/AIDS has been pointed out as an effect of this practice. It has been argued that this practice is responsible for the spread of this pandemic and other social problems that accompany
it such as deaths, widowhood, and orphanage. Wife-inheritance means re-marriage which in most cases involve engaging into sexual acts. In this case, the practice is responsible for the spread of HIV/AIDS given that if the deceased husband of the inherited wife was infected, or died of it, then the inheritor is at risk of being infected. If the inheritor was infected, then he can also be responsible for infecting the women he inherits. In this case, HIV/AIDS infections becomes a vicious circle of infecting and being infected and as a result it causes deaths and sufferings to the society.

The issue of wife-inheritance as a social problem also raises the question regarding the dignity of women as human persons. Inheritance has to do with property ownership. Properties are things that can be inherited but this cannot apply to human beings. By subjecting women to the acts of cleansing and inheritance, they are reduced from the level of being human to the level of “things.” Women are, therefore, categorized together with material things and by implication denying their moral freedom and dignity.

4.4.2.2 Prostitution

Prostitution is a social problem that has been linked to different causes. Some arguments link it to nurture, while others view it as a natural problem. As a nurture problem, prostitution is said to result from the environment an individual grows up in. It is a behaviour learned, cultivated and practiced within a social setting. As a problem of human nature, it implies that prostitution is in the nature of an individual and one cannot have any control over her desires. Nevertheless, Erasto Muga explains that "causes of prostitution may be found in biological, psychological, psychiatric, social and economic spheres." Different definitions of prostitution,
however, point to the fact that it is more of a social and economic issue than either biological, psychological or psychic. For example, the Oxford English Dictionary defines it as "the offering of the body to indiscriminate lewdness for hire."68 Abraham Flexner says “a prostitute is a person who habitually or intermittently has sexual relations more or less promiscuously for money…”69 What comes out clearly from these definitions is that prostitution involves some economic or financial gains on the side of the prostitute. However, it is believed by many that prostitution is one of the oldest professions in human endeavours.

According to Lisa Isherwood and Dorothea McEwan, most women who engage in prostitution do it under the most dire necessity, hence, they "...sell themselves for food for their children. As to the 'oldest' profession, it is debatable that it is, since it is a by-product of patriarchy and its injunction on virginity for married women and patriarchal property rights."70 Prostitution, in this context comes as a solution for women to meet their basic needs. The argument here is that given the necessary resources to support themselves and even their families, most women would not engage in the practice. The point here is not to argue that once women are considered for inheritance, prostitution will end, but the number of women who are forced into the profession as a result of cultural sanctions on property rights will be reduced. Prostitution here is considered by those who support it as a means of earning, just like other means in order to acquire property. The driving force behind it, thus, is acquisition of property. Being excluded from inheritance rights and denial of a chance to own property, some women opt for what seems to be the easily available alternative. In this case, prostitution can be said to be a nurture problem in that one is forced by the environment to engage in it. Practices such as ritual cleansing might
also result into prostitution. If a woman is forced into a sexual act for example with a social outcast, she might generate a sense of self-pity, uselessness and rejection, which might result into rebellion in the form of promiscuity.

4.4.2.3 Violence against Women

Property is crucial to providing options to women by reducing undue dependence on marital partners and male relatives for their livelihood. Allocation of property to women through inheritance will imply that women will have a say in their life both as daughters and wives. Most of the violence in marriages arises as a result of power concentration on one person; the man, who is the family head. Men, who are socialized to owning everything including their wives, will tend to treat them with no respect and, thus, violating their rights. In such cases, women have no say as they are dependent on their husband and would persevere many injustices hurled upon them including violence in whatever form.

