

**A HISTORY OF WOMEN'S LAND RIGHTS AND FOOD PRODUCTION IN
KASIPUL DIVISION, HOMA-BAY COUNTY KENYA, 1908-2012**

BY

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**A THESIS SUBMITTED IN PARTIAL FULFILLMENT OF THE REQUIREMENTS
FOR THE DEGREE OF MASTER OF ARTS IN HISTORY**

SCHOOL OF ARTS AND SOCIAL SCIENCES

MASENO UNIVERSITY

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DECLARATION

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I declare that this thesis is my original work and has not been presented for any award of a degree in any university.

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ACKNOWLEDGEMENT

This thesis would not have been completed without assistance from a number of institutions and individuals. First of all, I would like to thank Maseno University for granting me a chance to pursue a Master of Arts in History degree.

I would also wish to most sincerely thank my two supervisors Dr. Jacob Ogalo and Dr. Jethron Akallah. Despite the fact that they are busy scholars, they painstakingly read through this thesis and offered valuable advice and provided insight to this work. I am greatly indebted to them. I would also like to thank the other members of staff of the department of History and Archaeology for their valuable support and advice throughout the period of study. Special thanks go to Dr. Millicent Osaso, Mr. Obote Magaga and Mr. Benard Busaka for helping me concretize the topic and directing me to the relevant literature for this study.

I also thank my parents for sacrificing their resources and giving me the gift of education. I also thank them for their words of encouragement throughout the long journey of academic pursuits. I also wish to thank the staff of the Kenya National Archives for availing the archival materials that I needed. Their kindness and willingness to support me exceeded expectation. Moreover, I wish to thank my informants for sparing their precious time to give me the required information for this study.

I also wish to thank my colleague students in the department especially Benard Omondi for not leaving me behind. Despite the fact that I enrolled for the program ahead of him, he kept encouraging me not to give up no matter the circumstances. My colleague in Bunyore Girls High School, Dr. Maureen Muleka was quite an inspiration and I wish to thank her most sincerely for reading the work and giving her comments which helped improve this work.

Finally, I would wish to thank my wife Brenda and sons Gavin and Gian for their understanding whenever I was away to make this work what it is. They accepted to forego my fatherly presence even when they needed me the most. Above all, I would like to thank God for his love that enabled me to be in good health throughout the period of this study.

DEDICATION

I dedicate this work to all those who supported me make it happen.

ABSTRACT

In most developing countries, land is the most essential resource for agricultural production. As such, secure access, ownership and use of land leads to improved food security hence poverty reduction especially in the rural areas. Much as it is imperative to note that a lot of ground has been covered through affirmative action, the graph still remains skewed to the disadvantage of women, especially in rural areas. Despite women being the main food producers for their families, a majority of them still do not have secure access to, use and ownership of land. In Kenya, the rights to property are guaranteed in law for both men and women. However, the realization of this objective has not been optimized due to intersectional factors. And based on the centrality of women in food production, rural areas like Kasipul continue to witness food insecurity due to questions of rights to access, usage and disposal of land. This study has therefore interrogated from a historical perspective, women's land rights and its impacts on food production among the Luo of Kasipul from 1908 to 2012. The study accounted for British colonial policies on women's land rights and food crop production among the Luo of Kasipul from 1908 to 1963; evaluated the government's land policy for increased food production in Kasipul after independence from a gendered perspective; and examined the implications of constitutional reforms in Kenya on women's land rights in relation food production in Kasipul from 2002 to 2012. The study was guided by Berman's (1984) articulation of modes of production theory whose two main tenets are; forces of production defined as the modes of appropriation of nature that encompasses all the resources used in production and secondly, relations of production which implies the way in which labour is organized and reproduced. The study also adopted Intersectionality theory as proposed by Crenshaw (1989) and used the simultaneity tenet to unpack the multilayered forms of gender inequality affecting women. The study adopted descriptive research design. Through the use of the Purposive and Snowball sampling techniques, a sample size of 40 respondents was determined. In-depth Interviews, Key Informant Interviews and Focus Group Discussions as well as archival records were utilized to gather primary data while desktop research was used to gather secondary data. The study then utilized qualitative methods of data analysis to draw conclusions and used discussions approach to present the findings. The study established that colonial policies on land, labor, and taxation impacted on women's rights of ownership, usage and disposal of land which had a direct impact on optimization of food production in Kasipul. Furthermore, the land tenure reforms initiated soon after independence undermined the customary laws that had secured usufruct rights to land by women. Men, who were regarded as the legitimate heads of households were registering land in their names. In addition, the laws and policies passed by successive post-colonial governments to promote women land rights were not put into practice fully. This happened despite the effort to enable women, whether married or not, to access, own, utilize, and even inherit land. The capacity of women to manage land in a way that would increase food production was hampered by the lack of security around their land ownership and use. Finally the study demonstrated that Kenya's 2010 constitutional proclamation furthered the advancement of women's land rights. However, this did not bridge the gap for most women, especially those in rural areas who continue to grapple with multilayered obstacles to full realization of their rights to land. The study therefore recommended that state and non-state actors should partner in the sensitization of women on the provisions of the law that guarantees those rights to land.

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LIST OF ABBREVIATIONS AND ACRONYMS

AIDS	-	Acquired Immuno-Deficiency Syndrome
AWD	-	African Women Decade
CEDAW	-	Convention on Elimination of all forms of Gender Discrimination Against women.
CIDP	-	County Integrated Development Plan
DLB	-	Divisional Land Board
FGDs	-	Focused Group Discussions
GDP	-	Gross Domestic Product
HIV	-	Human Immuno-Deficiency Virus
KLA	-	Kenya Land Alliance
KNBS	-	Kenya National Bureau of Statistics
KNHREC	-	Kenya National Commission on Human Rights.
LSA	-	Law of Succession Act
OUA	-	Organization of Africa Unity
MCA	-	Member of County Assembly
MDGs	-	Millennium Development Goals
NACOSTI	-	National Council for Science, Technology and Innovation
NLC	-	National Lands Commission
SDGS	-	Sustainable Development Goals
SNHT	-	South Nyanza Historical Texts.
UN	-	United Nations

- UNDP** - United Nations Development Programme.
- UNOHCR** - United Nations Office of the High Commissioner for refugees
- WFP** - World Food Programme

DEFINITION OF KEY CONCEPTS

Food Production- refers to the process of growing food crops for domestic and commercial use.

Food security-refers to the situation in which everyone always has enough to eat to maintain an active and healthy lifestyle.

Intersectionality- the way in which any particular individual stands at the crossroads of multiple groups.

Land tenure-means the conditions under which land is owned, occupied, and transacted by individuals and groups.

Land rights-These are legal obligations placed on people in authoritative positions, such as chiefs, to respect the land rights of individuals who exercise those rights.

Land reform-means converting traditional forms of land access, ownership, usage, and control to legally recognized forms, typically by registration and the issuance of a title deed.

Patriarchy- refers to power relations in which women's interests are subordinated to the interests of men.

Security of land tenure- landowner's sense of entitlement to manage and use their land, sell or otherwise dispose of their harvest, and engage in other business activities, such as making temporary or permanent transfers, without hindrance.

Usufruct rights-Refers to the right of women to use land for a variety of activities, including grazing, cropping, farming, and building constructions.

Women's rights to land- refers to the ability of women to own, use, access, control, transfer, inherit and otherwise take decisions about land and related resources.

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CHAPTER ONE

INTRODUCTION

1.1 Background to the Study

The availability of arable land is a key component of agriculture, and thus essential to the maintenance of human life and subsistence. Women produce over half of the food in some regions of the global south and bear the majority of the burden for household food security. According to statistics, 60% to 80% of food grown in Africa is done by women (Englert and Daley, 2008: 1). In addition, women also perform other household activities such as caring for the sick, house maintenance, caring for children, preparing food and fetching firewood and water (World Bank, 1994). Yet, according to the United Nations Commission on the Status of Women, women own less than 20% of the world's land and lack equal rights to access control and use land as compared to men.

Despite the fact that the main source of the national earnings is obtained from the agricultural sector in Kenya, however, it is dominated by traditional subsistence and fragmented type of smallholder farmers (WFP, 2016). Land is the most important factor of agricultural production and this makes the rights to land an issue of great concern to the people of Kenya generally and women of Kasipul are no exception. Although women contribute significant labour in food crop production, their access to land and control of resources therein is still exercised at the behest of their male relatives such as their fathers or husbands (Kameri-Mbote, 2006).

Globally, there was a shift in the discourse around women land rights and on to the discourse around food security. In India, for instance, women access to resources such as land was increasingly being given a lot of emphasis in order to ensure increased household food security. This shift, however, increased work burden for women without increasing return. Women would therefore ensure that there was improved household food security and the nutrition of children

(Rao, 2005). Agriculture in India thus increasingly became feminized as it was left for women whereas men increasingly engaged in non-farm activities (Agarwal, 1998). It was therefore imperative for women to own productive resources such as land so as to ensure improved agricultural productivity.

In Malawi and Swaziland, the comparative analysis of patrilineal Chewa and matrilineal Swazi elucidated that their women used the strategies of manipulation, challenge and change of the customary land tenure in order to access land. However, these strategies were not applied uniformly by the Chewa and Swazi women depending on personal and contextual factors (Rose, 2002). Women thus tended to have better access to land if they were married, motivated, well educated and have got human and financial resources. Moreover, Okali (1983) established that divorce proceedings occurred among the matrilineal Akan of Ghana if a husband did not reward his wife for her work in the family cocoa business by giving her land in old age. While it is true that advancements in specific areas have increased women's access to property, this study showed that women still have a long way to go before they are guaranteed equal access to and ownership of land.

The Millennium Development Goals (MDGs) had not adequately addressed gender imbalance in access to and ownership over land and therefore the United Nations General Assembly adopted Sustainable Development Goals during its 70th session in New York (Nadasen, 2012). Among the aims were those of achieving parity between the genders, zero hunger and poverty reduction (UNDP, 2015). Therefore, the goals acknowledged the need to reduce poverty and achieve zero hunger, as well as the need to promote gender equality and women's empowerment. On paper, these were very good proposals but implementation remained a mirage. Furthermore, a number of UN women conferences that were convened, came up with very good proposals that would

see the attainment of gender equality in terms of access and ownership of land. They included the Mexico, Nairobi, Beijing and Copenhagen conferences (Nyakwaka, 2013). If the proposals from these conferences were to be fully implemented, then it will be to the advantage of women.

Despite such proposals by the conferences, women in Africa continue to experience a number of constraints regarding land ownership. These constraints are as a result of cultural, traditional, religious factors. In order to ameliorate these constraints, the type of tenure arrangement should be modified to accommodate women interests, women should form co-operative bodies so as to obtain loans which they can invest in land ownership and women in places of authority should push the society particularly the rural poor in land issues (Bohannon, 2018).

Moreover, gender plays a crucial role in East African societies in analyzing the evolution and organization of landholdings. In Tanzania, for example, women's diverse experiences with tenure insecurity were affected by their gender in several contexts, including their roles as wives, sisters, daughters, and divorced or widowed heads of homes (Tsikata, 2003). Retrospectively, women of Uganda reacted to land tenure insecurity by forming one of the most active women movements which was established ostensibly to ensure women access to and ownership of land and to challenge the customary land tenure practices. Furthermore, the land reforms in Uganda were the most extensive of other African countries since it devolved land administration at the local level. The women of Uganda also adopted individual strategies of purchasing land to circumvent the traditional authorities and more often than not, took land disputes to court (Tripp, 2004). These studies nevertheless fell short of espousing the effects of land tenure reforms on women's rights land in connection with food production a gap that this study filled.

There are a number of studies conducted among various communities in Kenya which tackled land reforms, women and food production (Oboler, 1985; Nasimiyu, 1985; Nzioki, 2000; Musalia, 2010; Tanui, 2015). These studies concurred that land tenure reforms in Kenya during the colonial period eroded women usufruct rights to land. Women initially had unrestricted access to land for agricultural production during the pre-colonial epoch. This however changed when the colonial state through the Legislative Council promulgated a battery of legislations which led to individualization of land tenure and land registration in the names of men as heads of households thus depriving women's rights to land. Moreover, these land reforms and continued even after colonial rule formally came to an end. The post-independence government essentially maintained land registration and consolidation policies that promoted individualization of land tenure as well as shifted gender roles regarding agricultural work (Tanui, 2015).

Concomitantly, these studies also singled out patriarchy as major reason why a majority of women in Kenya, still do not have rights to land, thus affecting gender relations to land between men and women. The studies concluded that patriarchy promoted gender inequalities in access to and control of land which resulted to low socio-economic status of women. Moreover, Kameri-Mbote (2005) averred that the pre-dominant use of patriarchy ensured that land has its owners and that the owners are not women but rather they were men. Although patriarchy was cited as the biggest obstacle to gender mainstreaming and also as the force behind gender disparity, this study acknowledged that gender related issues are multilayered and go beyond patriarchy, thus peeled off the issues one by one.

Butterman (1979), Ndege (1987), Ndeda (1991), Cokumu (2001), Onduru (2009) have all conducted research on economic history of the Luo community. These scholars contended that

the colonial state employed political conquest and the construction of coercive regimes to integrate agriculture into the colonial economy. Commodity production growth, a system for organizing migratory workers, and the expansion of related infrastructure including roads, market places and entrepreneurship were all discussed. However, these studies have covered the economic shift in agriculture, commodity production, and migrant labor but have not focused on women's land rights, even though it is clear that the colonial government introduced crops like cotton, sim sim, groundnuts, and sweet potatoes, which subsequently incorporated the Kasipul economy into the colonial capitalist economy and undermined women rights to land in relation to food production.

A plethora of research has also been carried out about the contemporary Luo women by scholars notably Pala (1983), Okuro (2008), Ochieng (2014) and Olum (2015). These scholars were in concurrence that the pre-dominant use of traditional land tenure systems, patriarchal custom and traditional practices and the existence of two parallel systems regulating land, that is customary and statutory land tenure system have contributed to the inequalities that Luo women face concerning their rights to land. Moreover, in the mid 1980s and early 1990s, HIV/AIDS emerged as a single most factor that undermined the rights of women to access, use, own and inherit land among the Luo who lost their rights to land through distress land sales, land disinheritance and dispossession by male relatives which were further exacerbated by land disputes (Okuro, 2008).

Women played critical roles in the social, political and economic transformation of the Luo societies since the pre- colonial epoch (Ayot, 1990). However, their contribution was interfered with following the establishment of British colonial rule as the colonial state institutionalized patriarchy which limited women access to not only political power but also economic and social power, which prevailed even after the attainment of independence (Nyakwaka, 2013).

Moreover, the adoption of Kenya's new constitution in 2010 was a watershed moment in the political, social and economic transformation of women in Kenya generally and Kasipul in particular. More specifically, concerning land, there were several constitutional provisions that favored women's access to land. The provisions such as equal access to land, security of land rights, and eradication of gender discrimination in land legislation, customs, and practices, as well as property in land, were intended to ensure that women are better placed as major actors, particularly in rural polities. These provisions remain unimplemented since retrogressive cultural practices and customary law continue to override the statutory laws.

The creation of a new statutory land tenure system to run concurrently with the cultural land tenure system was one way that Kenya's new constitution attempted to bridge the gap in the enforcement of women's land rights (Ochieng, 2014). This has led to continued marginalization of women in land ownership, use and disposal. Why have the law and numerous policy statements from governments failed to secure and cement the land rights for women and in-turn, turn around the society's fortunes in food security? These and many other questions were prodded by the researcher so as to produce valuable knowledge towards addressing the skewed gender landscape in land ownership, use and disposal.

Moreover, despite the existence new laws, women in Kenya still remain disadvantaged in land access, ownership, control, use and inheritance. These trends continue to pose a serious challenge as many rural households suffer from food shortages that continue to increase their vulnerability to poverty. Homa-Bay County generally with Kasipulin particular, has a poverty index of 48.8% and therefore a majority of residents live below poverty line and continue to experience food insecurity (CIDP, 2013-2017).

Furthermore, according to WFP (2016), many people in Kasipul, especially men still engage in seasonal work implying that they work on other people's land while others migrate to urban centers to look for wage labour rather than tending their own farms hence making their households to be food insecure. This leave women as the only agricultural labourers thus increasing their workload in the farmlands that they themselves have no rights of ownership and inheritance. It is against this backdrop that this study analyzed from a historical perspective, women's land rights and food production among the Luo of Kasipul from 1908 to 2012.

1.2 Statement of the Problem

Agriculture is the backbone of the Kenyan economy, accounting for 30% of the country's Gross Domestic Product (GDP), yet the country suffers from food deficiency, fulfilling the needs of its rising population through regular and informal imports of maize, rice and wheat. Despite the fact that this scenario is caused by a multitude of variables, it is in part the outcome of unequal rights to access, use, and dispose of land based on gender, given that land is a crucial aspect in agricultural productivity. A number of legislative interventions and policies that have been initiated since independence have done so little to address this situation. For women especially in rural areas today, secure rights to land provides them with the most realistic chance to improve their livelihoods through agriculture since land is the most basic resource for agricultural production. However, women continue to face challenges such as violence, discrimination and retrogressive cultural practices while exercising their rights to land. Therefore, these challenges not only hinder food production, but also lead to increase in poverty levels among the rural households. Homa-Bay County currently has a poverty index of 48.4% implying that majority of its residents including those in Kasipul live below the poverty line and experience food insecurity. It against this backdrop that this study set out to historically locate women's land

rights among the Luo of Kasipul in connection to food production as the country works towards achieving the Sustainable Development Goals (SDGs) of Zero Hunger, No Poverty and Gender Equality among others.

1.3 Research Questions

In light of the above, the study was guided by the following questions;

- i. How did the integration of the Luo of Kasipul into the colonial capitalism impact on women's land rights and food production from 1908 to 1963?
- ii. What were the ways in which post-independence governments' of Kenya bridged the gender gap in Kasipul as a strategy for maximized food production in the period of 1963 to 2002?
- iii. What were the implications of the constitutions reforms in Kenya on women's land rights and food production in Kasipul from 2002 to 2012?

1.4 Objectives of the Study

The specific objectives of the study were to;

- i. Account for British colonial economic policies on women's land rights and food production among the Luo of Kasipul from 1908 to 1963.
- ii. Evaluate the post-independence governments' strategies in bridging the gender gap towards a maximized food production in Kasipul from 1963 to 2002.
- iii. Examine the implications of constitutional reforms in Kenya on women's land rights in relation to food production in Kasipul from 2002 to 2012.

1.5 Justification and Significance of the Study

Although there exists an avalanche of studies on land tenure reforms, women's land rights and food production, most of the studies have not written much about the multilayered obstacles to

full realization of women's rights to land. The existing studies are scanty and lack the in-depth analysis that this study enumerated. Studies by Pala (1983), Nzioki (2000), Okuro (2008), Musalia (2010) and Ogol (2021) identified patriarchy as the single most factor that contribute to disempowerment or violence against women. However, the factors that contribute to women oppression are multiple and cross at the nexus of gender and violence. The study therefore filled this gap by giving an in-depth analysis of the numerous challenges women face in their struggles to gain the rights to land for food production in Kasipul Division within Homa-Bay County.

This study was also significant since it adds to our understanding about the wider land question and how it has affected various segments of the society particularly the more vulnerable people like women in the rural households. The study also provided a useful insight for comparison with other studies carried out in Kenya and other regions of Africa concerning gender relations and food production. The study therefore added to the existing body of literature by revealing that women have moved from the status of dependency on men to the state of economic independence by overcoming multiple barriers that have impeded them from regaining their rights to land. The study also added to the existing knowledge on women history which according to Boserup (1970) has not received adequate analysis despite gaining scholarly interests in the 1970s and 1980s.

The study also hopes to help shape the formulation of gender policy and enactment of legislations that promotes gender mainstreaming the Homa-Bay County Government as well as National Government in order to militate against any further marginalization of women not only socially and politically but also economically.

1.6 Scope and Delimitations of the Study

The study was confined to the administrative limits of Kasipul Division in Homa-Bay County Kenya because the area has got well established agricultural potential for the people to engage in both subsistence and commercial agriculture. Moreover, according to historian Bethwel Allan Ogot (2009), a famous *jabilo* and a prophet Nyakiti Ogutu had prophesized that Kasipul would be a land of plenty and that his prophesy was fulfilled since Kasipul was and is still a rich and productive area where people practice extensive agriculture. However, a sizeable section of the population still experiences food shortages. Moreover, although a number of factors such as rich agricultural land, adequate rainfall, relatively good transport infrastructure compared to other areas of Homa-Bay County which are essential for economic development, Kasipul Division still experience food shortages hence increasing poverty levels which currently stands at 48.8% (CIDP, 2018-2022). It was therefore a viable area to concentrate the study.