The function of property on the side of women is to give them some leverage in order to have other options in life if a situation becomes unfavourable. It, therefore, follows that property ownership by women will reduce violence against them, and also promote peace in the society. This will follow from the fact that women’s property ownership will create some form of equality, hence mutual respect. Concentration of property, hence power on one hand, as Karl Marx propounded, is a source of all conflicts and struggles in societies. The class of the ‘have nots’ is exploited by that of the ‘haves’ in that the ‘have nots’ do not share in the ownership or in the fruits of production.\textsuperscript{71} Marx, therefore, proposed a communist society in which he visualized equality and justice, hence, the solution to societal conflicts and tensions. Justice and
equality in this context will only result if both women and men in society will share in the same measure in the property ownership and in the fruits of production or wealth.

4.4.3 Economic Implications

According to Miloon Kothari, the United Nations Special Rapporteur on Housing, "inheritance is a fundamental issue with regard to how wealth is transferred within a society." Inheritance involves distribution of the parents' or family wealth among the heirs. A share of inheritance implies a share of wealth, thus an improvement in one's economic status. This further implies an accessibility to both material and financial resources which are necessary and vital in an individual's well being. In regard to women, Rhonda Leeson has pointed out that most of the problems they face are as a result of the lack of accessibility to this resource. Consequently, women tend to occupy and remain in dangerous situations or locations as they have no means of advancing themselves. Women cannot address issues of poverty, sickness, illiteracy among other problems that undermine them if they do not have an economic base. All these problems require financial approach in order to solve them.

Economic development of any individual or society is based on some concrete financial independence. On the individual level, economic independence or freedom of decision as regards money or other goods, gives an individual the opportunity to expand economically. This is because property ownership gives one a chance to take advantage of the wide range of benefits that are associated with ownership and control of property. Land, and other forms of property do not only provide sustenance, but can also be the basis for income generation which is often a marker of social status. In Kenya, for example, land is a prerequisite for securing loan and credit which can be
used for other projects necessary for an individual's development. Discriminating one against property, especially in inheritance, therefore, means interfering with one's chances to effect his own personal development.

Mercy Amba Oduyoye has pointed out that in African communities, there is no room which allows women to be responsible for the creation and disbursement of their own wealth or liquidation of their own debts and other liabilities. Women are not given a base to establish themselves economically. This implies that women's contribution to the economy of their society is minimal or absent. If wealth or resources remain only in the hands of men, it cannot be established whether it will enhance the effectiveness with which they attend to the affairs of women. Each individual has to appreciate and celebrate his or her own achievement as well as receiving the blame or criticism for any failure that results from his or her actions which is the basic characteristic of a moral agent.

4.5 Concluding Remarks

In view of the above, it is clear that women's rights to property and inheritance are unequal to those of men in Kenya. Women’s right to own, inherit, manage and dispose of property are affected by a complex mixture of cultural, legal and societal factors that portray them as people who cannot be trusted with or do not deserve to own property or a share in the inheritance. All these factors, however, were influenced by the customary laws which were based on patriarchal traditions in which men inherited and largely controlled land and other property. Women on the other hand were protected but had lesser property rights.
In the light of this, the Kenya Land Alliance observes that:

Women in Kenya have been subjected to discrimination in land ownership and control under both customary and statutory land tenure systems. Discrimination of women has its origin in the patriarchal customary laws, which have prevented women from participating in decision making...75

The implications of this discrimination manifest themselves and are experienced in moral, social and economic problems that affect and impact negatively on both women and the society, since women have no basis of material support to effect changes necessary in their life. It is thus important as Phiri, Govinden and Nadar postulate, that our understanding of this discrimination will assist in building a culture that promotes life-affirming and life-giving values.76 This understanding of the basis and implications of gender discrimination in property and inheritance rights in Kenya will necessitate gender deconstruction. Philosophically, gender deconstruction will entail a Socratic investigation into the traditional definition of the relationship between men and women, with the aim of upsetting the foundation on which the present relationship is built. This deconstruction will focus on the ‘ought’ as opposed to the way the situation is traditionally. The ontological basis of current situation is necessary to bring about gender deconstruction. In connection to this, Musa Dube aptly states that

...gender is culturally constructed. This means that gender (1) is not natural, (2) is not divine, (3) has to do with social relationships of women and men, and (4) can be reconstructed and transformed by the society for since it is culturally constructed it can be socially deconstructed.77

The problem of discrimination is a social convention, propagated and maintained due to ignorance and if society is made to understand it, then, it will strive for gender equality.
Endnotes

6  Ibid.
7  Ibid., 40.
9  Ibid., 23.
10  Ibid.
13  Marjorie Mbilinyi, “Where do We Come From, Where are We Now, and Where are We Going,” in Achola Pala, Thelma Awori and Abigail Krystal (eds.), *The Participation of Women in Kenyan Society*, 187.
17  Marjorie Mbilinyi, op.cit., 188.
18  Speranza Muthoni Ndege, “Gender and the Oral Narrative among the Ameru” in Kabira, Masinjila and Obote, op.cit.,
20  Ndege, op.cit.
23  Mbilinyi, op.cit., 187.
24  Shorter, op.cit., 89.
26  Ibid., 248-249.
27  Ibid., 249.
32  Ibid.
34  Ibid.
35  Benhabib, op.cit., 244.
Pamela Achieng Abuya “Women in need of Liberation: An African Experience” (Unpublished)
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74 Oduyoye, op.cit., 136.


Chapter Five

5.0 CONCLUSION AND RECOMMENDATIONS

5.1 Overview

This study set forth to philosophically evaluate cultural challenges to the issue of women empowerment. The study was conducted against the background of Kenya’s traditional society and a philosophical history which held varying but infrapersonal views that portrayed women as inferior to men. The popular opinion from both the history of philosophy and African traditional society had it that women are mentally, physically and morally inferior, and could not function effectively on the same plane with men. Several reasons were advanced in support of and to ground these views, in the attempt to justify the fact that it was morally justified for women to hold second position. Such views nonetheless posed a challenge to the issue of women empowerment in that if women are by nature inferior to men, then the effort to empower them would have been futile.

Following this, the second chapter of the study sought to investigate into the issue of women empowerment in Kenya. Against the views that women are inferior to men, the investigation established that empowerment of women would only be possible if the first premise will hold that both men and women are equally disposed and capable of receiving and benefiting from, and contributing to the development of society, as well as themselves. This implies that conditions favourable for development should be equally made available to both men and women, and both should be treated equally. The underlying reason to this equality is that if both are equally disposed and capable of benefiting and contributing equitably, then unfair treatment of either will
result into some imbalances that will characterize various avenues of life. Such were noted in the power sharing, economy, and social status between men and women in the Kenyan society. It was realized that generally, women are at the receiving end in these avenues while men hold the power, social status and control the economy in the society. For example, the study indicated that women in the Kenyan society comprised only less than five percent of personnels in high positions of job group P and above, according to Philomena Njeri. Economically, women receive less than one-tenth of the world’s income, according to Rowbothan. From these cases, the indications are clear that women in the Kenyan society do not have the same status as their male counterpart, hence there is need for their empowerment.

This situation of inequality prompted an inquisitiveness that characterize philosophy, guided by the metaphysical principle that “nothing occurs or becomes without a reason.” For the situation of women’s second position to persist, there should be some underlying reasons to it, and also it must have been caused by some system. In relation to this, culture, religion, colonialism and false consciousness were pointed out as the systems through which the status of women were fashioned and maintained. These four systems conventionally generate and advances reasons or ideologies that portray men as superior and women as inferior, and end up treating the two differently. The ideologies are in turn internalized by societal members such that no person ever questions their rationality. Women in this setting also have learned to conform to the cultural status quo, thus, they do not react or complain about their second position. In view of the United Nations Declaration of the Bill of Human Rights, the study nonetheless found no moral justification to warrant the imbalance and inequality. By the fact that all human beings are endowed with reason and
conscience then these should be the basis on which their humanity should be evaluated and not any other conventions. Such conventions, if upheld, hamper women’s roles as partners in development, and social stability and in general, they do not reflect or promote democracy.