In order to realize the study objectives, greater emphasis was put on those areas in Kasipul which are in the rural setting and where a majority of the people depend on land for smallholder agriculture and for building homesteads. The areas are those that access to, ownership and use of land remain very critical in ensuring food security hence poverty reduction. Apart from that, emphasis was given to those areas where men still migrate in search of employment opportunities in urban centers leaving women and children to do most productive works as their livelihoods continued to depend on land. The areas include East Kamagak, West Kamagak and North Kamagak.

Moreover, the research also builds on the existing secondary literature on the study area. Emphasis was also put on the areas within Kasipul where land adjudication and registration are still going on while at the same time, customary land tenure system is still being practiced hence

the use of dual policy of both statutory and customary land tenure system (Homa-Bay County Integrated Development Plan, 2013-2017). Luo women of Kasipul were chosen because the first woman to be elected as a Member of Parliament was Pheobe Asiyo from the neighbouring Karachuonyo constituency. Her political influence may have had economic and social impact not only on her constituents but also in Kasipul where she has continued to support women empowerment programs through her women in agriculture initiatives.

The scope of the study was restricted to the history of women's land rights and food production in Kasipul from 1908 to 2012. . However, a discussion prior to 1908 has been included in order to lay the groundwork for this study because it is necessary to examine the status of Luo women's land rights and food production in Kasipul during the pre-colonial period and may have served as a springboard for them in later periods. The year 1908 was the significant commencement point for the study because it was the year when Kasipul was formally brought under British colonial control and rule and that the pre-capitalist economy of the region was integrated into colonial capitalism (Ndege, 1987: 87; Onduru, 2009). Moreover, despite the adoption of a new constitution in 2010, and the subsequent enactment of legislations such as the Registered Land Act of 2012, the National Land Commission Act of 2012 and the Law of Succession Act of 2012, gender equality in terms of land rights for both men and women has not been fully realized since there are still certain pre-conceptions and stereotypes that prevent women from owning and inheriting land. The study was therefore concluded in the year 2012, when these legislations were passed by the National Assembly with just three months before the transformative era of President Kibaki came to an end. Field work for this study was conducted between April 2021 to January 2022.

1.7 Theoretical Framework

This study utilized the Articulation of Modes of Production theory and the Intersectionality theory to clarify women's land rights and food production in Kasipul Division from 1908 to 2012. The theory of articulation of modes of production has been used to analyze the evolution of crucial facets of production-based social interactions. It was Karl Marx who put out this theory (1818-1883). Meillassoux (1975), Rey (1977) and Berman (1984) have each contributed further explanations of the theory. Both inputs and outputs are necessary for a mode of production. The first are the resources used in production, which include things like machinery, people, and supplies. This has thus been defined as the modes of appropriation of nature. The second is the relations of production which implies the way in which labour is organized and reproduced, the purpose in which what is produced is used and how surplus is extracted and redistributed. The forces and relations of production are thus linked in a dialectic relationship as changes in one affects the other.

The concept of mode of production developed as a result of the general interest in the structural understanding of the growth and spread of capitalism especially in the third world formations. The theory is an orientation that emerged as an alternative approach to and critique of the dependency, underdevelopment and modernization theories. The assumption of this theory is that the various modes of production co-exist within a given social formation.

This approach questions the conceptualization of the capitalist world economy as a single unified system that incorporates all forms of production. The articulation perspective rejects the notion that there is only one mode of production and that it is capitalist. Instead, it argues that modes of production do not replace each other in the development of a society; instead a new mode of

production can develop, and can establish its dominance on the continued functioning of the older subordinate modes of production.

This theory thrived in the 1970s and 1980s in the writing of the history of Africa. The approach promised a way of dealing with the question of blocked development and the growth of inequality that pre-occupies observers of contemporary Africa. There is hope that the theoretical perspective would reflect reality more closely than earlier approaches. However, the mode of production did not unlock all the doors that as there followed a tendency either to despair because the modes of production identified by Marx did not reflect reality or to multiply the types of modes of production to catch up with reality. But while focused theoretical inquiries have contributed to our understanding of African social formations, it seems that no single analytical construct will reveal reality. Moreover, history does not work itself out in fixed and regular patterns and societies do not evolve in some sort of fixed sequence or pre-determined deviations so the concept can only be used as a method of analysis and not as a body to reveal the truth.

The primary claim of this theory is that the introduction of the capitalist mode of production into a society that previously relied on pre-capitalist means of production does not immediately and automatically supplant those pre-existing modes. As an alternative, the capitalist method of production will gradually converge on and exploit the non-capitalist form of production. As the capitalist mode of production becomes more entrenched, it steadily modifies, destroys, marginalizes and subordinates the pre-existing non-capitalist modes of production. This hierarchy of subordination leads to the capitalist mode of production's dominance over all other modes (Berman, 1984).

Understanding the dynamics of change requires an appreciation of the articulation of the theory of modes of production. It is also an attempt to understand how capitalism maintains and benefits from the pre-capitalist modes of production that fall within its sphere of influence. While the capitalist sector would like to hold on to the established modes of production, it must introduce new relations of production in order to remain competitive. Insightful questions are prompted by the articulation of production modes regarding the myriad ways in which distinct production patterns interact in practice. Instead, the traditional relations of production were "recycled" for the benefit of capitalism's growth. For capitalist exploitations to take the form they have, a cohesive production community was necessary.

Rey's (1977) application of articulation of mode of production focuses on the change of the agricultural sector and gives a significant knowledge of the process of assimilation of third-world social forms, notably their agricultural subdivisions, into the capitalist mode of production. His theory of the development of the capitalist mode of production from its pre-capitalist predecessor involves three stages. Early on, commercial farming and industry operate in parallel with peasant agriculture and handicraft. The former has only been partially destroyed. The dominant pre-capitalist mode persists, but transitional forms are produced by capitalism. Next, we'll see the rise of massive manufacturing. The remnants of the domestic mode of production are obliterated, and the peasantry is reorganized to become dedicated commodity producers. However, agricultural production social interactions have not evolved much past their pre-capitalist era. Inadequate progress has been made in both the wage labor market and the technical composition of capital. By resorting to violence, the ruling elite have been able to protect the pre-capitalist workforce and create a reserve army of cheap employees. Low wages can be established by price suppression or through direct tactics like levy, tribute, or tariffs thanks to political ties between

rural elites and urban bourgeoisie. The third stage entails the injection of vast sums of money into farming. The rural proletariat loses control of the means of production as economic competition wipes out peasant agriculture. As a result, commodity production is the only mode of production that is still in use; only capitalism is still in existence.

The tenets of this theory that were used in this study included the modes of production such as land which is an important resource for food production, labour and raw materials (crops grown) on one hand and the forces of production which included the colonial land policies introduced by the colonial state with the aim of reforming the land tenure so as to improve food production on the other hand. Prior to the advent of British colonial rule, land in Kasipul was owned on communal basis. However, the arrival of the British transformed land ownership from communal to individual or private ownership. However, the colonialists still allowed the land tenure to be on communal basis so as to allow the people to participate in the colonial economy.

Upon the introduction of individual ownership of land by the colonial state, it was imperative for them to develop land policies and organize piloting schemes. Indeed, a piloting scheme was organized at Odiado hills in North Nyanza and Nyabondo Plateau and Kombewa in central Nyanza 1956 to ensure effectiveness of the land reform programme. This was later to be applied in south Nyanza after the attainment of independence in 1963. This included land adjudication, consolidation and registration of titles. Following these modifications, women were left out of land ownership and inheritance thus impeding on food production. However, they still enjoyed usufruct rights to land by way of access and use for food production. Pala (1983), who looked at women's access to land and their role in agriculture and making decisions on farms, came to the conclusion that women's usufruct rights to land are weakened by the individualization of land tenure, especially for widows and women without sons. Furthermore, women's answers to land

tenure changes reveal uneasiness caused by these changes, as many of them see themselves as "landless" despite still cultivating at least a small plot of land. Women therefore became objects of exploitation by capitalism because work done outside the labour force such as unpaid work within the household produced goods for immediate consumption within the household (cooking of food, child birth and care, agricultural production among others) and raised the standards of living above that of wages alone. The work lowered the wages in that it provided goods which would otherwise have been bought by the wage.

Furthermore, colonialism led to the introduction of new crops such as cotton, coffee, tea, groundnuts, maize which were produced for the advancement of the colonial sector. Labour tasks were performed by women who then took the crops to the Indians for export with low sales of these crops. Commercialization of agriculture also undermined women land rights in food production in Kasipul. Women labour was thus exploited for the advancement of the colonial capitalism. Moreover, the introduction of hut and poll taxes did not spare women the burden of paying taxes. Taxes levied on huts targeted everyone who occupied the households and women were not exempted from paying taxes. The study, however, revealed that women's land rights challenges are multiple and that these challenges intersect with gender, race and class. To help unpack the multilayered challenges that women face as they struggle to regain their rights to own, access and use of land, the study adopted the Intersectionality theory to augment the first theory of articulation of modes of production. This was because patriarchy was not or rather has not been the singular source of women obstacles to full realization of their rights to land.

The heuristic word "Intersectionality" was initially used in the late 1980s to highlight the entangled nature of diversity and sameness in anti-discrimination and social-movement politics. Furthermore, the concept of "Intersectionality" was created to hone in on the contested dynamics

and elements of "sameness" and "diversity," and it has been essential in reviving discussions about gender, race, and other axes of power in a wide range of policy debates and academic fields, such as cutting-edge developments in the study of geography and organizational studies (Cho, Crenshaw, & McCall, 2013:787). Since then, the concept of Intersectionality has been utilized by feminists to better comprehend the intersections between gender and other social identities including race, class, ethnicity, and sexual orientation in order to attack essentialist beliefs about gender. Instead, comprehending the evolution of Intersectionality as a component of a broader examination of legal and political structures demonstrates how the intersectional lens went beyond more restricted calls for inclusion within the logics of sameness and difference. In its place, it looked at the larger ideological frameworks that determined how questions, issues, and potential answers were presented to the public (Cho *et al.*, 2013:791).

Crenshaw (1989) popularized the theory in his writings where he focuses primarily on the racial and gender dimensions of violence against women. She asserts that racism and sexism intersect to produce women's experiences. Furthermore, the interest in Intersectionality stemmed from a critique of gender-based and racial-based research, which was said to have ignored people's lived experiences in intersections that were often overlooked because they tended to reflect several subordinate locations rather than dominant or mixed ones (McCall, 2005). Consequently, the notion of Intersectionality arose to theoretically and empirically examine the interplay between various social categories such as gender, race, class, ethnicity, sexual orientation among others. This was developed and intensively investigated by black feminists, who maintained that black women are positioned fundamentally differently inside power structures than white women (Crenshaw, 1991).

Intersectionality deployment as a deconstructive strategy also provided challenges to the sameness/difference paradigms in law, politics, and civil society by stressing the fact that the uniformity for women was predicated on enduring oppression, but not always the 'same' oppression (Cho, Crenshaw, & McCall, 2013:800). Deconstructing master categories is also seen as crucial to overcoming inequity. In other words, the prospect of constructive social transformation is aided by the effort of deconstructing the normative assumptions of race, class, sexuality, and gender because they are at the foundation of symbolic violence and material disparities (McCall, 2005). As a result, some began arguing that there was an immediate requirement for an integrated approach to the issue of women's oppression.

Therefore, Intersectionality is a feminist theory based on the idea that individuals experience life as a complex web of identities that are shaped by their interactions with others, their place in history, and the ways in which power is exercised. The relative status of women is shaped by the inequities and other systems of discrimination that are produced by racism, patriarchy, class oppression, and other forms of discrimination. The purpose of an intersectional analysis is to bring to light numerous identities, thus illuminating the various forms of prejudice and disadvantage that might result from such a combination. Specifically, it seeks to deal with how various forms of discrimination—including racism, patriarchy, classism, and so on—construct structural inequalities that affect women's statuses in society. It accounts for historical, social, and political settings while also recognizing the singular experiences each person has had as a result of the intersection of identities.

Further, the incorporation of trans- disciplinary has enabled Intersectionality to move into places and discourses created by contested, opaque power relations. "The institutional politics of knowledge production that define the framework in which insurgent initiatives are formed" has

been highlighted, but so has "the way in which such projects are received, historicized, and engaged" (Cho *et al.*, 2013:789). Intersectional analyses go farther by detailing acts of discrimination, revealing hidden power connections, and revealing how people form identities via pervasive interactions between many social categories (Crenshaw, 1989; McCall, 2005). As a result, the field of feminist studies propelled Intersectionality to draw focus to the critical analysis of a wide range of divides and inequities.

When it comes to studying "the numerous ways in which race and gender interact to influence the multiple dimensions of Black women's experiences," Intersectionality differs from the "single-axis paradigm" that many feminist scholars favour (Crenshaw, 1990). As a technique, Intersectionality is effective at capturing and theorizing the co-occurring nature of race and gender as social processes, as it is sensitive to individuals who "live at the overlapping boundaries of race and gender discourse and in the empty spaces between" (Crenshaw, 1990).

The study looked at the condition of women's land rights and food production in Kasipul since the colonial era and applied the theory to analyze many systems of women's oppression that interact at gender, race, and class. The study relied on the concepts of gender, racism, and social class to explain how men and women fared in their pursuit of property rights throughout the colonial era and into the post-colonial period and how this promoted violence against women. As the theory states, black women and those in the lower social strata became disproportionately targeted by perpetrators of violence, so is the women of Kasipul who have experienced violence in their pursuit of rights to own property such as land. Therefore, this theory gave a coherent framework within which to comprehend, evaluate, and analyze women's land rights and food production in Kasipul from 1908 to 2012. In addition, this theory illuminated how the research was interpreted in the broader context of land access and domestic food production. In light of

research that frames gender relations in terms of patriarchy, socio-economic status, and race/ethnicity; it is crucial to re-evaluate post-colonial government tactics for closing land ownership disparities between the sexes and determine whether or not the new constitution has improved women's access to land for the purpose of food production in the home.

CHAPTER TWO

LITERATURE REVIEW

2.1 Introduction

This section presents reviewed literatures related to women's land rights and food production in Kenya generally and among the Luo community of Kasipul in particular. The selected literatures are reviewed thematically according to the study objectives. The chapter begins by examining the evolution of women's land rights and food production in Kenya. This section helped to historicize women's land rights and food production in Kenya since the pre-colonial epoch. The second section assessed the colonial policies and how these policies impacted on women's land rights and food production. The third section examined the post-independence governments' strategies in enhancing women land rights and food production from a gendered perspective from the Jomo Kenyatta era to the Moi era and lastly, the fourth part addressed the implications of the constitutional reforms on women's land rights and food production in Kasipul during the Kibaki era up to 2002. The literatures are reviewed with the aim of identifying knowledge gaps that informed this study.

2.2 The Evolution of Women's Land Rights and Food Production among the Luo of Kasipul up to 1908

Scholars generally agree that in pre-colonial African communities, women enjoyed full ownership of property. Bruce and Migot-Adhola (1994), in their article on the search for land tenure security in Africa, asserted that customary norms and obligations dominated land tenure in pre-colonial Africa. One's membership and status in the social group was the primary determinants of one's access to and use of land. This meant that one needed to be a member of a social group, such as a family or a clan, in order to have legal standing to claim land. It was in

this way that the women of Kasipul, as well as the women of the rest of Kenya, gained access to and utilized the land.

In her work, Butterman (1979) focused at how the Luo of Karachuonyo and Kanyamkago were adapting to new social norms. In addition, she elaborated on women's contributions to the Luo economy. This study is pertinent to the current inquiry since it examines the effects of Luo women's economic involvement in relation to their property rights such as land. Moreover, she averred that since there was a lot of land and security of tenure was based on the patrilineage, which stopped the right to sell land, this pre-colonial land tenure system gave women a lot of power over how land was used. In addition, women's rights to land and agricultural output were impacted by tenure modifications established with the advent of western capitalism. These changes attempted to transfer land to specific lineage members, primarily male. Women's usufruct rights to land were impacted by the individualization of land rights, which resulted in women being "landless." Land sales decisions were made by men, whereas land use decisions made by women.

Okuro (2008) asserted that among the Luo of Kombewa, women have historically gained access to land through their male relatives, such as fathers, spouses, and sons. Therefore, for women, the security of their land tenure depended on factors such as marital status, lineage ties to the clan, social status, and age. However, when a marriage was in trouble, such as the death of the spouse or a divorce or separation, women become especially vulnerable to losing their right to own land. This vulnerability was made worse by colonialism, which gave men the right to own land, gave men the upper hand in marriage, gave men the upper hand in government programs for distributing land, gave men the upper hand in land markets, gave men the upper hand in institutions, and caused poverty, domestic violence, a lack of knowledge about women's rights,

and HIV/AIDS. Therefore, the pre-colonial Luo land tenure system provided women with secure rights to access and use of land. However, due to the individualization of property rights encouraged by colonial capitalism, men increasingly came to control large tracts of land. This study, examined the women's land rights in relation to food production.

Ayot's (1991) research on the status of women in Luo society focuses specifically on the Jok' Onyango people of South Nyanza. She examined the many ways women contribute to society on many levels (economically, politically, and socially). She argued that women had more economic power than males had before colonialism and were able to more fully take the value produced. This study contributed to our understanding of how gender roles affect the economy because of the unique perspectives it offers on women's economic participation. Building on Ayot's research, the current study demonstrated how women's land rights and food production changed from the colonial to the post-colonial epoch.

Musalia's (2010) dissertation on gender relations and food production in Kiambu showed that during the pre-colonial era, access to important resources like land and labor was controlled by the patriarchal structure and social norms, which affected how men and women worked together to produce food. Land, for instance, was exclusively the domain of men, but women used it if they were in the company of males. Despite being a patriarchal society, the Kikuyu made sure that all people, regardless of gender, had equal access to agricultural land through formal channels. Moreover, she claimed that the Kikuyu of Kiambu began undergoing shifts in land tenure in the second half of the nineteenth century, when the commercialization of food crops established a foundation for a system of private land ownership that persisted until the arrival of colonial administration. Female farmers were severely hampered by the widespread land alienation that followed the advent of colonial administration. The present study borrowed from

the above study and examined the effects of colonial land policy on women's land rights and food production, as well as the shifts in land ownership from the pre-colonial to colonial era.

Nyakwaka (2013) contended that pre-colonial Luo women participated equally in the social, political, and economic life of their society. Women had essential roles in every facet of daily life at home and in the wider society. She also noted that the roles of women and men were distinct, but equally valued. For instance, although males participated in politics on a local level, women often focused on raising children and managing household finances. Nevertheless, since the Luo were a patriarchal society, men predominated in positions of social, economic, and political power. As a result, her research is in line with the liberal feminist's claim that social, political, and economic structures determine patriarchal power relations. However, the current study demonstrated that patriarchy alone was not the singular source of women obstacles to land rights but the obstacles were multilayered. The researcher was therefore able to peel them off one by one like a bulb onion.

In addition, Okoth-Ogendo (1976) wrote about the pre-colonial African land tenure system, noting that land ownership was communal in Africa prior to colonization, therefore many people shared a right or bundle of rights that expressed a particular set of responsibilities. In addition, he claimed that the African land tenure system was communal, despite the fact that there were a considerable debate about the political administration of African land, which was broken down into individual, family, clan, and ethnic levels. To provide food security, communal land tenure ensured women's access to land. However, work by Okoth-Ogendo (1976) give generalizations on the systems of land tenure and gender division of labor throughout African communities from the pre-colonial era, thus a case specific approach was necessary to shed light on the varied and often surprising experiences of people in various locations and cultures. So, this research bridged

that gap by analyzing the land tenure system among the Kasipul in terms of women's rights to land and food production.

Waiyego's (2004) thesis on women's political participation in Kangema made a similar case, stating that the pre-colonial Kikuyu community was structured so that the worth of the roles men and women played was recognized on an equal basis. She goes on to demonstrate that despite the lack of prejudice, males often viewed women as inferior and themselves as superior due to the fact that they paid dowry to marry them. This predicament for women only got worse as colonization came in and formalized patriarchy. This study addressed a vacuum in the literature by focusing on Luo women in the economic sector, namely their relationship with land and food production.