An analysis of how culture is a challenge to women empowerment focused on two aspects, cultural discrimination of women in education and cultural discrimination of women in property and inheritance rights. The third chapter of the study philosophically established that “women have received from the gods the same ability to reason that men have,”\(^2\) and, therefore, it is morally unjust to exclude them from the educational process. Musonius Rufus contended that

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\ldots \text{women have the same senses as men, sight, hearing, smell, and all the rest. Likewise each has the same parts of the body, and neither sex has more than the other. In addition, it is not men alone who possess eagerness and a natural inclination towards virtue, but women also.}^3
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This conclusion was made at after critically analyzing different cultural aspects that were traditionally seen to provide viable reasons to warrant women’s discrimination in education. The study established that patriarchal tendencies dominated most aspects of life and provided reasons that governed the relationship between men and women in the society. But patriarchy, from its definition, is a system that favours men and, therefore, it should be expected that in such a situation, the interests of men would come first.

Nonetheless, the societal expectations from both men and women indicated the need for education of both. To borrow further from Rufus to explain the need to educate both, he says, “female dogs are trained to hunt just like male dogs, and if you expect female horses to carry out a horse’s job effectively, you must see that they have the
same training as the male horses.” It would, thus, seem illogical and contradictory to expect equal output from both men and women while they received unequal attention in terms of educational input.

The fourth chapter of the study dealt with the second cultural aspect, namely; discrimination in property and inheritance rights. It was established that whereas property plays a vital role in the life of an individual, women in Kenya were discriminated from property and inheritance rights. This situation was explained as being occasioned by the shift from the traditional African communal setting to private ownership, which again patriarchy occupied the central part thus women were sidelined from privately owning property. Reasons were advanced both from the tradition and philosophical history to justify male property ownership and not women. Nevertheless, these reasons were found to be philosophically not viable to justify women’s exclusion from both property and inheritance rights. A case at hand was the traditional explanation that a woman could not be allowed to own or inherit family property as she would eventually marry and join another family. In this case, it was expected that a woman was supposed to have a share in her husband’s family property. The study, however, critically established that even in her husband’s family, a woman was excluded and discriminated from owning and inheriting property. Instead, she was the one to be inherited. Women were, therefore, excluded from both property and inheritance rights from both their biological families as well as their husband’s families. This situation was seen as immoral since it propagated egoistic tendencies that are not compatible with the societal morality that St. Augustine propagated such as the love of ones neighbour. Moreover, Rufus comments that such a tendency is not healthy for community life or in marriage. He
says that “…when one partner looks to his own interests alone and neglects the other…inevitably the union is destroyed.” The moral bond that holds people together should be that where people are mindful of each other.

The study further established that exclusion of women from both property and inheritance rights have direct moral, social and economic implications on both the individual women and on the society as a whole. In this context, it was noted that the problems that affect individual women as a result of this discrimination, and the decision such individual women undertake to remedy their situation has a direct bearing on the society. Such is the case of prostitution cited as originating from such discrimination, and which is based on an individual decision but impacts on the morality of the society as a whole.

From the above evaluations, it followed that the situation of women has been propagated and maintained through culture, and partly by women themselves. The evaluation indicated that women as individuals have nothing inherent in them that could form the basis of their discrimination. Nonetheless, culture has attempted to advance several reasons to ground women’s second position. Through its patriarchal structure, culture has maintained male dominance and superiority while at the same time trying to justify female inferiority. Women on their part have been culturally indoctrinated, thus, passively conforming to cultural precepts. Their passivity has been linked to acceptance of their situation thereby making it to persist. The basic assumption here is that if women had critically approached their cultures, then they would have called for a change in the gender relation in which they are subordinated. In relation to this, it follows that women empowerment is only possible if culture will
be approached critically, and if women will be educated to realize their position and rights in society.