2.3 Colonial Policies, Women Land Rights and Food Production in Kasipul

Research on the effects of colonial economic policies on women's access to land and their ability to provide for their families is extensive. Schmidt (1991) contended that indigenous and European patriarchal structures reinforced and changed one another to develop new structures and forms of dominance, contributing to the subjection of African women even more so than policies imposed by foreign capital and the colonial state. She goes on to say that colonial rule in Zimbabwe was established and maintained in large part due to older men's control of the labor of women and children. The establishment of native reserves benefited not just the capitalist class by increasing the agricultural output that subsidized male wages, but also the interests of older males in Africa by making it easier for them to exert control over women and children. Schmidt added that African males were relieved by the colonialists' strategy of encouraging women to remain in rural areas, as this meant that women would be available to work on farms to cultivate food crops and ensure that men's lineages would continue to have access to the land. While men

were working for the European settlers, the study looked at how to keep women working in the countryside. Land is a major element of production, and while this study shed light on the broader socio-economic effects of European colonization on women, it does not elucidate their rights to land. Using data collected in Kasipul, the present study unearthed the legal standing of women's land rights in Kasipul in the context of domestic food production.

The introduction of European merchant wealth in early colonial Lagos altered land tenure and property rights to the detriment of women among the Yoruba of northern Nigeria (Mann, 1991). Furthermore, few women owned land, which limited their access to credit and, hence, the cash needed to engage in trade. Due to structural obstacles such as changes in land ownership and credit organization, as well as women's inferior position inside male-headed households, women in Lagos were unable to compete with males for resources and labor and, as a result, for profits from commerce. Although the study shed light on the topic at hand, it was concerned with the impact privatizing land had on women in urban areas who relied on commerce for a living. This analysis looked at how rural women in Kasipul were impacted by the trend toward more private land ownership.

Geiger *et al.* (2002), in their examination of the interactions between African women and European colonialists, suggested that African women, whether migrating, married, royalty, midwives, nationalists, or political leaders, were highly active agents of the colonial world. This book's essays examine how women dealt with the wide range of social, political, and economic issues covered by the term "colonialism," such as European taxation and rule, missions and cash crops, biomedicine and labor migration, white settlement, and racialized discourses on power. Their work provided useful insight to the present study which focused on the ways in which

the colonial economic policies impacted on the rights of women to land and the agricultural output of rural households in Kasipul.

Okoth-Ogendo (1991) and Bruce and Migot-Adhola (1994) evaluated the effects of land reforms on agricultural output and other economic activities. During the colonial era, they pointed out that individualization was considered as an essential pre-condition to the planned development of African areas, but it was also acknowledged that it could lead to more issues to overcome than were intended. Therefore, the possession of land titles did not ensure greater agricultural output. In order to learn more about how colonial-era land tenure reforms affected women's land rights and domestic food production in Kasipul, this literature provided a useful insight to the present study.

During the colonial era in Kenya, the government favored settler agriculture to a disproportionate degree as part of its strategy of white colonization. The majority of government policies were created with the intention of shifting wealth from the African economy to the settler economy. According to historian Zeleza, the early colonial state in Kenya "acted as an instrument of primitive accumulation on settlers' behalf" by seizing African land, confiscating livestock, instituting taxation, constructing rail and transportation networks, and establishing markets and financial structures highly favorable to settlers (Zeleza, 1985). Kenya's post-colonial social and political formation was characterized by this pattern of development, which persisted throughout the colonial era.

Kanogo (2005) uncovered the evolution of African women throughout colonial times in Kenya. She analyzed the ways in which women's lives were structured by societal norms and customs. She also investigated the effects of colonial formal schooling on Kenyan women. She argued that

education opened doors for women in the transition from pre-colonial to colonial societies. She argues that the tale of Kenyan women's education is illustrative of the gains and losses experienced by women in colonial Kenya. While she examines how colonialism affected women generally, she pays little attention to how it affected women's access to property. This study addressed this gap by investigating how colonial land regulations affected the rights of women to land and the ability of Luo women in Kasipul to grow food. This study argued that colonial land policy institutionalized a kind of individual land tenure that benefited men at the expense of women. It also showed that these policies took different amounts of time to put into effect depending on the location, therefore, in Kasipul these reforms were implemented either toward the end of colonial rule or after independence.

Nasimiyu (1984) stated that the traditional land tenure system in Bungoma remained unchanged until 1954. However, the Swynnerton plan of 1954, which mandated the individualization and registration of land, posed a number of difficulties for women in Bungoma. For instance, since men who were traditionally assumed to be the household heads, were granted individual rights to land, including usufruct rights, which meant that women no longer had the same access to or control over their land as men did. Since the ability to grow commercial and subsistence crops depended on having access to land, she noted the difficulties women faced in this capacity. As a result, without land, women were relegated to the role of dependent labor providers with no safety net provided by land, reducing their potential to boost output for the benefit of their families and communities. Moreover, the study pointed out that women's workloads were increased because they participated in the colonial economy alongside their traditional subsistence crop farming. The study relied on the dependency framework that she used in support of the support the colonial pattern of men having economic privileges over women and women

having fewer opportunities for education, employment, technological advancement, and agricultural outreach. However, the present study situated the land condition of women in Kasipul within the theoretical framework of articulation of forms of production. This aided in the extrapolation of land tenure shifts, women's coping mechanisms in light of these shifts, and the effects of these dynamics on the women's side of the production chain. Nasimiyu elucidated that shifts in land ownership increased women's economic dependence on men, but she didn't go into detail on how women overcame this dependency to continue providing for their families through farming.

Davidson (1988) echoed this sentiment, noting that the Swynnerton plan was implemented in 1954 allegedly to encourage African farmers to consolidate land holdings under private rather than communal ownership. Furthermore, all "agriculturally promising" land in the reserves was to be surveyed and grouped into individual holdings, replacing the previous patterns of land use. She said, however, that the plan's implementation hampered food production and contributed to friction between the sexes inside households. For example, it gave preference to individual ownership of land, which was vested in males as the "bonafide" heads of families, marginalizing the usufruct rights of women, which were historically protected under lineage tenure; it disadvantaged women as food producers due to their inability to get credit or loans from banks due to a lack of collateral in land; and it promoted capitalism by boosting production for export by Africans, marginalizing women. As a result, the plan threatened women's traditional usufruct rights to land. According to the works, the Swynnerton plan was put into action during the colonial epoch in the areas of Mutira and Chwele because they were conducive to settlement farming. The current study, however, benefited from this study by demonstrating that the plan

was not implemented in Kasipul until the sunset days of colonial rule and the early years after the attainment of independence.

Musalia (2010) study noted that food crop output had been impacted by shifts in land ownership, labor availability, and the promotion of cash crops. The alienation of land, followed by its consolidation and individual registration, had a profound impact on people's access to arable land. However, this had a sexist component, with the patriarchal system putting pressure on women's property rights and disproportionately impacting women. The gender division of labor had also evolved throughout the years, with the migrant labor system playing a particularly positive role in this development. Due to shifts in land and labor organization, locals had to make adjustments to the kind of food crops grown in the region. Irish potatoes, carrots, kale, spinach, cauliflower, and cabbage are just some of the horticulture crops that have replaced more traditional staples like millet, sorghum, cassava, yams, and traditional maize. The roles of men and women in the cultivation of food crops have been central to Musalia's study. She studied how both men and women in Kiambu were impacted by shifts in land ownership, labor practices, and the introduction of cash crops. The current study, however, takes a different approach by examining the status of women's land rights in connection to food production in Kasipul throughout the colonial era.

Mackenzie (1996) followed the history of the dispute over who might define custom in the colonial political economy, which led to the eradication of use rights to land and the registration of titles in the 1950s and 1960s. Although this appearance of customary land law may have benefited the strategic goal of Africans in a war for property defined in terms of ethnicity and of wealthier Kikuyu who utilized such public events to achieve a class position, her study showed that the rights of women to usufruct were disguised in the struggle for access to and ownership of

land. She goes on to explain how, in the absence of a formal codified customary law, the separation of the allocative principle from that of usage has helped to put some space between the propriety concerns of women and demands of custom. No consideration of gender was made in the study, which focused instead on the difficulties women faced when attempting to assert their land rights in contexts where class and race interact. This current study examined the barriers to land ownership and food production in Kasipul from a female perspective.

Tanui (2005) asserted that the colonial policies of giving land to Europeans to settle on greatly transformed the roles of men and women in farming. For example, the Nandi were relocated to reserves, where they faced a variety of difficulties, including a reduction in the amount of land available for farming and herding. As the colonial state in Nandi mostly targeted males rather than women, the commercialization of agricultural output also impacted on gender relations of production. As a result of land dispossession, population pressure, and the advent of commodity production, which resulted in scarcity of land, Tanui concluded that women played a more significant part in agricultural production than men. The Nandi practice of individualizing land tenure in the 1940s was another factor undermining women's usufruct rights. The present study borrowed from this study to determine the state of women's rights to land and food production in Kasipul during the colonial era.

Ese (1990) centered his attention on land tenure reform and agricultural output and transformation. Through an all-encompassing lens, he assessed issues of land ownership, agricultural productivity, and cattle husbandry in terms of resource availability, utilization, and control. According to him, the introduction of colonial rule and control ushered in novel socio-economic tendencies that ultimately led to a skewing of the Wanga's pre-colonial agricultural and labor structures. The Wanga families were left exposed to food shortages as a result of the

colonial demands for wage, migrant, and forced labor, which resulted in the withdrawal of productive labor from the households. Although he stopped working in 1945, his contributions to our understanding of the colonial era land tenure system in Kasipul in relation to women's land rights and food production were crucial.

Akallah and Kilonzo's (2021) study on women in colonial East Africa explained how the era of European rule had a profound effect on traditional gender norms. They argue, for instance, that men's traditional roles in agriculture were significantly altered by the rise of the urban poor, forcing women to assume the triad of roles of production, reproduction, and communal duty. They also claimed that gender inequality in areas such as labor skills, education, trade, and politics all contributed to a climate where women's empowerment was impeded. Therefore, their research suggested that the European patriarchal ideology may have contributed to the already-present notion of patriarchy in some African cultures before colonial authority. Their research paved the way for an examination of how women's land rights and food production have changed over time. The current study, however, narrowed its scope to examine the rights of Luo women in land ownership and food production in Kasipul rather than women in East Africa generally.

Pala (1983) investigated the rights of Luo women to land and other forms of property in relation to agricultural productivity and farm management in western Kenya. As she demonstrated, women, especially widows and women without sons or children, had their usufruct rights to land diminished as a result of the trend toward individualizing property ownership. She went on to note that land reform initiatives caused a rift between the wives of households that outsourced their labor and those whose husbands sold their labor to make ends meet. Despite the fact that many women could still cultivate a small plot of land, they felt landless due to changes in land ownership. The study also established that, on family farmlands, men continued to make

decisions about selling and disposing of land, while women made decisions about land uses. Whether or not the same causes impacted women's rights to land during the colonial period among the Luo was interrogated by the present study.

The influence of labor migration, non-farm employment, and education on household labor supply was analyzed by Suda (1986). According to her analysis, the structure of division of labor was drastically altered as a result of the departure of family labor due to migration of workers, non-farm employment, and formal education. The roles of women in society grew, and they began to do more than only raise children and tended to the home's crops. Her study's acknowledgement of the value of family labor in agricultural production—particularly when it came to ensuring that everyone has fair access to land and other productive resources—provided additional insight to this study.

Hay (2005) discovered that Luo women employed a variety of strategies to adapt to colonial economic policies in her research of the Kowe village in western Kenya. In the past, when males left the home to find low-paying jobs in cities and on white settler farms, women were responsible for providing for all of the household's needs, including those of the children, the elderly, and the men. Women also helped raise agricultural output to satisfy colonial demands and at the same time performed these tasks. Because of this, women came up with innovative methods of survival, such as the domestication of labor-saving crops like maize, cassava, and groundnuts, as well as the introduction of new tools and the development of commercial activities such as trading. She also claimed that the women of Kowe were catalysts for change and adapted well to the modern world. The present study relied heavily on this previous work. Insight on how Luo women dealt with the new economic realities has been provided in this study. It does not, however, discuss how women reacted to colonial land policies. So, our

research sheds light on how Luo women supported a colonial capitalist economy despite having no legal claim to land.

Ndeda (1991) showed that the position of the Luo women of Siaya district was altered due to a combination of factors, including local circumstances, colonial governmental requirements, and European settlers' self-interest. While many males joined the colonial wage labor force, most women were still responsible for their homes. She elaborated on how the colonial system relied on women's engagement in subsistence production as it relieved men of their traditional family duties and provided a flexible, low-cost labor force for the colonial sphere. As a result, the colonial economic policy, which favored European settlers, disrupted the traditional distribution of labor in the Siaya District. By the time of the study's conclusion in 1963, it had become clear that, as a result of colonial economic policies, women bore the brunt of domestic labor. The current study, using Kasipul as a case study, has filled in the lacuna left by previous work by elaborating on how the shifting division of labor and the increased load of work carried by women affect their rights to land and food production.

Sharon Stichter additionally wrote about the African response to Kenya's migrant labor. In her view, the indigenous forms of production in Kenya were only partially obliterated and partially conserved as a result of capitalist penetration via wage labor. This method of expression was chosen because it was both economical and politically useful. According to her, "migrant labor transmitted a major portion of its costs of reproducing and maintaining human labor power to the producer himself; that is, labor was paid less than the minimal cost of its reproduction" because "labor expenses above the daily subsistence of the worker on the job were transferred to the remnants of the pre-capitalist economy" (Stichter, 1977). The study has provided a useful insight to this study.

Okuro (2002) examined how colonial economic and social policies affected female-headed households in the Kisumu District from 1894 to 1963. In this study, it was stated that the introduction of colonial and missionary influence inevitably altered pre-existing patterns of social organization in which gender roles were well defined and women across social classes enjoyed economic and social security. This was accomplished through the introduction of colonial capitalism through violence, the transformation of the marriage institution, the encouragement of male labor migration, and the recruitment of males into the military and the social welfare system, all of which increased the number of households in which women played the primary breadwinner role. The study laid the groundwork for examining the economic and social effects of colonial-era land policy on women's land rights in domestic food production in Kasipul.

Ayot (1990) explored the role of women in Luo civilizations from pre-colonial to colonial times. She claimed that before colonialism, women in South Nyanza's Jok-Onyango clan were respected for their ability to provide for their families and were seen as responsible stewards of the family home, land, and livestock. Colonial policies, such as the individualization of land tenure, which promoted the image of males as legible successors of land, resulted in the loss of land rights for women. Their economic independence and matrilineal authority were weakened by capitalist dominance and exploitation after the establishment of monetary and tax systems. Ayot's research, however, concludes in 1920, when Kenya became a colony. The study aided the current research by providing a more comprehensive assessment of Luo women in Kasipul's social and economic position throughout the colonial era.

Onduru (2009) makes the case that the pre-capitalist economy of South Nyanza was integrated into colonial capitalism, and that this caused the economic transformations that occurred

throughout the colonial period. This meant that a system of producing commodities and services for market exchange was developed with the goal of making a profit. For instance, in South Nyanza, the colonial authority established cash crops that individual households can cultivate to help fulfill the growing financial needs of the colonial state. Furthermore, he noted that the arrival of colonial control in South Nyanza resulted in the introduction of a new economic structure, the migrant wage labor, to fulfill the rising needs of the colonial economy, including taxation. Land tenure was only been discussed albeit briefly, yet this study had focused on economic shifts. The introduction of capitalist forms of production brought about many changes, many of which have been studied at length. The present study, however, examined the effects of these shifts in land tenure on women's access to land and to the means by which their communities provide for their families.

Ndege (1987) investigated the economic development in Kasipul. Incorporating Kasipul and Kabondo into global capitalism, he saw, was the cause of economic developments that occurred during the colonial era. The native population lost their autonomy as a result of political conquest and the creation of authoritarian governance. The requirements of the colonial government further shaped indigenous economies. In addition, he contended that the colonial authority instituted taxation policies with the dual goals of funding colonial administration and at the same time integrating natives into the capitalist economy. Since the research stopped in 1945, it doesn't include the years leading up to and including independence in terms of economic development. This study demonstrated how land was used to advance the colonial economy in Kasipul.

Ogol (2021) researched on the transformation of gender labour relations in Awendo between 1902-2017. His study revealed that there was gendered division of labour for agriculture in

Awendo during the pre-colonial period. Women provided most of the labour required for agricultural production in addition to domestic responsibilities. However, the colonial capitalism introduced another labour pattern that did not favour women because it emphasized on male labour. Male labour was withdrawn from the area and this situation persisted even after the attainment of independence. The aforementioned study focused on gender differences of labour in agriculture between men and women during the colonial epoch. This study, however, focused on colonial economic policies of taxation, labour migration and land appropriation and their impacts on women's land rights and food production.

2.4 Women's Land Rights and Food Production in Kasipul in the Post-independence up to 2002

When the majority of African nations gained independence, the new governments initiated land reforms so as to encourage agricultural development. Previous strategies implemented by colonial governments had been designed to advance exclusively the metropolitan governments at the expense of the African sector which continued to be underdeveloped (Rodney, 1989). Therefore, the independent regimes committed to enacting land reforms that would restore ownership of land to Africans.

Jacobs (2002) studied at how modern rural women in Zimbabwe could have benefited from land rights within the redistributive land reforms. She stated that even while land reforms have given women more opportunities to own agricultural land, they are nevertheless hindered by discriminatory norms because of their gender. Additionally, Walker (2008) and Mutangadura (2004), who wrote on Land reforms and gender in post-apartheid South Africa, stated that women still face a number of limits and hurdles in their pursuit of land tenure security. These obstacles include the government's inability to provide adequate resources, patriarchal views

within customary law, the absence of women on community land committees, and the failure of women's groups to effectively push for women's land rights in rural areas. The present study relied heavily on the aforementioned studies since they highlighted important obstacles to achieving food security in rural areas and helped researchers better understand the techniques employed by rural women to overcome these obstacles.

Manji (1998) investigated the politics of land tenure reforms in Tanzania and stated that the topic of women's land rights has been sidelined in policy and land reform despite chances to address women's land relationships. A major question at stake in the present discussion was why these possibilities were being ignored. She went on to explain how women's groups and NGOs played a part in the land reform discussion, and how their efforts ultimately failed to counteract the marginalization of women's issues within the broader land reform agenda. This research was applied to the current study, which looked at the ways in which women's groups can help increase rural women's access to land and enhance their families' access to nutritious food.

In addition, Tsikata (2003) investigated how changes in land ownership affected women's property rights in Tanzania. She argued that despite the fact that the new land statutes in Tanzania included provisions tailored specifically to women's concerns and those of land advocates, they paid little attention to their calls to amend the discriminatory customary law. However, she stated that many women could now own land in their own names because of the liberalization of land markets and the introduction of land titling and registration under these legislations. Using the aforementioned literature, this study investigated whether or not the land reforms made by Kenya's post-independence governments provided women with a fresh opportunity to acquire land despite the persistence of customary law that continues to discriminate against them.

In addition, Yngstrom (2002) postulated that women's varied experiences of tenure insecurity arose from the primacy of gender relations in the design and evolution of landholding systems in Africa, and not merely their roles as wives, sisters, daughters, or widows. When discussing the role of women in the discussion of land policy and the evolution of land tenure changes in Africa, he utilized the Dodoma District of Tanzania as a case study. She advocated against the evolutionary concept and policy that conceal women's land demands and tenure instability. However, this study utilized the Intersectionality theoretical perspective to unpack how post-independence governments' land tenure reforms have harmed distinct groups of rural women and their ability to grow food for their families.

Rose (2002) suggested that women in the matrilineal culture of the Chewa in Malawi adjusted the rules of customary land tenure when they encountered obstacles to accessing it, while women in the patrilineal community of the Swazi in Swaziland manipulated and contested the established rules. Further, because to the various customary land tenure systems within which they were strategizing, as well as individual and contextual characteristics of each land access situation, some women in these communities were more effective than others in applying these methods. For instance, in both racial groups, women's access to property improved when they were married, self-motivated, educated, and able to rely on family and friends for support. The aforementioned material was useful for this investigation because it shed light on the tactics used by rural women in Kasipul, particularly those who take the helm of their households.