5.2 Recommendations

5.2.1 Education for Women and Society

Women are the key players in their own empowerment. It is not possible to talk of women empowerment if women themselves do not see any sense in the whole venture or do not recognize their state as that of disempowered. In relation to this, while some women have recognized that their status is not equal to that of men in the society, and that there is need for a radical change, others remain innocent of their situation and rights, and seem contented with the status quo. There is need for education of women especially the illiterate about their rights as individual citizens and as women in the society. Women should be educated to realize that gender equality is a natural right and discrimination is not compatible with such a natural right. This should apply to the society as a whole since the situation of women is a societal issue. In this context, education will necessitate struggle for social change. Dewey notes that education “involve a reconstruction of the past in order to shape a present social reality to liberate a particular kind of future.” Education in this case is meant to induce some criticality in the way people approach reality.

Some Non-governmental, Religious and Private organizations and private individuals have been in the forefront in preaching against what are seen as negative cultural practices. There have been ongoing campaigns by FIDA, Human Rights Watch among other organizations against practices such Female Genital Mutilation, Wife-inheritance, and violence against women. Such campaigns however can only be
successful if they will be preceded by education on what such practices entail and the consequences they have on an individual. In connection with this, society should be educated about good cultural values such as those that promote human life. They should be educated about culture as a whole and how it should change with time. Within public fora, religious gatherings, and even in educational institutions, society should be made aware of the issue of women, and human rights in general and the need to promote them.

5.2.2 Involving Women in the Cultural Decisions That Affect Them

Traditionally women were sidelined from decision-making process both on the issues affecting the society and women themselves. This practice partly contributed to the situation of women in that men pursued their interest while neglecting women. Women were put on the receiving end as nobody would defend their rights men could not know what is good for them. Women, thus, fell victims of male chauvinism. As individuals, women should be in a better position to identify cultural practices that undermine their personality and those that promote their humanity. At the same time, they should be in a better position to know practices that promote the general well being of the society. Women as individuals have the right to be involved in the issues that concern them. They should therefore be consulted and be involved in cultural matters as they are also part and parcel of society.

5.2.3 Affirmative Action

Affirmative action is defined as “the practice of choosing people for a job or education course who are usually treated unfairly because of their race, sex, etc.” It is the act of acknowledging the existence of discrimination and injustices and, hence, the
need to try to establish fairness, equality and justice. Affirmative action should not be taken to imply favours; that women have been sidelined, then they are given the first priority. Affirmative action should be construed to mean fair and equal consideration of both men and women. Whereas previous consideration was based on sex, and characterized by stereotypes, through affirmative action, consideration will be based on qualifications and capabilities and on equal representation. This will be an affirmation that women also have the same capabilities as men, and should be given opportunities to display them. This practice is aimed at closing the gap existing or disparity in both education and employment sectors. It will be a direct attack on the cultural tendency of favoring the male child and ignoring the female child. Therefore, the enactment of affirmative action will imply that the issues of justice in the society will be addressed.

5.2.4 Outlawing of Negative Cultural Practices

The analysis of cultural discrimination in education, and in property and inheritance rights has indicated that some cultural practices impact negatively on individual persons and even the society. Such cultural practices have been in operation for too long such that they have become a way of life in many societies. In many cases, individuals in a society hardly question such cultural practices. In this respect, most of them are accepted as norms and whichever way they impact on them, members take it as a way of life. Individuals and society should acknowledge the fact that time has changed and with it the way of life has also changed. This implies that culture also should evolve or be modified to adapt to the changing situation.
Often, people talk of modernity, post-modernity, urbanization and globalization. These terms indicate opposition to the traditional, olden or the past way of life. They refer to the way of life which is completely different from the past with different values and priorities. Such values and priorities cannot be realized if the proverbial “new wine be put in the old wine skin” is taken seriously. There will be no compatibility. Such incompatibility can be manifested in imbalances, conflicts and injustices that befall human society as experienced in the case of women. In this context, culture should be approached with an open and critical mind with the aim of establishing and promoting values that promote human life are modified or discarded. In this process, the traditional values that negatively impact on human life. Kenyan government has made great strides towards this end, for example, coping with female genital mutilation, wife inheritance, yet more need to be done. Although people’s cultural values cannot be just wished away, laws should be enacted to protect individuals, especially women from negative cultural practices. In relation to this, the supreme law of the land, the constitutional law, should categorically be clear on this issue. Since it is the highest law of the land, it should protect all citizens without impartiality but with fairness. So this study recommends a firm and strict application of the law.