Naybor (2015) examined how land ownership changed over time in rural Uganda and how the Ugandan women's rights movement fought against legislation that limited women's property rights. She used the example of widowed subsistence farmers in southern Uganda. She showed through her investigation that Uganda's existing land tenure system takes its cue from male-

centric organizations, making real estate a divisive issue. She continued by saying that little progress has been made in Uganda to improve women's access to land. Case in point: customary law has continuously suppressed the rule of law within the constitution and the Contested Land Act of 1998. He concluded that remaking customary and statutory law that acknowledges women's value as related to land was necessary for empowering institutions to enact women's land rights. Women's land rights, economic growth, and food security were not directly linked to each other in the study, nor was there any mention of their connection to poverty reduction. This research addressed this gap by focusing on how smallholder farmers and how men and women each use land differently.

Nzioki (2000) studied how changes in land ownership in Ukambani region of Kenya impacted women's ability to gain and maintain ownership of agricultural land for subsistence farming. According to the results of her study, she demonstrated that despite the fact that land tenure changes were implemented following independence, land was still being registered in the names of men as household heads, leaving women without equal rights with respect to the management and use of family land. She went on to aver that the introduction of cash crops like coffee not only resulted in more changes to land use, control, and decision making, all of which were in the hands of men, but also greatly increased women's work load. Women farmers were disadvantaged as a result of land tenure reform, which favored cash crop cultivation and male landowners. Despite the importance of the study findings to the present study, it is however, an anthropological study. This study therefore looked from the historical perspective at how post-independence governments' land reforms affected women's access to, and ownership of, farmland in Kasipul, and how that affected their ability to provide for their families.

In addition, Mackenzie (1989) researched on the smallholdings in the central Kenyan region of Muranga to determine the nature of the interaction between two land tenure regimes. She pointed out that while the process of land tenure reform initiated during the colonial period at the intersection of formal and informal tenure systems primarily disadvantages women, However, it has created a forum in which people of both sexes may argue over land ownership, which is especially important considering the rise in property disputes that occurred in the '70s and '80s due to a lack of trust in land tenure. She concluded that while men have had considerable success opposing women's *de jure* land ownership due to inheritance customs associated with the *ng'undu* system, reinforced by claim to sub-clan (*mbari*) territory, women had considerable success rebutting through the acquisition of land under registered title and the acceptance of customary customs like those of female spouse. This research confirmed that the strategies women of the Agikuyu of Muranga used to oppose men's efforts to gain access to and ownership of land were similarly effective in the Kasipul area.

Nyong'o (1981), writing about the development of a middle peasantry in Nyanza, asserted that, unlike in central Kenya, the rise of agricultural capitalism was significantly delayed in Nyanza. This occurred because African farmers were restricted in the kinds of cash crops they could plant, peasant farmers lacked access to money, and, most critically, the introduction of private property rights to land was delayed because land alienation was not practiced. According to the findings, research into the societal and economic effects of land tenure reform has traditionally focused on central Kenya and other places where land alienation has not occurred. Yet, regions like Nyanza, where there was no land alienation, have been the subject of less academic investigation. This research helped the current study better comprehend the ripple effect of post-

independence land tenure reforms on women's land rights throughout Nyanza, and in Kasipul in particular, and their impact on food production in rural families headed by women.

HIV/AIDS emerged as a major barrier to women's land rights in Luo society, particularly among women who have been left widowed as a result of the disease since the post-colonial era, particularly in the 1980s onward. Okuro (2008) research among the Luo of Kombewa and found that households affected with HIV/AIDS were forced to make tough economic decisions as their meager assets, such as land, were progressively being redirected to the cost of care and treatment for those infected with the disease. According to the research, HIV/AIDS was the primary cause of distress land sales, land disinheritance, and land dispossession, all of which violate the legal rights of widows and orphans to own and use their own land. Quick establishment of homesteads, early marriage, establishing homesteads by surviving male orphans, and share cropping were some of the strategies the study suggested widows and orphans could use to recover land ownership. The current state of affairs, however, may not pose a significant threat to the land rights of widows, as the government has taken on a leadership role in AIDS care and treatment, thus drastically reducing the cost of care and treatment. The death toll from the epidemic also dropped significantly. As a result, the purpose of this research was to identify the various other elements that have aided in securing land ownership for rural women in Kasipul.

Similarly, Nyongo and Ongalo (2005), writing on behalf of the Kenya National Commission on Human Rights (KNHCR), chronicled the life histories of over ten women in Nyanza who became widows as a result of HIV/AIDS, and explored the prospects for bolstering their rights to own and inherit property. Several major issues were found to be obstacles to women's ability to acquire and inherit property. These included outdated cultural customs, poverty, a failure to appreciate the significance of land registration systems, and a lack of knowledge about women's

rights to inherit or own property. The research confirmed that there was a potential for women, and particularly widows, to recover their property rights. These results, served as meaningful evidence that, when appropriate measures are put in place, women, and particularly widows, can reclaim their legal entitlement to own and inherit property like land. Therefore, the current study focused on how the government has improved women's access to land for domestic food production in Kasipul.

Nyakwaka (2013) study established that Luo women participated in all aspects of pre-colonial Kenyan society, including politics, economics, culture, and religion. She analyzed gender and political change in Kenya from 1895 to 2002. When Luo society was incorporated into the colonial system, however, the public and private spheres became split between men and women, and as a result, women were barred from participating in politics. She went on to argue that a number of reasons, including colonial inheritance, a lack of education, a lack of funding, political violence and abuse, and party politics, kept women at a disadvantage long after independence was achieved. According to her research, Luo women did not gain political influence as a result of multiparty democratization. This research was used as a starting point for the current study of the status of Luo women in the pre-colonial, through to the colonial and post-colonial era. Nonetheless, it focused on women's involvement in food production while also considering their rights to land, which have been expanded under the current constitutional regime.

2.5 The Implications of Constitutional Reforms in Kenya on Women's Land rights in relation to Food Production in Kasipul

Scholars have researched the gender dilemma in light of the constitution and found several problems (Kibwana, 1992). Gender equality concerns have also been the subject of debates and discussions on both domestic and international policy platforms. As stipulated in the 1979 United

Nations convention on the eradication of all forms of discrimination against women (CEDAW, 1979), women in rural regions should have access to land, agricultural credit and loans, marketing facilities, suitable technology, and equitable treatment in land and agrarian reform (CEDAW). Additionally, CEDAW mandated that land reform safeguard women's property rights throughout marriage, divorce, and following the death or remarriage of a husband.

Governments were also urged by the Beijing Platform for Action (BFA, 1995) to pass laws and implement administrative changes that would grant women the same access to economic resources as men, including control over and ownership of land and other property, credit, and inheritance. In addition, the African Union's (AU) October 2010 introduction of the African Women Decade (AWD) which also sought to achieve food security and reduce hunger by expanding women's access to agricultural land, farm inputs, loans, technology, and extension services. It was essential to note that the new Kenyan constitution (2010) drew inspiration from these international commitments and guaranteed women's and men's equal access to land, the protection of their property rights, and an end to discrimination based on their gender. Optimal food production in Kasipul thus depends on rural women knowing their rights to land, which this study determined to be guaranteed by both local and international commitments.

Dancer (2017) examined the modern disputes surrounding the inheritance of land by women in Africa. Her research contrasted Tanzania's stance on enshrining equal rights in land and succession laws with that of its neighbors, Kenya, Uganda, and Rwanda. Neo-liberal drives for land law change in the 1990s and the socio-political sensitivity surrounding inheritance of land were identified to be the two main factors contributing to resistance to including gender equality into inheritance law reform. She went on to argue that recognizing the validity of claims to family land based on familial relationships is an essential part of any forward-thinking strategy

for amending constitutional and legal provisions pertaining to women's land rights. The research calls for comprehensive reform of land, marriage, and inheritance laws based on equal protection under the law and modernized interpretations of customary law. A majority of Kenyan women were still unable to inherit land, despite the fact that the country's new constitution gave them the right to do so. Therefore, this research was crucial to the success of this the current work. This research verified whether or not the aforementioned factors are also present among rural women in Kasipul.

Manji (2012) provided a critical analysis of the final stages of Kenya's land law reform, which saw the passing of the land act, land registration act, and National Land Commission act in 2012. He argued that the new land regulations in Kenya have done little to help the poor or develop the country. These legislations were surprisingly comparable with previous ones in that they encouraged land markets, permit individualization of land tenure, and established a presumption against traditional land tenure. The key issues for these statutes were the regulation of bureaucratic authority. When asked about the excitement that surrounding the recent adoption of Kenya's new constitution, he said that the potential of land reform was at the heart of that excitement. The research went even further, claiming that the new constitution and national land policies had not resulted in fair land distribution. This research helped inform the current investigation by shedding light on the steps that must be taken to enhance land laws and guarantee women's and men's equal access to property ownership.

Ndege (2012) examined the origins, evolution, complexity, and mutable character of the land question, especially as it manifests in land grabbing. He claimed the Kenyan government had tried to handle the land issue by setting up land commissions, land laws, and land policies. He also mentioned how the reports from the Njonjo and Ndung'u commissions were deemed

insufficient because they only addressed the legitimacy of public land and its illegal or improper distribution. According to his research, the land matter ought to be settled by enforcing the provisions of the new constitution and the National Land Act of 2012, both of which call for equal access to land for men and women. Focusing on women's rights, this research analyzed how well the land chapters of the new Kenyan constitution (2010) and the land act (2012) have been implemented at the county level so that women can increase their own food security. Have the passage of these laws enhanced women's access, control, and ownership of land?

Odeny (2013) studied the connections between women's land rights and socio-economic growth, peace, security, and environmental sustainability in Africa in a paper delivered during the annual World Bank conference on land and poverty. The effects of land inequality against women were also emphasized in the study. While there are certain legal safeguards for women, her research showed that this does not prevent them from facing significant barriers when trying to purchase or gain access to land in Africa. She has also elucidated the fact that there are gender inequalities in land ownership and control, citing the fact that the customary land tenure system, which is still used even under the statutory system, restricts women's rights to land ownership, control, and access. There are legislative land tenure systems that can improve women's access to land, but this study explained why customary law is still being used. In Kasipul, where the rural poverty index continues to rise, it is worth asking whether or not the presence of customary law in regards to land tenure has contributed to the rise in food insecurity and poverty.

Musangi (2017) analyzed the new constitution of Kenya through the lens of women's land and property rights. The report showed that compared to men, women in Kenya have less secure property and land rights. This was due to the fact that, as a whole, Kenya is a patriarchal country with serious legislative and legal flaws. Women are the primary food producers in their country,

making it all the more important that they have access to secure land rights. Although the constitution guarantees women the same property rights as males, she argued that this promise was hampered by a web of cultural, legal, and social circumstances. The central focus of this effort was on the intersection or variety of factors that contribute to the difficulties women confront in securing their land rights.

Ochieng (2014) examined the possibilities and constraints of land ownership by women in Katieno, Kisumu County, under the new constitutional system in Kenya. Her research showed that in the modern statutory land tenure regimes, women have more options than ever before for buying and selling land, inheriting land, and participating in land tribunals. Women from affluent urban backgrounds who owned agricultural land and desired to exploit it for commercial gain were the only ones who could make use of these advantages. Due to misunderstanding of these rules and the existence of cultural tenure systems in rural regions, patriarchal norms and traditional practices that discriminate against women, and a lack of an enabling environment and suitable mechanisms for enforcing these possibilities, rural women who primarily access and utilize land for subsistence purposes continue confront challenges. The study's overarching goal was to discover how rural women, and especially semi-literate ones, ought to be taught about the significance of these laws and how they might use that knowledge to better defend and enforce their rights to land and so improve the food security of their households.

Relatedly, Olum (2015) discussed the legal status of widows in regards to property ownership in Siaya County. According to the research, women have a lot to gain from the new statutory land rights, such as ownership and inheritance. She found that while women are aware of these possibilities, they are not taking use of them in practice for a variety of reasons. These include patriarchal and sexist social norms and behaviors, such as the widespread adoption of indigenous

land tenure systems in rural areas. Therefore, due to cultural and historical factors, widows continued to be denied the ability to own land and property. Widows received the bulk of research attention. However, the present study focused on rural Kasipul women who continue to be the primary breadwinners in their households.

The aforementioned literature provides a range of insights to this study starting from historicizing the research gaps to validating the objectives of this study. However, these studies have exhibited gaps which the current study filled. Many of these studies have provided a historical analysis of women's challenges which have been done from the global, continental and national context. However, most of the studies have failed to explain the individual groups of women who are found in different areas and are affected by a number of environmental and cultural issues. This study has historicized Luo women of Kasipul Division, Homa-Bay County hence filling this gap.

Some authors have also written about the various methods that were used when dealing with the challenges women faced in ensuring land tenure security. Most of these studies did not address the history of government policies and the roles that they have played in the economic empowerment of women especially regarding their rights to land. This study has thus addressed the government policies especially on land and how these policies have been used to promote women's rights to land for improved food production. Moreover, the policies have generalized women and have not taken care of the specificities of the various categories of women. This study has recognized the individual differences of the various women categories and unpacked the multilayered nature of the obstacles they face in gaining land rights despite the legal interventions including the promulgation of the new constitution which recognized women's rights to land and the crucial role they played in food production.

CHAPTER THREE

RESEARCH METHODOLOGY

3.1 Introduction

This chapter covers various aspects of research methodology such as research design, study area, study population, sampling procedure and sample size, data collection methods, data analysis and ethical considerations.

3.2 Research Design

Creswell (2014) defines a research design as types of inquiry in research that provides specific direction in the research process. This study was conducted using a descriptive research design to historicize women's land rights and food production among the Luo of Kasipul from 1908 to 2012. According to Kerlinger (1969), Borg, and Gall (1996), descriptive research design enables the researcher to investigate previous occurrences based on available information, that is, fact-finding, report the findings and formulate essential principles of knowledge. The design was appropriate for this study's data collection procedures such as In-depth Interviews, Key Informants Interviews and Focus Group Discussions guides. Moreover, the design allowed the researcher to use non-probability sampling techniques such as purposive and snowballing. The design also allowed the researcher to describe the state of affairs of women's land rights and food production among the Luo of Kasipul since the colonial and through to post-colonial epochs and the results presented. Without bias, the researcher described the behavior, attitudes, values, and features of the subjects then reported the findings. The design was adopted since it was the intention of the study to produce a detailed description of the history of women's land rights and food production among the Luo of Kasipul from 1908 to 2012.

3.3 Study Area

The study was carried out in Kasipul Division, Rachuonyo South Sub-County of Homa-Bay County, and Kenya. The division lies within Longitude 34 '0' E and Latitudes 0 '15' S and occupies an area of approximately 259.9 square kilometers. The division borders Kisii County to the South, Rangwe and Rachuonyo North sub-counties to the West and Rachuonyo East sub-county to the East (Appendix XI). The division is inhabited by a section of the Luo ethnic group called *Jokasipul* and a few immigrants or strangers, *Jodak* from other clans such as Kagak, Agoro, Kamine, Wasweta, Osije, Ramogi and Kanyimach among others. There are also clans assimilated from Bantu groups such as Batabori, Basamaro, Basweta, Babasi and Bogusero. When the British colonialism was established in Kasipul, it was still under Central Nyanza District later Kisumu District. However, in 1908, Kasipul, together with Kabondo and Karachuonyo were transferred from Kisumu District to South Kavirondo, later South Nyanza District, for administrative convenience (Ndege, 1987; Ayot, 1990).

The division is divided into five administrative locations namely West and East Kamagak and Central, South and North Kasipul. The average yearly precipitation varies with height and distance from the Gusii highlands. The division receives an average yearly precipitation of roughly 800 millimeters. There are two rainy seasons in the division, with extensive rains from March to June and short rains from August to November. During the short rains, the average annual rainfall ranges between 500 mm and 700 mm, while during the long rains, it ranges between 250 mm and 1000 mm, with a reliability of 60%. (Homa-Bay County Integrated Development Plan, 2018-2022). Between December and February and June and September, there is limited agricultural activity during the dry season. The physical features includes seasonal rivers, undulating hills such as Wire hills, low ridge, scalps and forests such as Koder forest.

There are various activities by the various households in Kasipul to generate income. They includes small scale farming in maize, beans, sorghum, cassava, groundnuts sweet potatoes and rearing of livestock; employment in salaried jobs and a section of the population are also in the informal or *Jua Kali* sector and small business.

3.4 StudyTarget Population

According to Kombo and Tromp (2006), the study population is a bigger group from which the sample is drawn. The study purposively targeted people living within and outside Kasipul who had adequate knowledge on topic of study. The study targeted women, clan elders and local administrators such as chiefs and assistant chiefs, land surveyors, opinion leaders and other men who are knowledgeable on women's land rights and the status of food production in the study area.

3.5 Sampling Procedure and Sample size

Purposive and snowball sampling methods were used in the research. Purposive sampling, as explained by Mugenda and Mugenda (1999), allows researchers to draw from samples that already have the data they need to achieve their research goals. Purposive sampling was employed to pick respondents who were thought to be 'information rich' and to have distinctive qualities or attributes for the study. They included individuals with knowledge on women's land rights and food production, colonial and post-colonial policies and how they impacted on gender relations and food production in the study area.

Snowball sampling technique was then used whereby the initial subjects with desired characteristics who had initially been identified through purposive sampling technique used their social networks to refer the researcher to other people that they know have the required characteristics and could potentially participate or contribute to the study. Vogt (1999) defines

snowball sampling as a purposive sampling strategy in which one respondent refers the researcher to another respondent, who in turn refers the researcher to another respondent, and so on.

In this study, the researcher identified one member of the population with the help of the local chief, spoke to him and then asked him to identify others in the population, then asked them to identify others to identify others and so on. The sample size was therefore determined when the new informants seemed not to be adding any new knowledge to the study by repeating what had already been established, otherwise known in historical research as the saturation point. A total sample size of 40 persons was therefore interviewed for this study.

3.6 Data Collection Techniques

3.6.1 Primary data

Primary data was obtained from the field via oral sources such as In-depth oral interviews, Focus Group Discussions, Key Informants Interviews and from the Kenya National Archives in Nairobi. Prior to gathering data from the field, the researcher booked appointments with the informants in advance.

Oral interviews helped the researcher in providing an inbuilt check system whereby certain respondents insisted that other individuals be interviewed on the same topic. They did this so as to assist them in recalling some of the events or they considered the respondents as more knowledgeable than them on certain issues. Oral sources also helped in capturing the voices of the people on the ground because in most cases the discussions started informally. This made the respondent to open up their feelings about women's land rights and how these rights impacted on food production in Kasipul. Oral interviews led to a total of 40 respondents that were categorized as shown in the table below;

Table 3.1 Information on Oral Interviews

Oral sources	Composition	Tool	Number interviewed
Key Informant Guide	Surveyor, agricultural officer, elderly widow, one member of the DLB, Former MCA, Chiefs/Ass. Chief	KII Interview guide)	7
In-depth Interview Guide	Surveyor, agricultural officer, elderly widow, one member of the DLB, Former MCAs Chiefs/Ass. Chiefs, 2 clan elders' man and woman.	In-depth Interview guide)	9
FGDs	8 per ward consisting of women of different categories such as widowed separated, unmarried and divorced.	FDG guide	24
TOTAL			40

Key Informant and In-depth Interview guides were used to collect data from sampled populations. Lastly, Focus Group Discussions were also administered using an FGD guide. Such discussions were crucial in unearthing “rich” informants who were knowledgeable on women’s land rights and food production trends in Kasipul from 1908 to 2012. In order to take care of the respondents especially those who were not well conversant with English language, the researcher conducted interviews in *dholuo* language then transcribed them verbatim into English. During the interviews, suspicion arose from the respondents regarding the researcher’s work in the area. Consequently, the researcher was able to convince them that the research was purely for academic purposes.

On the other hand, archival data were gathered from the National Archives in Nairobi. At the National Archives in Nairobi the following reports were gathered: Provincial and district annual

and quarterly reports, unanalyzed memoranda and correspondences on land, agriculture, labour and taxation with the assistance of officials of the Kenya National Archives. Other archival materials analyzed included political record books, minutes of Local Native Councils and hand over reports for both colonial and post-colonial periods. In order to verify their credibility, data from the archives were cross-referenced, supplemented and corroborated with oral and secondary data.

3.6.2 Secondary sources

Secondary data was collected through desktop document analysis from government policy documents, action plans, newspapers, published and unpublished theses, journals, books, periodicals, articles, and seminar and conference papers. These secondary sources were obtained from credible internet sources and from institutional libraries such as Maseno University Post-graduate Students Library, Kenyatta University's Post-modern Library and Moi University's Margaret Thatcher Library. Secondary sources helped the researcher in reviewing the literature with the aim of ascertaining the existing knowledge regarding women's land rights and food production among the Luo of Kasipul from 1908 to 2012.

3.7 Tools of Data collection

3.7.1 In-depth Interview guide

In-depth interview guide was used in interviewing the local administrators such as chiefs and assistant chiefs, former Member of County Assembly (MCA), elderly widows, clan elders, surveyor and members of the Divisional Land Board. This tool was significant in interviewing these people because they possessed vast knowledge in terms of tracing the lineage formation of the people of Kasipul and how it impacted on women's land rights and food production. The tool also enabled the researcher to cover all diversities during interview which enriched this study.

During the research period, the researcher personally conducted the interviews. The researcher briefed each participant on the purpose of the study prior to the start of each interview. The interviewee was first given the option to offer biographical information before being asked more broad questions by the researcher. Respondents were able to unwind and regain their composure as well as re-establish their credibility as knowledgeable experts on the matter at hand. The study's core questions were the next focus for the researcher. The questions were free-form, allowing the researcher to ask follow-ups whenever new, unexpected trends appeared. While conducting the interviews, the researchers never lost sight of the study's fundamental concerns.

The participants were free to propose problems of concern that they believed deserved consideration, depending on their unique understanding and perspectives. The interview method made it possible for the researcher to hear about people's experiences, thoughts, and memories in the interviewees' own words, rather than the researcher's point of view. There were times during the research when interviewees were eager to share their thoughts and experiences. This generally benefited the researcher because more material was disclosed uninterrupted, completely covering and addressing any and all pertinent topics. When people answered questions so openly and honestly, it prompted further inquiries or probing.

In a notebook, the researcher carefully recorded the responses from the participants. Creswell (2014) argues that taking notes is crucial in case the voice recorder breaks down. While gathering and processing data, the researcher made notes on his observations, impressions, and thoughts. Researchers were able to visualize interviewees' non-verbal signs and facial expressions thanks to these notes.

The researcher not only took detailed notes throughout the interviews, but also recorded their audio using a voice recorder. The researcher was able to record the interview and save any important details that were missed during note-taking. The interviews were recorded and afterwards transcribed in their entirety. When the respondents were giving the same answers to the same questions, the researcher stopped collecting data indicating saturation.

The tool therefore helped the researcher ascertain whether or not the respondents had grasped the concepts being probed beyond the most superficial levels. Researcher-participant interaction through probing also led to more detailed responses and the development of novel and insightful ideas. The researcher was able to observe the subjects in their natural environments and learn about their personalities, thoughts, and feelings. Archival data and the already-existing secondary literature enhanced and confirmed the material gleaned from the in-depth oral interviews.

3.7.2 Focus Group Discussion guide

A Focus Group Discussion guide was also used for a more interactive approach to the questions. According to Kombo and Tromp (2003), for a FGD to be effective, it should be composed of atleast six to eight participants. Three sessions of FGD was conducted in the three wards of East, West and North Kamagak which comprised of eight people each who were majorly single women of different ctaegories such as widowed, seperated, divorced and unmarried. Since some of them could not understand English language, these discussions were undertaken in *Dholuo*, the Luo people's colloquial language with voice recordings done and transcribed. The different categories of women had different experiences with their relatives regarding access to, ownership and use of land thus helped the researcher obtain new data for the study. The researcher ensured that the group discussed only matters relevant to the study. The researcher carefully planned and designed the group with the help of the moderators. The Focus Group

Discussion guides that was used contained a pre-determined list of open-ended questions which were derived from the study objectives in order to obtain qualitative data for this study.

3.7.3 Key Informant Interview guide

Key informant guides were used in interviewing surveyors, agricultural officer, MCAs (former and current), an elderly widow, clan elders, chiefs and their assistants and a member of the DLB since they were knowledgeable about women land rights and food production in the study area. This tool was significant because the surveyors and members of the DLB were involved directly in the resolution of disputes involving women that have brought before them. The was therefore used to provide supplementary data.

3.8 Validity and Reliability of the Research Instruments

In this study, validity of the research instruments was determined through content validity. Mugenda & Mugenda (1999) noted that experts in the field are typically consulted when determining the content validity of a research instrument. Therefore, the in depth-Interview, Focus Group Discussion and Key Informant Interview guides were presented to the researcher's supervisors who critiqued, reviewed and established their preciseness and sharpness in gathering relevant data for the study. They also made suggestions on the necessary areas to change in the research instruments. Moreover, in order to ensuring the reliability of the research instruments, the researcher organized a reconnaissance to the study area. This was done in order not only to make prior appointment dates and days for the intended interviews, but also to shed off issues that would be problematic during the actual period of data collection.

3.9 Data Analysis

In this study, data analysis was conducted in two ways. First, the archival data was analyzed through document analysis. Files were identified and perused on the basis of their relevance to

the themes and sub-themes derived from the objectives of the study. The analysis was done through internal and external scrutiny of documents to ascertain their authenticity and validity. Through the internal and external scrutiny, the researcher was able to establish the historicity of the documents that were corroborated with oral sources and against the existing secondary literature.

Second, data from the field which was obtained through oral interviews were analyzed through content analysis. The interviews were tape recorded after seeking for the permission of the respondents and then transcribed verbatim. Data that was transcribed was then organized according to the themes based on the objectives of the study. Corroboration of both primary and secondary data was done in order to ensure authenticity of the data collected.

3.10 Ethical Considerations

Researchers are professionals and therefore must adhere to research ethics which has well established rules and regulations that guides their conduct. Rana *et.al* (2021) defines research ethics as some of the genres that researchers follow to protect the rights in developing research strategies and bulding a trusted relationship between the study participants and the investigator.

The study was conducted in conformity with ethical issues in any research process. First, informed consent was sought and obtained from all the respondents on the basis that their involvement in the research was voluntary. In addition, the respondents were informed of the goals and objectives of the study before gathering data from them. Before recording the respondents voices in the voice recorder, permission was sought and obtained from them and therefore recording was done with the knowledge of the respondents.

Prior to conducting this study the researcher got a certificate of ethical clearance from the Maseno University Ethics and Review Committee. This facilitated the issuance of a research permit from the National Commission for Science, Technology, and Innovation (NACOSTI). The researcher also acquired a letter of research authorization to do research in Kasipul Division, Homa-Bay County from the County Director of Education. The researcher also acknowledged any secondary and published works that were used in this study.

CHAPTER FOUR
WOMEN'S LAND RIGHTS AND FOOD PRODUCTION IN KASIPUL DURING THE
COLONIAL ERA, 1908-1963

4.1 Introduction

In this chapter, women land rights and food production in Kasipul during the colonial period has been explored. The chapter began by providing a background the people of Kasipul by tracing their lineage formation and their pre-colonial land tenure and labour organization in relation to food production. The chapter then focused on the colonial period by examining the land, labour and tax policies initiated by the colonial government and how they impacted on women land rights and food production. Finally, the chapter has elucidated land tenure reforms initiated by the colonial state between 1954 and 1963 and how these reforms affected women's rights to land in relation to food production among the Luo of Kasipul.

4.2 Lineage Formation and the Evolution of Land Tenure System among the Luo of Kasipul

The people of Kasipul belonged to the Jok group of Luo speakers. The story of their origins, migration and settlement is bound by the Jo-Karachuonyo people. According to their traditions, Jok was the son of Ramogi and got married to Amadhu with whom they begot three sons namely Chwanya Rakwar, Nyasgenga and Rachuonyo Odia (SNHT, Vol. II quoted in Ayot, 1990). At the time, the Jok cluster, just like other Luo sub-groups, practiced a mixed economy of crop cultivation and livestock keeping. There were also many wild animals such as elephants which kept on destroying crops. This informed the need to constantly look after the crops to protect them from being destroyed by the animals.

According to oral accounts, Jok had been invited to a beer party in a neighbouring home. He therefore assigned his sons Nyasgenga, Chwanya Rakwar, Omwa and Rachuonyo to look after

the family millet field from wild game. The boys were initially reluctant to go but they later accepted following persuasion by their mother, Awandhu. On his way back from the party, their father decided to pass by the millet farm to check on what the boys were doing. Upon realizing that there was an intruder in the farm, Nyasgenga mistakenly threw the arrow which killed their father Jok, instantly. When the boys realized that they had killed their father, they fled in different directions since they could not withstand the effects of what had just befallen them. Awandhu, their mother became so desperate since the husband had just been killed and all the children had fled from their home to different directions that she did not know of. Therefore, there was a famous saying then, *Pap ochamo awandhu*, which was loosely translated to mean that, ‘the field has eaten Awandhu’ (Nyaoro, KII, Oyugis, 12/4/2021).

Nyasgenga fled to Kisii and formed the Abagusii clan called Wanjare, whereas Chwanya Rakwar, who was found and cared for by the Waondo formed the Joka-Onyango Raballa group of Kanyamwa, Kadem, Karungu and Kabuoch. According to the Jokarachuonyo traditions, Owidi Omwa became the eponymous founder of the Jok lineages in Kisumu. Rachuonyo on the other hand, had disappeared in the papyrus along the lakeside where he earned a living through fishing and hunting. Rachuonyo was later found by three old men Nyakwar, Ogelo and Chien who were herders and cultivators. He initially lived in the home of Nyakwar. However, due to constant disagreement between him and Nyakwar who always regarded him as a trouble maker, he moved to Omieri’s house, Chien’s last and childless wife (Ndege, 1987:36 and Nyaoro, KII, Oyugis, 12/4/2021).

In Chien’s house, Rachuonyo distinguished himself in hunting and demonstrated his hunting skills or prowess. He was also to help Chien clear her fields as she was a barren woman and had no sons to do the work for her. After Chien's death, Rachuonyo inherited Omieri as his wife, as

Chien himself had wished before his death. However, Ogot (2009) contradicts notes that Rachuonyo was adopted by a group of people who were basically cattle keepers and it was due to his hunting prowess that enabled him to inherit Omieri from his adoptive father, presumably Chien. He later got married to six other wives namely Owaga Nyaluo, Achieng Nyajuok, Auma Nyagoro, Nyipir Adero from the Kalenjin country, Adwet *nya* Maragoli and Achieng Nyakila. It is from these six wives that the major lineage segments of Karachuonyo take their name (Butterman, 1979: 76).

Together with Omieri, Rachuonyo begot only one son, Sipul who had been named after a dog. Chien's sons had initially rejected the idea that Sipul be named after their father. Moreover, according to Luo traditions, the children born as a result of widow guardianship are presumed to be the children of the deceased husband of their mother. The children are therefore incorporated in the family and often regarded as the children of the deceased. This was however not to be as the would be 'siblings' despised him and opted to give him the name Sipul which was the skin colour of their home dog. Odiény (2022: 50) notes that Chien's sons refused the idea of naming him after their father since they had not themselves been named Chien and this could be a taboo. This controversy could best be explained to signify jealousy among the siblings and the struggle among them to gain recognition and rights of property ownership. By being recognized as one of them would mean that Sipul would be entitled to inherit the property of Chien. This is what Chien's sons wanted to avoid at all costs.

Ndege (1987) and Ayot (1990) note that Sipul had become so unpopular among the Chien's sons that he decided to move out and establish his new home. He moved together with one of Chiens sons known as Owuor Adel and today they form the present Kachien clan among the Jo-Kasipul. When he reached the age where he could get married, Sipul got married to two wives, Adungu

nyar Uyoma katwenga and Awuor. With Adungu they were blessed with two sons, Omala and Owidi.

Omala, Sipul's first born son got married to Adie and they were blessed with a son, Bondo who forms the present day Jo-Kabondo. On the other hand, Owidi, Sipul's second born son got married to four wives, Opondo, Anyango, Apiyo and Olal which forms the present Kasipul lineages. His first wife Opondo only gave birth to daughters and therefore called upon her sister Anyango to get married to Owidi. This was a clear indication of how women and girls were undervalued in the Luo pre-colonial society. Somebody who gave birth to girls only was regarded as not having children. In retrospect, oral accounts indicate that Opondo, Owidi's first wife was barren hence did not have a child thus calling upon her sister to marry her husband and together they were blessed with eight sons, Okumu, Obundu, Kimongo, Leju, Ojier, Kikwa, Kagwat and Apuoyo which forms the present Kanyango sub-clan (Nyaore, KII, Oyugis, 12/4/2021).

Apiyo, Owidi's last wife who had previously lived with Anyango to help in domestic chores, gave birth to a son, Okal which forms the present-day Kokal sub-clan. With the other wife Olal, Owidi had a son known as Okoth whose descendants today form a majority of Kasipul lineages. For instance, Okoth got married to Adera and they had three sons, Ogudi, Ojwach and Ndaya. The descendants of Ogudi although a majority of his sons died formed the Joka-Ogudi sub-clan whereas Ojwach got married to Were and Miyoro whose descendants forms the Kojwach clan. Ndaya had two wives Swa and Onjaro. With the first wife Swa, Ndaya begot had one son called Onuonga and with his second wife Onjaro *nyar* Kowak, they had a son called Okwanyo whose descendants form the present Kokwanyo clan. Onuonga got married to seven wives namely Atinda, Adu, Mijil, Akal, Aketch, Wamkara and Angou *Nyar* Kamtenga. With Atinda the first

wife, Onuonga had four sons, Onyango, Odera, Otieno and Dianga whose descendants collectively formed the Jokandaya consisting of K'Onyango, Kodera, Kotieno and Kadianga lineages (Ndege, 1987:38; Nyaore, KII, Oyugis, 12/4/2021).

The study focused on the K'Onyango clan who are the largest clan today among the Jo-Kasipul and occupies three locations namely, East Kamagak, West Kamagak and North Kamagak where the research was carried out. Oral accounts from Matunga (KII, Sikri, 10/4/2021) points out that Konyango today comprises of two categories of people which included the natives (*jopiny*) and strangers (*jodak*). The concept of strangers was applied to mean those people who do not come from the native K'Onyango clan. They included Jobatabori and Jobasi (Bantu groups living among the Abagusii), Joagoro, Jokagak, Jowasweta, Jokabuoch, Jowaswa (who came from Tanzania) among others. Therefore, within the three locations, there are several people who are not natives within the K'Onyango clan. From the history of lineage formation, it is not clear on the evolution of Luo culture and how it affected women rights to property. However, on the economic sphere, it mentions about the transformation of the people's economic activity from initially being fishing, hunting, and gathering to agriculture. The change to agriculturalization meant that more attachment was now given to land as a resource for agricultural production.

Different scholars writing on the contemporary Luo society have advanced a number of arguments on why it is important to trace lineage formation among communities particularly the Luo. They agree that tracing the lineage formation has been used to understand the evolution of social and economic changes of the Luo community (Butterman, 1979; Ndege, 1987 and Odieny, 2022). However, land use systems does not appear anywhere in the process of lineage formation despite land tenure being part of socio-economic change and a basic factor for agricultural production.

4.2.1 Pre-Colonial Land Tenure in Kasipul

Land tenure refers to ability to access, own and use land. For women, their rights to land mean their ability to make productive use of land to increase food production. Land is the most basic resource for agricultural production (Davidson, 1988). It therefore follows that land was the primary source for food and livestock. Moreover, the wild game and plants that were hunted and gathered also depended on land. It is therefore an important resource for the sustenance of livelihoods in families, clans and communities.

Many scholars writing on the pre-colonial land tenure system have found it difficult to identify and generalize the land tenure system that existed in the African communities during the pre-colonial period. This problem has been caused by a lack of credible sources on the topic and inaccurate historical narratives written by western academics about traditional African communities (Okoth-Ogendo, 1976). Among the Luo of Kasipul, land tenure that existed was similar to the one that other Luo groups had. Land was communally owned and was governed by customary laws and obligations (Okuro, 2008). This implied that land was not owned absolutely by a person, household that dwelt on it, village groups or chiefs but owned collectively by all these groups. Land was regarded as God's creation and everyone in the society had the freedom to access and use it as they so wished.

Moreover, every person who enjoyed usufruct rights to land was recognized by the whole community and these rights enabled the person to enjoy security of land tenure. Okoth-Ogendo(1976) notes that every person in a community had rights to access land depending on the unique needs of the individual at a given time. Furthermore, access to land was specific to a function for example cultivation or grazing. Therefore, in any given community, a number of persons could each hold a right or a bundle of rights expressing a specific range of functions.

Thus, a village could claim grazing rights over a parcel of land subject to the hunting rights of another, the transit rights of a third and the cultivation rights of the fourth group. All these carries with it varying degrees of control exercised at different levels of social organization.

Communal land ownership provided that land was to be used to the benefit of the whole community and each member of the community could utilize land for a specific function. Therefore, the concept of communal ownership of land was the driving factor in the definition of land tenure during the pre-colonial epoch. This implies that all members of the community had access to land at various points depending on what they used it for. In Africa, land is said to be in many forms that order the relationship between the people-both the living and dead. According to Davidson (1988), land structures the relations between groups within a society, and between the living and the dead and that as soil, it was used as a material resource in symbolic rituals to show a societies attitude towards sex and gender relations.

There was no question of gender biasness in land ownership among the Luo of Kasipul just like the other Luos inhabiting other areas of Kenya during the pre-colonial period. Land was abundant and everyone could utilize it as they wished. Land was also owned by the whole community and each individual regardless of gender worked on the land for the benefit of the whole community. Nielsen (1978: 9) states that in the communal system 'the distinction did not exist between a public world of men's work and a private world of women's household service. Moreover, the large collective of the household was the community, and within it both sexes worked to produce goods necessary for livelihood.' Land therefore belonged to everyone in the community, male or female who could use it in various ways for the benefit of the whole community.

There were a number of ways through which individuals acquired land among the Luo generally and Kasipul in particular during the pre-colonial era. For instance, land was acquired through first occupation or the right of conquest and continuous investment of labour in clearing of virgin forests for crop cultivation. Once land was acquired through clearance and first occupation, it became the property of the initial occupier of that land and the individuals or clans assumed the rights of control (Okuro, 2008). Once the virgin forests had been cleared for crop cultivation, boundaries were established and persons could lay claim to that land. Boundary demarcation was done by the use of a traditional plant, euphorbia (*ojuok*) or sisal and everybody had a right to claim the area they had cleared (Matete, O.I, Oyugis,18/4/2021). So once a person occupies an area and begins to cultivate, the area automatically became theirs after demarcation. This was commonly used method of acquiring land.

There also existed other methods of accessing land in the societies. They included through borrowing, purchase due to increase in population, limited exchange of plots or swapping of plots between friends or kinship members for specific seasons or crops inheritance of land from parents. Mwaruvie (1994) notes that land was given to a friend or a relative within the clan and was not to be sold to a person from a different clan (Mwaruvie, 1994).

Once acquired, land was occupied on clan basis and the clan elders divided the land to individual families and once divided, the land was inherited or passed down through the male line (KNA/PC/NZA/3/14/27). According to Ochieng (1974), among the Luo of South Nyanza, land was owned and occupied on clan basis and it was the clan elders who divided the land to the individual families. Within each family, the head allocated land to individual households. The size of land apportioned to each of the wives depended on the number of children in the

household and their abilities and needs. Moreover, the seniority of a wife or a son affected the allocation of land in terms of size to either the wife or son.

Within the households, women were allocated land which they used for cultivation and grazing. For the man even after dividing land among his wives, he retained some land for himself (*mondo*) which he farmed with the help of his children. The piece of land that the man retained for himself helped in the production of crops which was used to feed the relatives and also acted as a safety valve during excessive rainy days or famine (Ndege, 1987). By so doing, food security was ensured within the family even during the times of famine. Moreover, man worked on his own land (*mondo*) because if he assisted one of his wives, this would lead to jealousy from the other wives who would see this as favoritism (Onduru, 2009). The man, especially in the polygamous marriage had to try and portray that he is very neutral so as to ensure that the family sticks together.

After the head of the home has allocated land to a particular wife and her household, it would not be taken back and given to another wife in the polygynous arrangement. That piece of land belonged to the wife who was the owner of the household. This is what Okuro (2002) rightly noted that “no right-thinking Luo man would attempt such a misnomer” since it would provoke hatred between members of one’s family particularly among the wives and their children. Luo men also retained a piece of land for themselves after allocating land to their wives.