5.3 Concluding Remarks

An anonymous writer quoted by Merry Wiesner lamented thus:

Since we are assured of our creation in the image of God, and of an interest in Christ, equal unto men, as also of a proportionable share in the Freedom of this Commonwealth, we cannot, as help but wonder and grieve that we should appear so despicable in your eyes as to be thought unworthy…Have we not an equal interest with the men of this Nation in those liberties and securities contained in the Petition of Right and other good Laws of this Land? Are any of our lives, limbs, liberties or goods to be taken from us more than from men, but by due process of Law?
The equality of human beings is revealed and traceable from different angles. Within religious circles, this equality is explained in creation. For example, Christianity link it to the image of God in which it is believed that both man and woman were created. Scientific explanation of evolution has it that both man and woman evolved gradually from one simple cell to the complex beings that they are now. Even from experience, one notes that both man and woman have the same natural requirements, desires and needs such as food in case of hunger, sex, and shelter. These show that naturally, they are equal beings in their nature of being human. This equality which is based on the nature of particular species is perfectly displayed and experienced in the non-human creatures. For example, we never experience animals of the same species displaying any form of discrimination or inequality, although they are said to be lower than the human being due to their lack of rationality. Hobbes might have linked this animal life to his state of nature, but we experience peaceful co-existence in the animal kingdom in that animals of the same species exist peacefully with one another, and life only becomes nasty, brutish and short when a species is attacked by another.

Nonetheless, in the human kingdom where rationality reigns high, one half of the species is denied freedom, rights, liberties and is even thought unworthy of equal social status. These are the characteristics of the Hobbesian life in the state of nature where egoistic tendencies govern individuals. In this context, it can be said that the discrimination which characterizes human life is taking the human race back to the abhorred state of nature. Human social life, if not re-examined, is set to become nasty, brutish and short.
The current state of discrimination and injustices directed towards women points to the fact that as women fully come to know their rights and rightful place in society, they will overtly demand for their rights, liberties, and freedoms. At the same time, men will try to safeguard their interests, in this case selfish interests as already explained. Consequently, the relationship between men and women is bound to become strained due to mutual distrust. Women will look at men as their enemy who do not want them to live a fully human life, while men will regard women as trouble-makers who are out to destabilize them in their natural position. This will inevitably result into hatred and fighting. The remedy to this situation rests in an early evaluation of the origins, causes and factors that promote such a situation, and address them effectively in a manner that would ensure respect of women’s rights, freedom and dignity in society.

This study has only evaluated two of the cultural factors that affect women adversely. More studies need to be conducted especially to evaluate how other cultural practices affect social relations and particularly women in society. For example, the practice of dowry or bride-wealth and its implications on marriage was pointed out in the study as contributing to some aspects of discrimination. More studies, therefore, need to be conducted to evaluate the extent to which these practices adversely affect human relationships. Undoubtedly, there are cultures in which dowry is not given. It is also evident that individuals can live a respectable life even without getting married. Studies, therefore, need to be conducted to see how these trends can be reconciled with African cultures in contemporary time.
Endnotes

3 Ibid.
4 Ibid.
5 Ibid.
8 Merry Wiesner, Women and Gender in Early Modern Europe (Cambridge: Cambridge University Press, 1993), 145.
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