Kinship relations also defined land relations in the pre-colonial Kasipul. Once land has been acquired, it did not belong to an individual but belonged to all lineage members on the patrilineal kinship. Ndege (1987) supports this by noting that one's kinship network governed where they lived and whether or not they could possess land at the minimal and maximal lineages. If a

member of the maximal lineage cleared a certain portion of land for use as a garden, he had full rights over the produce except for the soil. He used the land freely without being charged for its use. Moreover, as the population of the maximal lineage grew, there emerged the need to take care of the clan land. For women, although they had the rights to access and use land for crop cultivation, they were granted those rights through their subordinate relation to men as wives, daughters, sisters (Yngstrom, 2002). Moreover, security of marriage for women determined security of tenure such that when marriage is in jeopardy through death, divorce, separation, then women land rights become vulnerable.

Luo women did not possess land but had usufruct rights to land. They could access land based on their relationship with the kin either as wives or daughters. Pala (1983) notes that a woman who is not married had usufruct rights to land vested in her father's patrilineage whereas a married woman had usufruct rights to land that belongs to her husband's patrilineage. The usufruct rights to land meant that individual women were not granted the authority to transfer land and that, as lineage 'wives' and 'daughters,' women were entitled to land for agricultural purposes from which they were expected to sustain themselves, their children, and their husbands (Pala, 1983: 70). Individual women did not have the right to allocate land but enjoyed land tenure security due the principle of communal land ownership which prevented land alienation by men who were the ones to allocate land (Okuro, 2008). When a man is married, he could allocate land for his house. But before a man got married, he had no power to allocate land but this was done by his father or the clan elders.

Women of Kasipul were therefore just 'land owners' in theory but not in practice. They owned land in the context of tilling that land to produce food for her family. According to Ayot (1990), land among the Luo was considered 'property' of the woman and that no one could take it from

her. This was ownership in the sense that the woman was free to utilize it in whichever way that was considered productive. According to her, women were economically independent and were not just regarded as caretakers but owners of their houses, their land, cattle and any other property. In Kasipul land actually belonged to women since most the lineages were defined by women who were the eponymous founders of the Rachuonyo lineages (Asiyo, KII, Karachuonyo, 2/1/2022). Women however held the land in trust for their sons who would inherit the land as soon as they got married.

Women security of land tenure under customary law was thus rooted in their structural position as lineage wives, which had an impact throughout the traditional social structure. The normative emphasis on agnatic principle is part of an ideology whose main function is to preserve corporate rights in land under the control of men and to eliminate the possibility of alienation of land by any member of the corporate group (Okuro, 2008). Moreover, Achola Pala Okeyo (1980) quoted in Ayot (1990: 71) notes that Luo women were regarded as "fundamental to the structure of segmentary lineage because of their reproductive and productive activities" which often "combined to produce and sustain the developmental cycles of the family within lineage system". Moreover, it was because of this development that lineages often sprung "from women and even long after they are dead some women remain lineage eponyms". By having the names of clans in their names, women access to and use of land in Kasipul was secured hence they improved food production.

Marriage carried more security of tenure in land for a married woman than being unmarried since a married woman's structural position was much stronger than that of an unmarried girl. Furthermore, a woman's economic responsibilities were increased in marriage because of her role as the owner of the house (*wuon ot*) which comprised of a married woman and her children

(Okuro, 2008). It was the woman who was supposed to farm and produce food for her family. Importance attached to a house as a concept was thus broader and offered more analytical insight into a woman's property rights and reproductive roles than the notion of household (Pala, 1983: 195). The house concept was thus and is still a property holding unit by virtue of birth of sons and its internal structures changed when a son(s) got married, moved out of their fathers homes and established their new homes.

Women in Kasipul were not allowed to inherit land or any other kind of property as individuals either in her paternal or patrilocal residence. Within the paternal residence, women were not allowed to inherit land because they were regarded as 'passing cloud' and that they would soon leave the home and get married. Upon marriage, she could also not be able to inherit land. The Luo were a patriarchal society that used patrilineal inheritance, which explains why women did not inherit land. Shipton (2009) argues that the fact that women were themselves inherited as if they were part of the property further undermined their claim to inherit land and other types of property. In essence, women owned nothing in the home including her husband, the children or land and any produce obtained from it. Land was inherited by the sons but only when they got married. Even in the event where the man died or the event of divorce, women held land in trust for their sons who would later inherit that land upon marriage.

An oral informant, Nyaoro (KII, Oyugis, 14/4/2021) validates this claim by noting that before a man got married, the land apportioned to their household belonged to his mother, but once he got married, he established a homestead where he built a house for himself and his wife (or wives) within the same homestead. The man then divided the plots among his wives who upon death passed it to the male children with the eldest son receiving a share bigger than that of the rest of the male children. Men therefore inherited land through their mothers since upon the

death of their father, women held land in trust for their sons. This scenario still exists even today such that when the head of the family dies, the title to the land they occupy is transferred to the mother of the home who in turn apportions that land to her sons when they come of age.

Although inheritance of land among the Luo was through the male line, women rights to land was guaranteed. Once a woman was allocated land by her husband, she retained the usufruct rights to that land as long as she remained in marriage. In the event of that she lost her husband and became a widow and the woman is inherited by a close relative, then she did not lose her rights to the land and that her sons inherited the land. If the widow did not have sons and is remarried outside her late husband's lineage then the land is alienated by members of her late husband's lineage. Moreover, if she got married outside the lineage and had sons then her sons would inherit the land (Midigo, KII, Oyugis, 4/4/2021).

In the foregoing discussion, it is observed that men gained access to land largely as lineage members whereas women gained access to land as wives and daughters. Thus, control over and access to land through inheritance assumed a far different pattern for majority of African societies that ascribe to a patrilineal ideology and organization. Hence men controlled women access to land and allocated their labour. In patrilineal communities the more wives a man had, the more land he could accumulate and control (Hay, 1976). Moreover, the more land a man controls the more wives and children he needed to cultivate it (Davidson, 1988). The joint productive-procreative value of women has been symbolized in many African societies including the Luo of Kasipul through the exchange of bride wealth or bride service so as to compensate the family where the woman came from for the loss of her labour and assure future paternity of her children in marriage.

Moreover, customary land tenure during the pre-colonial period ensured that women accessed and used land for agricultural production. However, the customary land tenure has undergone changes during the colonial and through to the post-independence period with a focus on individualized land tenure which affected negatively women usufruct rights to land (Nzioki, 2000). Nonetheless, several aspects of pre-colonial land tenure still exist among African communities including the Luo of Kasipul even today and that land is still inherited along the male line.

4.2.2 Women's Labour in Food Production during the Pre-colonial Period

Having examined pre-colonial land tenure, it was imperative for the study to also look at division of labour during the same period. Labour was a key component of food production among many communities in Kenya particularly among the Luo. Labour was divided according to gender and age. Ndege (1987) notes that traditionally, division of labour among the Luo of Kasipul and Kabondo was according to sex and age. This implied that men, women and children had different tasks which they performed thus influenced decision making and division of labour (Matete, O.I, 4/4/2021). However, Ambler (1988) notes that the Luo were generally indolent, lazy and conservative as far as labour were concerned and that they relied mainly on their neighbours for food requirements through trade as they did not grow food. To the contrary, the study established that the Luo of Kasipul were hard working in their *shambas* and produced enough food for their families.

The agricultural activities among the Luo of Kasipul were determined by both the soil texture and rainy seasons. Whereas there were some areas with clay soils, others had sandy soils but this did not stop people from employing their labour for subsistence. The difference in soil texture enabled the people to grow different variety of food crops. Moreover, the nature of farm work

was also determined by different seasons within a year. For the major crop season, *higa* land clearing in readiness for cultivation was usually done in October. In the months of January and February, ploughing was done and upon the onset of long rains, planting was carried out after which weeding followed. For the minor crop season, *opon* planting was done in the month of August and September and harvesting done in the months of December and January (Omenda, O.I, Gamba, 02/04/2021)

Labour was divided in such a way that men cleared bush for farming, breaking the soil and constructed granaries while hand digging, scaring birds, planting, weeding, harvesting, transporting produce from the farm and preparation and storage of farm produce was done by women. Children would sometimes be used to scare away birds; boys would graze livestock while girls performed domestic chores (Pala, 1983; Asiyo, OI, Karachuonyo, 2/1/2022). As observed by Hay and Sticher (1984), the division of labour in the pre-colonial African communities reflected the structure of the extended family and that the head of household in collaboration with the lineage head controlled the use of land and other economic resources, labour of his family members, allocated food fields to his wives, gave them instructions to feed guests and sometimes required that a portion of harvest should go to his granary. Therefore men, as heads of households, controlled labour and were responsible for the allocation of labour tasks within the household.

The family acted as the basic source of agricultural labour although hired labour could also be used. As the owner of the house, the woman directed her children to work on the land apportioned to her. When women and children were busy engaged in the general fields, men had their own plot, (*mondo*) which they also cultivated and harvests taken to their own granary. More often than not, the man would sometimes ask for help from his dependents and in most cases,

they never refused because a man was highly respected as the head of the family. It has been observed that division of labour was done according to gender and age. However, although men were required to clear virgin forest, herding and building granaries, they were also required to hoe fallow land since it was considered harder than virgin land (Muma-Adhanja, O.I,Ouru 14/4/2021). Moreover, Onduru (2009) asserts that Luo men from South Nyanza went out to the field early enough and women would later join them in the field having brought to them food to eat. The men would then leave early leaving women and children to continue working for long hours in the field until late in the evening. Therefore in as much as women did more agricultural work in the field, the fact is that both Luo men and women of Kasipul shared agricultural labour in the farms.

The gender division of labour for growing seasonal crops also varied by group and within groups. Whereas both sexes jointly cultivate some crops, other crops were cultivated exclusively by men and women. As a result of this gender division of labour, some crops were identified with either male or female farmers. Matete (O.I, Oyugis, 4/4/2021) explained that women of Kasipul cultivated grain crops such as sorghum (*bel*), millet (*kal*) while men cultivated root crops such as yams. Moreover, speckled maize (*bando*) was either cultivated jointly or separately by both men and women depending on whether it had subsistence or cash value. Therefore as Ayot (1990) pointed out, the crops that were regarded as women crops had their cultivation, weeding and harvesting tied to certain rituals which were sex linked between men and women. Essentially, everything that was to be done on the farm was done under the purview of the man and his wife or wives. If a man had more than one wife, he would have to spend the night at his first wife's place so that she would be the first to participate in these economic activities and the other wives followed in the order of seniority.

In case the first wife, *mikayi* was absent from the homestead, no farming took place since she was the one who was supposed to break the first to break the ground for cultivation. This implied that when she was absent, everything in the home came to a halt until her possible return (Ayot, 1990) and when she was absent no other wife was allowed to step in (Nyakwaka, 2013:17). This therefore implied that the first wife had a huge role the food production process among the Luo of Kasipul and had to be present to ensure that the production chain is not broken. Thus as Davidson (1988) argues, land as soil is employed as a tangible resource in symbolic rituals that reveal the attitudes of a culture about sexuality and gender roles.

Production was mainly done for subsistence purposes. This was due to limitations of technology and the need to satisfy the nutritional requirements of the people. For example, harvesting of crops such as finger millet was done manually and therefore would take a long time to be completed. Harvesting of the millet was a time consuming process as the people used knives to cut off the heads of finger millet and lacked advanced tools for harvesting the crop such as scythes or sickles due to limited technology (Aol, OI,Kosele, 16/4/2021). Harvesting was done by women who transported the produce to their respective granaries located within the homestead. Each of the wives had their own granary where they stored their produce and they were required to guard against wastage of produce under their care. But they could not dispose the surplus without consulting the head of the home. Women were thus custodians of farm produce under their care but did not have the power to make decisions on them as this was a preserve of men.

During crop production, a number of challenges were experienced such as drought and outbreak of pests and diseases. For instance, as rainfall was not completely reliable, drought sometimes hit Kasipul and the rest of Luo Nyanza leading to harvesting of small amount of farm produce hence

famine. According to Ndege (1987: 53-54) there were famines that occurred in Kasipul in the course of the 20th century and which were worsened by the colonial economic policies such as taxation. One respondent remembered vividly the famines of *Ongonga* and *Abwao* which were caused by the biting drought that ravaged the area for a long time (Muma-Adhanja, OI, Ouru, 14/4/ 2021).

Moreover, a variety of insects, including armyworms, grasshoppers, and locusts also preyed on the crops leading to famine. Stalk borers and shoot bugs caused significant damage to maize and sorghum fields. In addition to rust, tar spot, and blast, these diseases also impacted on finger millet. Pestilence from birds and other animals was another problem. It was still the job of the women and children to chase the birds away so they wouldn't eat the crops. Ndege (1987:54) observes that in order to curb the infestation of the farms by these pests, structures were set up around farms to keep wild animals out of the crops. Moreover drought-resistant root crops like sweet potatoes and yams were also planted so as to curb famine. All these activities were done by women hence the burden of labour for food production in Kasipul was shouldered by women.

4.3 The Establishment of colonial rule in Kasipul

The European traders, explorers and missionaries had taken keen interest in East Africa long before the Berlin Conference was convened in 1884 by then German chancellor Otto Von Bismark to decide on the partition of the African continent by the European powers. They engaged in activities such as exploration, spreading Christianity, trade, civilizing Africans and so on. The signing of the Helgoland treaty on July 1st1890 finalized the sharing of East Africa between the British and the German colonial powers and defined the area as their spheres of influence or areas of occupation. Lonsdale (1989) notes that despite the communities mounting

spirited resistance, the British employed brute force and violence to crush the resistors so as to force them in to submission.

During the period between 1894 and 1914, the British declared a protectorate over Uganda and the area between the Kenyan coast and the Buganda kingdom placed under the control of acting commissioner in Uganda. Initially, the area was under the Imperial British East Africa Company (IBEACo) which had been granted the royal charter by Queen Victoria of England to administer the protectorate on behalf of the British government. However, as Ochieng (1985: 87) observed, the company 'had not made any visible headway not only in the exploitation of the area that had been entrusted on it, but also not set up an administration'. Moreover, due to lack of sufficient funds, the company became redundant and surrendered the charter and all concessions to the British government.

When the British declared protectorate over Buganda in 1894, the present region of Kasipul and the entire South Nyanza was part of the Eastern Province of the Uganda protectorate which included Kisumu and Naivasha Districts. In 1902, Kisumu and Naivasha Districts were transferred from the Uganda protectorate to the British East Africa Protectorate as Kenya was then called. As a result, the people of Kasipul and South Nyanza generally were secretly subjected to British colonial power, and they quickly found themselves under strict colonial control (Ndege, 1987: 51). According to Historian William Robert Ochieng, the current western part of Kenya was considered nothing more than "a supply zone on the way to Uganda" until the transfer of the Ugandan province of Eastern to Kenya (Ochieng, 1974: 73). The result was that the British continued to view Kenya as a means to get to Uganda, where they had vested interests.

In the same year, Boughton-Knight, a British administrative official, stopped by Rusinga island en route to the southernmost city of Karungu. His assignment included him serving as acting commissioner for the South Nyanza region, then known as the South Kavirondo District containing Kisii (DC/KSI/3/2, 1912-1913). Karungu's populace resisted the British colonization, inspired by their leader Ougo. The end result was death of both Africans and Europeans. The people of Karungu finally gave up and admitted defeat by the Europeans after which the first administrative headquarters of the British colonial government was established at Karungu. According to Ayot (1990: 232), Karungu was chosen as the British command post in South Nyanza in order to not only bring to an end the resistance and put the entire South Nyanza under British control but also prevent further German incursions from Tanganyika in defiance of the stipulations of the Anglo-German agreement of 1890. The Karungu station remained the administrative headquarters until 1907 when the centre of administration was transferred to Getembe or Kisii *boma* under the leadership of G.A.S Northcote who became the assistant commissioner of South Nyanza. The Abagusii put up a resistance but were also suppressed by the British.

The relocation of the headquarters to Kisii was due to three major reasons: first, the British felt that it was centrally located in order for them to keep constant check on the Abagusii; Karungu was too far from Kisii and therefore unsuitable for effective control of the entire South Nyanza District and Karungu was highly prevalent with malaria and sleeping sickness which killed many Europeans such as Boughton-Knight. In 1908, the locations of Karachuonyo, Kasipul and Kabondo which had been part of Kisumu District were transferred to South Nyanza District whose headquarters was now at Kisii. Therefore by 1908, the whole of South Nyanza including Kasipul was placed under the British colonial rule (Ayot, 1990: 234). After formally establishing

their colonial rule, the nascent British colonial state came up with a number of economic policies that had far reaching effects on the people of the area particularly women.

The establishment of colonial authority involved the process of capitalism penetration into African economies. Moreover, colonialism facilitated the fusion of Africa's traditional economic practices with the capitalist mode of production, hence facilitating the continent's economic integration into the western capitalism (Zezeza, 1995). Both indigenous people and colonialists experienced shifts in their lives as a result of the colonial state's articulation with pre-capitalist political and economic processes. The colonial state's primary goal was to subjugate the native population and plunder their riches. That's why the colonial state did double-duty when it established its authority. It therefore served two functions: first, it operated on the ultimate institutional apparatus by ensuring that the reproduction and accumulation of capital and second, as an agency for maintaining class domination and subordination. Therefore due to its dual role of supervising capital accumulation and providing ideological legitimacy, the colonial state operated in an atmosphere of uncertainty (Ndege, 1987: 83).

In its attempt to accomplish the above, the colonial state had to devise a system that demanded destruction of some of the pre-capitalist local political and economic structures. Ayot (1990) notes that the colonial government did this through individualization of land tenure, the introduction of taxation system and creation of colonial chiefs to procure labour for the white settlers and this was meant to bring about changes within the society.

As a result, the colonial state's dual purpose necessitated the creation of a system that prioritized the constant dismantling of pre-capitalist social, political, and economic institutions. The colonial government of Kenya divided up the land, the country's most important agricultural resource,

between white settlers and native Africans as a result of the country's dualist system. Kenya's colonial authority adopted the model of dual societies like South Africa and Southern Rhodesia (Zimbabwe), grabbing up the vacant and unoccupied land and forcing the African population into unproductive reserves (Ayot, 1990).

Economic tensions between Europeans and indigenous peoples arose as colonial rule was established. In the case of land ownership, tensions arose between Africans' traditional rights and those of the new European settlers. Prior to the formation of official colonial rule among the Luo of Kasipul just like the rest of Kenya, women's rights to land were generally secure. However, due to their incorporation into the dominant society, there was a reduction in the women land rights because colonial laws prioritized male family heads as the rightful owners of property. According to Barbara Rodgers (1980) which was quoted in Ayot (1990), the colonial authorities found it appropriate to equate the power held by certain traditional male elders to allocate land with western concept of ownership, assuming that men owned all the land. In such cases, the women lost the guarantee of traditional systems to access and use land.

4.3.1 The Colonial Land Policies

A generally flexible and stable structure of access to and control of land existed in pre-colonial Kenya until the establishment of the protectorate in the early 1890s and the colonial state at the beginning of the 20th century (Kanyinga, 2000). This system of land tenure was eventually altered following the establishment of colonial rule which was to be consolidated through land alienation for settler farming in order to support the colonial sector, which was consequently supposed to help meet the administrative cost of the colony.

After the establishment of colonial administration in Kenya, land was alienated and acquired, English property law was imposed, and the protectorate proclaimed title and private property

rights(Okuro (2008: 51). As a result of these changes, indigenous people were forced to relocate from more fertile regions to places with poorer soil and less favorable climatic conditions, leading to an unequal distribution of land. This was done with the assumption that the local populations' rights to property were limited to cultivation, occupation, and grazing and not to individual title. The private property rights particularly on the issue rights to land led to the marginalization of women land rights due to the institutionalization of patriarchy.

Kenya's colonial government engineered the passing a slew of laws that resembled British propriety notions and favored white settlers, who were seen as the country's "engines of progress". They included the Indian Acquisition Act (1894), Land Regulation (1897), East Africa Lands (Order) in Council (1901), Crownland Ordinance (1902), Crownland Ordinance (1915), Protectorate to Colony Status Change (1920), Kenya Lands Commission (1921), and Native Land Trust Ordinance (1938) are all examples of such laws (Ndege, 2012). Ordinances like these were adopted so that the colonial government could exercise complete control over all territory in the protectorate.

The protectorate implemented the Indian Acquisition Act of 1894, which mandated the forcible acquisition of land belonging to African people for railway construction, government buildings and other public works. The implementation of this act was done two years later in 1896. Kanyinga (2000) opines that the Indian acquisition act led to the imposition of laws and institutions that impacted on access to and ownership of land by Europeans. The enactment of these laws set up the stage for the alienation of the African land by the Europeans.

Therefore what followed was the imposition of the first regulation; the Land Regulations act of 1897 which authorized the commissioner to issue certificates of temporary occupancy for 21

years that could be renewed for another 21 years (Okoth-Ogendo, 1976). However, the colonial government was not satisfied with this new development. They were not happy with the certificates of temporary occupancy and demanded that Europeans should have a freehold tenure for land in the country by them having longer, more secure, better and more attractive leases..

Consequently, to further facilitate the disposal, sale, or leasing of waste and vacant land in the protectorate, the East Africa (Lands) order-in-council of 1901 was enacted (Kanyinga, 2000: 36). Furthermore, the ordinance put the crown lands within the protectorate under the commissioner who held it in trust for the monarch in England. It also defined crown land as all public land within the protectorate which were not private. According to this act, all the land in the protectorate apart from the area around the coastal strip became the property of the queen of England (KNA/34/1901). Massive land alienation occurred in the protectorate's interior, particularly in areas deemed favorable for white settlement, as the ordinance gave colonial authorities broad authority over land concerns. The ordinance, however, was unclear since it defined "crown land" as "public lands" without clarifying what it meant. The 1902 Crown Land Ordinance was enacted after this one.

The Crown Land Ordinance legalized the alienation of vast swaths of land for white settlement in Kenya (Kanyinga, 2000). As a result, the legislation authorized the protectorate's commissioner to distribute land in the territory to European settlers for a period of 99 years. Ochieng' (1985: 107) notes that the ordinance had provided for the sale of all empty land at two rupees per acre or leased out at fifteen rupees per 100 acres for the Europeans and that for Africans, the land would either be developed in form of occupation or cultivation or else forfeited.

The ordinance went on to explain that the Crown was the rightful owner of all land, and that when Africans abandoned or left their land, it was considered waste and returned to the Crown to be distributed to the settlers "subject only to such directives as the secretary of state may provide" (Kanyinga, 2000). Harndinge, the protectorate's first commissioner, had held that Africans had legal title to land only if they actively farmed or lived on it. The land became a "wasteland" once they left. Therefore, the protectorate government had to claim ownership of the area, along with any other uninhabited land nearby, and either sell or lease it to the new arrivals.

The traditional African view of land ownership held that every piece of land belonged to and was occupied by a single group, family, or community, and that every member of that group or family or community had the right to use some portion of that land for grazing, hunting, farming, and so on (Okoth-Ogendo, 1976). No matter who owned a piece of land, people were always using it. This meant that throughout Kenya, there was no distinction between the country's owner and the land owners. This distinction was formed by the Crown Land law of 1902, which effectively gave foreigners full possession of the country. Though this legislation did pave the way for the sale and leasing of land to European settlers, they were ultimately dissatisfied with its terms because they felt that the leases were too short and that nothing short of outright ownership could provide a stable platform on which to organize and invest in agricultural production.

In the pre-colonial Kenyan communities generally and Kasipul in particular, there was never a difference between when one is actively occupies the land and land ownership as stipulated by the Crown Land Ordinance. Land was held for the benefit of the whole community. The Ordinance thus gave the land that to the Europeans by claiming that the land was for the crown.

However, in Luoland and particularly in Kasipul, land was not alienated for European settlement as well as missionary work. When the Seventh-Day Adventist missionaries first entered the area led by Paul Baker in 1909, they wanted to establish a mission station at Nyahera within the Kanyango clan, the chief Oyugi *wuon* Bala refused to grant him land there and instead granted him land at a place that was then christened as Pakla which was a very rocky place near the hills of Wire (Ongou, KII, Oyugis, 27/5/2021). Other missionary groups that operated in the area included the Mill Hill Fathers (MHF) that first set up at Asumbi before coming to Kasipul and the Church Missionary Society (CMS). Therefore by giving the missionaries rocky land within the hilly terrain implied that the people of Kasipul valued the rich agricultural land which they used for food production.

Although there was no land alienation, the people of Kasipul were introduced to commodity production by the colonial state. They initially grew the traditional crops such as millet, finger millet and sim sim. However, progressively the colonial government introduced certain crops such as groundnuts, coffee, cotton and maize which were grown for commercial purposes. The crops were sold to the Indians in Oyugis and Kendu Bay after which they were ferried to Kisumu for export via the Kendu Pier (Ndege, 1987). This brings the question of whether there was European settlement in Kasipul and was there settler farming in the area? Due to absence of land alienation, there was no settler farming and Africans themselves produced crops in order to support the colonial sector.

Elsewhere in the protectorate where settler presence was more pronounced, the settlers made demands which made the colonial government to pass the Crown Land Ordinance of 1915. The Ordinance designated all land in the protectorate as "Crown Land" and making it subject to the governors' powers of alienation (Kanyinga, 20000). The settlers were also granted leases of up to

999 years up from 99 years (KNA, PC/NZA/3/5, Ainsworth's Annual Report 1917). In addition to renouncing Africans' land rights and transferring them to the crown, the ordinance established reserves for indigenous Africans outside of the areas slated for European settlement. By doing so, the legislation effectively revoked Africans' property rights and gave the land to the British government. The eventual effect was that all Africans, including those who were living in reserves, became tenants at the crown's whim on the land they occupied (Okoth-Ogendo, 1991).

Despite these legislative benefits, the settlers continued to demand land ownership protections analogous to those in England. They also pushed for an English property law system, including conveyances, mortgages, covenants, and leases. As a direct result of these claims by settlers, the Crown Lands legislation was amended to make the transfer of property statute of India applicable to land held by settlers. The Registration of Titles Ordinance was also passed retroactively to ensure the security of tenure, and it made the registered owner's title to real estate final and unchallengeable (Okuro, 2008: 53).

For make the security of tenure legal and jurisdictional, the settlers demanded that all the land that were considered suitable for European settlement be reserved exclusively for their occupation and use. This resulted to the establishment of reserves for the Africans in places which were deemed unfit for European settlement (Okoth-Ogendo, 1976).The demarcations of the reserves were based on based on the racial make-up and ethnic compositions of the area, and made sure that people from each group moved into their appropriate reserve. Kanyinga (2000) observed that this was a pivotal moment in the development of ethnic identities and divisions, as well as the establishment of connections between these identities and the ownership of property. In addition, the reserves undermined the customary practices of accessing land, because within the reserves land access was through individual families but not through clans or kinship

By 1939, all the reserves in the colony had been clearly demarcated through the East Africa (Order) in council of 1939. By the provisions of the council, division of land was done according to the land tenure regimes in a particular area. For example within the European area, they practiced freehold or leasehold tenure. On the other hand, Africans continued with their traditional land tenure systems. These demarcations undermined the indigenous land tenure system that existed earlier before the establishment of colonial rule.

Therefore, the native claims and land rights within the protectorate, as well as the principles and practices of indigenous land tenure, were disregarded by these ordinances. The policy of exploiting and oppressing the colonial people was aided by land alienation, forced labor mobilization, overcrowding, insecurity, sluggish agricultural production in Africa, a massive landless population, and rapid land deterioration due to fragmentation, overpopulation, and soil erosion (Okuro, 2008:53). In the long-term, land alienation was the root cause of the anger that sparked the Mau Mau insurrection in the reserves. Lack of reserve land reforms is often cited as a cause of this insurgency. As a defense against rural radicalism, the colonial authority began a massive land reform initiative in the reserves in the wake of the revolt.

Because of these laws and regulations, the colonial authority built up separate economic and land ownership systems for Africans and white settlers. For instance, although Europeans had private, individual rights under English law, Africans enjoyed collective, community rights under the guidance of their respective Native Authorities and were governed by customary law. This resulted to the application of dual system of land tenure as African communal land tenure regime existed and at the same time there was the European system of accumulation of title in land based on the English law of property (Okuro, 2008).

However, agronomists claimed that the indigenous land tenure system was a primary limitation to agricultural progress and not reserve overpopulation or the need for improved farming practices. As a direct result of this argument, the colonial government pursued a variety of land tenure reform schemes with vigor during the whole colonial era. Thus, agronomists proposed that privatizing land ownership as the best approach to addressing these issues.

4.3.2 Colonial Land Tenure Reform (1954-1963)

The colonial government embarked on measures to improve African agriculture in the reserves so as to increase African food production. Therefore in 1946, the colonial government launched a ten-year development plan for African agriculture. The *Worthington plan* introduced the African Land Development Program (ALDEV) which limited Africans to the growth of subsistence crops and discouraged cash crop farming (Oboler, 1985). In 1948, the governor, Sir Philip Mitchel wrote a paper on 'African problems in Kenya', where he asked for a commission to investigate the economic conditions of the East African territories. This resulted in the appointment of the East African Royal Commission of 1953-1955 which announced that something in the nature of agrarian revolution was essential. According to the Royal Commission, land was to be transferred from European ownership to African ownership as well as commercialization of land occupied by the Africans by means of consolidation, adjudication and registration of title (Hazlewood, 1979:9).

However, R.J.M. Swynnerton, the then assistant director of agriculture in colonial Kenya, developed the plan that eliminated the community land tenure and the indigenous peoples' access to land. The task of creating the plan for the indigenous groups' operations fell on his shoulders. In 1954, he devised the *Plan to Intensify the Development of African Agriculture in Kenya*, also known as the *Swynnerton plan*. The plan made a compelling case for why reforming African

land tenure through individualization was a necessary pre-condition for improved agricultural production when it stated that sound agricultural development depend on a system of land tenure that makes land available for African farmers for farming. The food produced was to be used to support families in consideration of what comes out of the farm as compared to other occupations (Swynnerton, 1954:9).

The plan assumed that the necessary reform was one that would give the African farmer indefeasible title to his land, which would encourage him to invest his labor and profits in the improvement of his farm and allow him to use his land as collateral for loans from any financial institutions that might be willing to lend to him (Swynnerton Plan, 1954:9). The plan further claimed that "farmers would be able to mortgage titles to land against loans from the government or any other approved body to increase agricultural productivity in their farms" once they had registered. This was thought to have a beneficial effect on the colony's economy as a whole. Although the plan acknowledged that landlessness is a "natural step in the formation of a society," it cautioned against the development of land markets for fear that "energetic rich Africans will buy more land and bad ones less land, thus establishing landed and landless classes."The plan concludes that the only option for the reserves to experience an "agrarian revolution," or considerable economic growth, is for customary tenure limits to be eliminated and replaced with a system based on private land ownership in the form of personalized holdings, similar to what is seen in the "settler sector." (Swynnerton Plan, 1954:10). Kanyinga (2000) also observed that the plan aimed at introducing private property rights in land by initially consolidating individual holdings and then registering them as freeholds. The plan thus espoused land tenure reform in the colonial Kenya be done in three stages such as land consolidation, adjudication and registration of titles.

The first step in reforming the African land tenure according to the plan was to ascertain the right to or interest in land by an individual through land adjudication. It was then followed by consolidating or enclosing the small fragments of land together to form single 'economic units'. The final step involved the registration of land and entry of that land to the register and issuance of a title deed (Okuro, 2008: 54). However, the people of Kasipul were not aware of the land reform program introduced by the plan because the *wazungu* who came around there at the time were not interested in their land (Omenda, KII, Gamba, 4/4/2021). Therefore, in as much as the plan was meant to increase African production, it was nonetheless not necessary in some areas where land alienation was non-existent. As such, the plan was not implemented in Nyanza of which Kasipul is part during the colonial period due to the absence of land alienation. But, it became a benchmark of all the land policies that were adopted soon after independence.

Relatedly, the economic differences among Kenya's peasantry may be traced back to the Swynnerton Plan, which served as a precedent for post-colonial land tenure policies that legitimized discriminatory access to land (Davison, 1988:164). If land was consolidated, adjudicated, and registered, farmers ought to have used the funds from the sale of their land to invest in machinery and other improvements that would boost their agricultural output. According to Colin Leys, the plan included a systematic strategy for bringing together disparate parcels of land and registering the combined area under individual freehold titles so that loans could be made to private parties (Leys, 1975:69). Accordingly, the strategy sought to privatize land ownership by replacing indigenous land tenure systems in native reserves with a system that firmly established private property rights in the mold of English land law (Kanyinga, 2000:8). The colonial government's goal of coming up with these initiatives was to address the worsening social and economic conditions in the native reserves. Further, the farmers would be able to

obtain loans to enhance agricultural productivity hence agricultural output in the reserves rose due to the transition from traditional to individual land tenure.

The process of Land Consolidation and Registration of titles in the Kenyan colony began in 1955 and by 1962, about half of land in high potential areas had been consolidated and enclosed, and about half of that had been registered. This prompted the land consolidation committees in Nyanza to go to central province to benchmark on the success of land consolidation in the area. In a letter to the African land tenure officer in Nairobi in 1957, the Provincial Commissioner central province stated that;

‘We have been rather having a flood of consolidation visitors recently, and it would be of great help if you can conduct these Nyanza committees round the province yourself’. (KNA, AVS/1/49, 1962)

The success of land consolidation in central province therefore implied that land registration was also complete but had not proceeded in certain areas including but not limited to Central and Nyanza. The Nyanza land consolidation committee therefore had an opportunity to visit central province and study the application of this policy with the view of implementing it back in there. Land consolidation in central Kenya started way back before the emergency period and was not a direct result of the Swynnerton plan. This was due to massive land appropriation for white settlement in central province and so there had to be proper implementation of land consolidation so as to ensure land tenure security (Musalia, 2010).

In Nyanza among the Luo societies, there was no serious land alienation because the area was not ideal for settler farming. At the time, the area had issues such as Tse Tse fly infestation which led to diseases such as sleeping sickness and malaria. A large section of the area had unpleasant climate which was mostly hot and dry (KNA/DC/KSI/1/3; Department of Agriculture, Annual Report, 1924).

Nonetheless, as earlier stated, during the early years of colonial rule, land was alienated in parts of Nyanza for the construction of the Uganda Railway, construction of government buildings and establishment of mission stations to carry out missionary work. Ayot (1981: 365) notes that there was the scramble for land between the different missionary groups and even traders who occupied land even without the authority of the district commissioner. Later due to the absence of settler agriculture, Nyanza region acted as a labour reserve where able bodied people went out to work in the European settler farms and colonial government homes and urban centers under the auspicious of migrant wage labourers (Jalang'o-Ndeda, 1991). Relatedly, Nyongo (1981), in his paper entitled; *The Development of Middle Peasantry in Nyanza*, argues that the development of agrarian capitalism was greatly stymied by the fact that, for the majority of the colonial period, Nyanza was the primary source of manual, professional, and skilled labor for the colonial state and settler farmers, while within the Nyanza region itself, capitalist agriculture was only confined to the Asian owned enterprises in Miwani.

Kasipul was mainly a labour reserve as many people especially male sought wage labour in the European settler farms particularly in Kericho and Sotik tea estates and in homes of colonial officials and urban centres. The alienated land in Kasipul was very limited to the construction of chief's camp in Oyugis town and missionary centres at rocky Wire Hill for the Seventh Day Adventist (SDA) missionary. Since land was abundant and the alienated land being in the unproductive areas majorly donated by the clan elders, it did not have major impacts on the people (Ndege, 1987; Abeka, O.I, Wire, 23/4/2021).

Land consolidation and registration was therefore to be done in areas which were considered appropriate for settler farming. In a letter by the chief native commissioner, E.W Windley to all Provincial Commissioners in the colony, he instructed them that registration of individual

ownership of land can only be done in the areas that can be farmed properly and excess land should be registered in the name of clan, tribe or other suitable community (KNA, AVS/1/49, 1962). Therefore, since there was no land alienation in Nyanza, land consolidation had not taken root there until 1956 when pilot schemes were conducted in the Nyabondo Plateau and Odiado Hills (Haugerud, 1989).

The people of South Nyanza vehemently opposed individualization of land tenure through land registration as this meant that they would be denied the chance to settle in unoccupied land in order to expand as was their custom and that their children would not have a place in which to live. Furthermore, the people demanded that the colonial land laws be written in their native *dhholuo* language since they did not understand the term crown land. Essentially this means that they opposed the idea of 99-year leases (Ayot, 1990).

For the Luo generally, they rejected land consolidation because they still believed that cultivation in fragmented plots and that their cattle grazed far and wide (Maori, OI, 5/4/2021). Moreover, Shipton (1992) observes that the Luo had initially rejected individualization and registration of titles in land despite the fact that they would use the titles to obtain credit to improve agriculture. The Luo remained skeptical to this idea even when the Kenya Land Commission visited in 1932 to seek their views, they rejected private land titling. For instance, at the Kenya Land Commission held hearings in 1932, and the Nyanza Provincial Commissioner, H.R. Montgomery, summed up the proceedings by saying, "At all Barazas (public meetings), the Natives made a point that they did not want Registration of their land" (PC/NZA/3/14/26, KNA, Nyanza Province Annual report, 1922). This was evidence that the Nyanza inhabitants rejected totally the idea of registration of land in the area during the colonial period.

4.3.3 The Impacts of Colonial Land Policies on Women Land Rights among the Luo of Kasipul

Colonialism significantly altered the role of women in Kenya. For instance, the British colonialists introduced the idea of private ownership of property and gave it to men at the detriment of women. Smock which was quoted in Nyakwaka (2013) observes that colonial policies influenced the sex role definition and opportunities for women. Moreover, the Christian missionaries and the colonial administrators brought with them the Victorian conceptions concerning the place of women in the society.

Colonialism in Kenya entrenched patriarchy as a leadership style. The leadership style was structured in such a manner that at the top of the hierarchy was occupied by male members while women existed as the appendages of men who were regarded as the household heads (Waiyego, 2004). It was within this context that colonialism was able to slice the domestic sphere for women and the public sphere was a preserve of men.

Education during the colonial period was also organized in such a way that it was a preserve of men who subsequently joined the informal wage labour force. Waiyego (2004) notes that since men were the ones who were better educated and employed, it followed that they are the ones who they prepared for leadership positions. Therefore the colonial government conception of women was such that they were relegated to the private sphere while men occupied the public space. What she does not mention is whether better educated also exposed men to other economic opportunities one of them being land ownership. With education, men were enlightened and were aware of their rights to land which was not the case with women.

Activities such as serving in the public sector, the armed forces, law enforcement, and business were all considered to be part of the public sphere. On the flip side, domestic duties such as feeding one's husband and offspring fell under the purview of the private sphere. The Victorian view of women called for them to be confined to the house and trained for domestic duties (Waiyego, 2004).

The Victorian notion was a global phenomenon that started in medieval Europe, where training for domestic duty was regarded as the essence of women's education. This led to widespread acceptance of the idea that women were submissive to men, as they were forced to be dependent on their husbands or fathers. Women did not act independently on their own but relied on men for most of the decisions that they took (Waiyego, 2004).

Land policies in Kenya during the colonial period had a number of effects on women in Kenya generally. The establishment of colonial rule followed by the enactment of legislations that led to the appropriation of land by the colonial state. Women's access to and usage of land were also severely impacted by colonial land rules. For instance, when white settlers accumulated more and more arable land, women living in native reserves were forced to make do with less and poorer quality farmland. Additionally, as the reserve population grew, soil was reduced due to misuse, which eventually led to soil erosion (Davidson, 1988: 164). Thus, in keeping with Victorian ideas about women, however, registration was done in the names of males as they are considered the bona fide heads of families.

The Swynnerton plan of 1954 made women to lose their usufruct rights to land. Nasimiyu (1985) notes that the loss of women's usufruct rights to land resulted in a number of issues for women as a result of individualization and registration of land. For instance, the land tenure stability that

women had traditionally had was taken away with the advent of individual rights in land, which went to men on the basis that they were the heads of families. She thus found out that land tenure changes severely affected the women's ability to produce food. Women accessed land to grow food crops but the introduction of cash crops hindered their land access since it was done by men. Moreover, women also lacked control of land hence their economic dependence on men.

Relatedly, Davidson (1988: 165) claims there are three ways in which the plan harmed women's relative economic stability. In the first place, it favored private property rights held by male household heads over the usufruct rights to land held by women under the prior system of lineage tenure. Second, few women had land in their own names, thus they had a harder time securing loans to invest in agricultural improvements because land was used as security. Further marginalizing women's work in food production, the plan promoted capitalization of agriculture by increasing African export crop development.

Moreover, the partitioning and titling of land became one of the most important socio-economic changes that was introduced by the colonial administration during the mid-to-late 1950s under the Swynnerton Plan, and had effects on social organization, especially for sex and gender roles. Land was partitioned and titles were issued and distributed to individual adult males. This situation meant that women were denied access to land thus eroded their traditional rights to land. The women reacted by engaging in woman-woman marriage in order to gain access to land (Oboler, 1985).

However, the plan was not implemented in Nyanza province due to the absence of land alienation. In some areas such as Kombewa, Odiado hills and Nyabondo plateau, there were 'pilot schemes' of the plan (Haberson, 1979). But in the rest of the regions of Nyanza, the plan

was neither piloted nor implemented. In Kombewa within Kisumu District, for instance ‘piloting’ for land consolidation was conducted in 1956. And as the process of land consolidation continued, male clan heads started demarcating their clan boundaries in the presence of demarcation and survey officers. Moreover, land consolidation only favoured men as they assumed exclusive individual rights to land at the expense of women, widows and orphans whose rights to land remained either secondary or usufruct (Okuro, 2008: 55). This implied that women were left behind in the process of land consolidation, registration and adjudication as espoused by the plan. The women usufruct rights to land were undermined as the plan institutionalized patriarchy during the colonial period.

The Luo of Kasipul practiced customary law, which granted women rights to certain land that was given to them by their husbands and natal families based on their status within a kinship group, particularly on their link to a father, brother, or husband. These protections allowed women to work farms owned by their husbands or other family members in exchange for labour. However, the advent of British colonialism altered indigenous practices by instituting private ownership and individual registration of property, both of which frequently included gender discrimination. In addition, there was no assurance that a woman would keep her land rights following her husband's death or divorce because land was commonly bequeathed through male relatives. Women tend to cultivate smaller parcels of land and lack official land rights, which was problematic because land was often used as collateral in obtaining finance to improve farms (World Bank, 1994: 37).

Moreover, the colonial government introduced certain cash crops in their African colonies so as to obtain raw materials for their industries in the metropole. Africans were required to support in terms of provision of labour in the settler farms. Berman (1984) argues that the pre-capitalist

method of production is not immediately extinguished by the advent of the capitalist mode of production; rather, it is transformed. The pre-capitalist mode of production gives way to the capitalist mode of production over time. The advent of European colonial capitalism to Africa therefore had a profound effect on land usage and occupancy patterns (Davidson, 1988). Government policies thus favoured the consolidation of dispersed tracts of property in the hands of male owners eventually limited access to agricultural land held by Africans. Moreover, land owners were manipulated to grow cash crops for export rather than grow food crops for local and family consumption.

The introduction of cash crops by the colonial authorities led to increase in the value of land and women were disadvantaged as a result. The commercialization and commoditization of land thus weakened the position of women in land ownership as this now became a preserve of men. In Kasipul Division, the colonial state introduced certain crops but this did not lead to the decline in growth of traditional crops. They introduced crops such as cotton, groundnuts, sweet potatoes and cassava. The cash crops were introduced mainly for the people to sell and obtain money to pay taxes to the colonial state. According to a report by the administrative officer of South Kavirondo, C.M Dobbs in 1908 he stated that;

“We prefer that the people of South Kavirondo should get their taxes by the cultivation of economic products and the native plants economic products at the instigation of a white man who tells him he will be able to get rupees by selling them” (KNA, DC/KSI/1/1)

However, the growing of indigenous crops such as millet and sorghum continued especially among women since these crops were regarded as ‘women crops’. This was however not the case for certain cash crops such as cotton due to the colonial government forcing Africans to grow the crop.

The colonial land laws that allowed European settlers to acquire vast swaths of land and the introduction of cash crops radically altered the way Africans saw land. As a result of the shift, many Africans, particularly colonial African chiefs with whom the colonial authority had developed patron-client relations, began seizing territory (Ndege, 2012). They accumulated for themselves large tracts of land due to the authority they had as chiefs. Since they were male, it followed that women never had the same opportunity to amass wealth just like men. According to Hay and Sticher (1995: 12) individualization of property rights during the colonial period made the African chiefs to be very powerful since they were able to accumulate much of the best arable land. This highly circumscribed women access to best arable land. Moreover, men took away land that women traditionally used for crop farming. The chiefs accumulation of land did not take into account that women as the food producers needed to have secure access to land in order to enhance food production.

The colonial land policies did not place women at the centre of ownership of land. This was due to the Eurocentric view that women were so to speak regarded as second-class citizens. Schmidt (1991), writing on *Patriarchy, Capitalism and the Colonial state in Zimbabwe*, noted that European viewed African women with unprintable words such as ‘indolent, lazy, slothful, immoral, frivolous, savage and uncivilized’. Moreover, the indigenous and European patriarchal institutions mutually reinforced and changed one another to produce novel hierarchical arrangements. The implementation of land regulations was crucial in establishing and consolidating colonial power and women were excluded from the newly established colonial public sphere after European colonial power was established in Africa. The regulations therefore severely hampered women's access to land and diminished their ability to provide food for their households and communities.

Concurrently, Rodgers (1980) argued that colonial authorities rationalized the assumption that all men owned the land by equating the authority of select traditional male elders to allot land with the western concept of ownership. As a result, women no longer had the protection provided by conventional structures. As a result, women were further marginalized and subordinated, and men and women were given unequal access to land. The subordination of women was thus seen as an integral part of and necessary for the maintenance of the colonial sector (Jalango-Ndeda, 1991: 281). The land policies enacted by the colonial state thus placed men at the core of land ownership and left women at the periphery.

Land policy and reforms introduced during the colonial era in Africa aimed at achieving social justice by removing undesirable politically embedded capital- labour relations and to promote greater productivity. The policies aimed at providing a specific regulatory environments to allow the colonial government to have control over land by taking it away from the land controlling groups such as clan elders (Bruce and Migot-Adhola, 1994). This was done in order to abrogate women rights to land. Oyewumi (1977), in his discussion of the *Invention of Women* also notes that European colonization led to commercialization and commoditization of land to the detriment of women. He further notes that the transformation from collective ownership to individual ownership was a colonial concept whereby it was only men who could be the so called 'individuals'. Colonialism also introduced the notion that occupation of land constituted ownership which was a preserve of men with absolute authority. Individual ownership was thus a western concept which implied that a land has a cash value but only for the benefit of men and not women.

Therefore among the Luo of Kasipul, there was no land alienation and therefore land tenure largely remained the same as it were during the pre-colonial period. The introduction of capitalist

mode of production did not alter the indigenous mode of production but instead reshaped it. However, as the capitalist mode became more entrenched, it steadily modifies, destroys, marginalizes, and subordinates the pre-existing non-capitalist modes of production (Berman, 1984). Land tenure remained communal and accessed and used. Women continued to enjoy the usufruct rights to land at least until the colonial government introduced land registration and issuance of titles which was done in the name of heads of households usually men.

4.3.4 Colonial Labour Policies

Labor is a crucial aspect of production in every society. Labor regulation is also crucial to the state's interests. Those who put in the work have a right to share in and exert authority over the rewards. Not so in colonial Kenya, where the introduction of wage labor served the interests of the colonial regime (Nyakwaka, 2013: 70). As a result, the colonial authority and the settlers needed a large number of African workers to establish the infrastructure of the colonial economy after colonial control was instituted. It wasn't until 1908 that the influx of settlers really picked up speed, but they had been arriving since 1903 leading to labour shortages. As a result, the colonial administration, plantations, missionaries, enterprises, and others had a greater demand for labor than they could satisfy.

In 1907, the government promised that Administration and Native Affairs officers would make every effort to find workers for farmers, construction companies, and other industries (Dilley, 1937). But by 1910, the government had pulled back from labor recruitment, giving rise to the professional recruiter, whose actions necessitated regulation and oversight. Two years later, with a labor shortage looming, the government established the Native Labour Commission to devise strategies for recruiting and employing Africans. A number of causes for the labor shortage were identified by the commission. The administrative staff was insufficient, the locations with the

finest administration provided the most labor, the methods of recruiting agents impeded the flow of labor, and the working circumstances were tough, including an unhealthy diet, poor housing conditions, and harsh treatment of employees (Dilley, 1937:26; PC/NZA/3/20/4/2, KNA).

Colonial authorities also instituted labor policies designed to ensure a steady supply of low-cost African labor for public works and European colonists. By 1912, all Africans were subject to up to sixty days a year of mandatory paid labor for public purposes, as stipulated by the Native Authority Ordinance. Africans reacted to this law by not wanting to be drafted, leaving their jobs, and performing poorly on the job. Due to the availability of other economic opportunities, mandatory labor recruitment was crucial in Africa. The early capitalist mode of production was inferior to the indigenous pre-capitalist mode of production, necessitating the use of force to compel Africans to work for European colonists.

Nonetheless, issues related to labor remained a problem during the First World War as identified by the Native Labour Commission. To aid labor recruiting, the Native Registration Ordinance was passed in 1915 to require all male Africans sixteen and older to register (Oboler, 1985). Meaningful restrictions on the freedom of movement of workers would be implemented to ensure a reliable supply of compliant workers at all times. And it gave District Officers and chiefs the authority to draft workers and punish those who tried to avoid their obligations (Ochieng, 1985). So, the government could follow down slacking workers, they instituted a system of microchips in all workers. This ordinance led to the introduction of labour contracts and the Kipande or pass system in Kenya.

After the First World War in 1918, the colonial authority and European settlers were both impressed by the use of coercion to enlist soldiers by the time the war came to an end. Therefore,

the European colonists demanded that the colonial authorities maintain this form of labor recruitment. That's why the government issued the Northey Circulars in 1919, advertising the availability of cheap African labor for use on settler farms and other projects. Consequently, all government officials, including, Provincial Commissioners and District Commissioners, were to recruit labour. The circular led to the strategy of 'encouragement' whereby the authorities were to offer labour needed by the settlers and the colonial government (Zezeza, 1992). As a result, the Provincial and District Commissioners, alongside every other government official in the indigenous territories, had to actively seek for new workers. For public works and farms in the areas surrounding the reserves, the authorities were obligated to recruit anybody of working age, including women and children. In South Nyanza District generally and Kasipul Division in particular where the area of research is part, women and children worked as paid casuals in tea estates in Kericho and Sotik (Onduru, KII,Oyugis, 23/11/2021).

The Native Authority Ordinance of 1912 was revised in 1920 to allow the government to forcibly recruit Native Africans to work on settler farms and perform other government-mandated tasks for up to sixty days at a time (Okia, 2012). The Native Registration Regulation of 1921 intensified the coercive measures which the 1920 ordinance had approved. It mandated that all males aged 16 and above acquire a registration certificate (*Kipande*) that would allow their employer to keep track of their working hours, the nature of their labor, the money they made, and any other comments they might have about them (Oboler, 1985). Since the loss of *Kipande* and desertion of duty made one to be susceptible for penalty, it nonetheless ensured control of labour supply through the registration.

Kasipul Division and rest of Nyanza province were viewed from the outset as the largest labor reserve in Kenya, and not just for European settlers (Ndege, 1987: 185). Therefore, the colonial

authority, as in the rest of Kenya, employed a wide range of tactics to coerce Africans into working for wages. Taxation is one such approach since it required individuals to work in order to earn the money necessary to pay the tax. Every adult man was required to pay tax to the colonial authority in the form of a poll tax or a hut tax. According to Maxon (1992), the hut tax was implemented as a "vehicle for economically pushing Africans to seek labor away from their houses to European farms and estates," rather than as a means of generating income or encouraging commodity production. However, taxation was problematic because it did not distinguish between earnings from the sale of produce or cattle and those generated from the sale of labor power, giving the populace leeway in deciding how to best meet their financial needs (Stitcher, 1982: 29). Land fertility meant increased food output and huge herds of cattle meant that taxes could be paid in addition to wage labor.

From the very beginning of the twentieth century onward, labor migration was an integral part of the colonial economy. It was the primary means by which capitalists penetrated Kenya, bringing about a complete incorporation of Kenyans' social and economic lives into the global capitalist system. The people of South Nyanza did not participate in migrant wage labor in the early years of colonial authority since they continued to produce independently without interference from the government. The residents of this district were so prosperous that a handful of them would prefer to work abroad, according to a report written by R.W. Hemsted, the then District Commissioner of South Nyanza District. The DC reported that;

"The number of young Luo who leave their reserve to work outside still remains small in comparison to the population and I doubt if anything short of an earthquake will ever change this affair" (DC/KSI/1/1, KNA).

Africans joined the wage labor force along with the entrance of European settlers for three reasons: land alienation and construction of reserves, taxation, and administrative pressure

(Stitcher, 1982:32-33). The effects of these factors varied greatly amongst communities. Although taxes are generally highlighted as a primary influence in producing labor supply, in most of Kenya during the first decade of colonial rule, people met tax demands by selling cattle and other agricultural output rather than working to support them. That's why they used all kinds of forced labor systems. For instance, governments and other companies often looked upon the local leaders to motivate their people to work for them. Appointed chiefs were responsible for providing porters for officers' safaris, as well as building stations, clearing roads, and working as farm laborers for European settlers. Only for government projects like building and maintaining roads, bridges, harbors, and communications did the use of forced labor become permitted in 1908 (Ndeda, 1991:98).

There was no major cash crop had been introduced in Kasipul until during the inter-war period when crops like cotton and sugarcane were introduced. Consequently, the establishment of colonial rule in South Nyanza was marked by the development of a new economic activity, migrant wage labour. The new economic activity saw young men of South Nyanza temporarily leave their rural homes to seek wage employment within and outside the district (Onduru, 2009). At the time wage labour was directed to the building and construction of government buildings, public infrastructures such as roads and for the European settler farms outside the district. The chiefs of the Kasipul used this tactic to coerce their people into working as porters for government officials and missionaries, as well as servants and touts for Indian traders. Since Kisii had become the headquarters of South Kavirondo District, then most roads that were being constructed emanated from there. Most of the labourers for this purpose were obtained from the neighborhood and there was no need to obtain labour from a far. For instance, the Kendu-Bay

Oyugis Road, for instance, was the first road built and passed through both Kendu and Kasipul and was completed on October 5, 1908 (DC/KSI/1/1, KNA).

The chief of the area where the road was being constructed was supposed to provide monthly reports on the progress of the work being done on the road. The 1903 to 1906 Annual Report noted that a number of Kavirondo were now working for the railway along the various parts of the line, others were employed by the Public Works Department, while others by the settlers. This made them enlarge their views (KNA/PC/NZA/1/3, Report on the Province of Kisumu for the year 1903-1906, p. 3).

By 1906, very few men from South Nyanza were engaged in wage labour outside the district. This was backed up by studies by Buttermann (1979), Ndege (1987), Ayot (1990) and Onduru (2009). These studies have postulated that South Nyanza was rich in livestock, which was detrimental to an early entry into migrant wage labour. Onduru (2009) further stated that South Nyanza was still peripheral to the centre of employment, Kisumu, since infrastructure had not been established to connect the area to Kisumu. Moreover, the Kavirondo who were participating in wage labour on the railway were people from Kisumu and North Kavirondo due to their proximity to the railway line. However, during the periods of economic depression where the prices of agricultural commodities and cattle were not favourable, a number of people participated in migrant wage labour to meet their tax obligations. The people started to seek wage employment in order to get money majorly to pay taxes to the colonial government, but they were also able to get money to accumulate livestock for bride wealth, purchase European goods such as cloths, and obtain plough which could be used for agricultural purposes later (Omenda, OI, Gamba, 4/4/2021). Therefore, by 1920s, taxation became a major impetus in

driving many males into wage labour. It became so intensive that a large number of able bodied men worked for wage for the Europeans (Leys, 1974: 31).

After 1907, they started working as migrants labourers for pay. Other public works projects around the country, including the Mombasa Harbour and water works on the coast, the construction of the railway line to Magadi, and the upkeep of sisal plantations, required the services of these workers (Ndeda, 1991). Chiefs and Headmen were used in the recruitment of labourers and in return for recruiting the workers, they received cattle stolen from the Abagusii in the 1907 invasion (DC/KSI/1/1, KNA).

A number of Luos began to engage in the migrant wage labour from 1912. H.B. Partington noted in September 1912 that the number of Luo males leaving their communities for employment had steadily increased, and was likely double that of the previous quarter (PC/NZA/1/7, 1911-12, KNA). The number rose steadily after the First World War both on the settler farms and as carrier corps, marking a turning point in the country's labor recruitment. As can be seen in the table below, there has been an increase in the number of workers who worked outside the district compared to those who worked within the district.

Table 4.1: Labour registered for work outside and inside the district

Year	Inside	Outside	Total
1912-1913	535	1987	2522
1913-1914	401	4029	4430
1914-1915	4412	9560	13932
1915-1916	963	6929	7692
1916-1917	121	10006	11216

Source: KNA, South Kavirondo District Annual Report, DC/KSI/1/2, 1913-1923

The beginning of the First World War may have greatly increased labor participation outside of the South Kavirondo District since additional workers were required for military forces and

carrier corps when war broke out in 1914. Oboler (1985) claims that many Africans served as porters and soldiers throughout the war, which caused economic problems because the able-bodied males were taken, which in turn caused a drop in agricultural production. Because of military settlement programs in effect throughout the war period, a steady stream of white settlers arrived, leading to a rise in plantations and the need for African labourers (Zeleza, 1992).

The pay for the migrant workers was extremely low. It was mainly men who went on labor migration. Since women were supposed to stay at home and fulfill the dual roles of production and reproduction, they were generally barred from participating as migratory workers. While some respondents indicated they did not permit their spouses to accompany them since they were responsible for looking after the shamba, others reported that women of Kasipul also participated in migrant labor (Onduru, KII, Oyugis, 21/10/2021).

4.3.5 Impacts of colonial Labour policies on Women land rights in Kasipul

During the colonial era, the migratory labor system had a number of effects on women, and the Kasipul women were no different. In the first place, the absence of men for such extended periods affected the division of labor, with women and children performing a larger proportion of the agricultural work than ever before. According to one source, women's agricultural effort grew dramatically after many males left their homes to work as migrant labourers (Omenda, KII, Gamba, 4/4/2021). Since so many males had already departed the area, the agricultural work had to be done by women. This meant that no new agricultural ground would be broken for some time, agriculture would not expand, or women would be the ones to break new ground. As a result, women were forced to carry a disproportionate share of the household's workload. Consequently, many households now had women serving as *de facto* heads. Despite the fact that women now hold the title of "head of household," they still lacked the authority to make

decisions on behalf of their families because men are still considered the "bonafide" heads of households, even if women perform the vast majority of domestic duties when their male counterparts are not present. Land ownership remained a privilege reserved for men, and women had no such right.

In some instances, the men who wanted to pay their fair share of taxes by working as migratory laborers had to leave their wives and children behind. This led to separation of families as men left their homes to work for wages, women remained behind for as long as their husbands were away (Omollo, O.I, Kachien, 10/4/2021). Initially, men were supposed to go out and work for a few months but this became years as time went by. Since the colonial salary was too low to support a family on its own, women never followed their husbands or brothers to work for the Europeans either in towns or in the settler farms. At the same time, the housing facilities for Africans in most of the colonial towns were located in slums which lacked running water and proper sanitation, the housing amenities there were unfit for human habitation (Nyakwaka, 2013). As such, there were frequent outbreak of diseases such as bubonic plague which killed many people especially in Nairobi between 1902 and 1913, as a result of inadequate water and sanitary infrastructure (Akallah, 2018). They lived through a time of great hardship and destitution. Additionally, the woman lacked the benefit of customary social and financial safeguards. Both she and her children missed out on the benefits of having a father figure in their lives because of this.

Thirdly, the colonial administration introduced a variety of new cash crops, including tobacco, cotton, coffee, and tea, which were used as raw materials in their European industries. While men worked to produce these primary goods to pay taxes to the colonial government, women continued to grow both food and cash crops on a subsistence level, leading to longer labor days

(Nyakwaka, 2013: 73). When commercial crops were introduced, the land tenure structure was altered, making less land accessible for the cultivation of subsistence crops including sorghum, potatoes, Eleusine, and cassava. This had a negative impact on women's ability to participate in, and ultimately control the agricultural output (Asiyo, KII, Karachuonyo, 2/1/2022).

Fourthly, male labor movement had a substantial negative impact on the family as a social unit. A family is composed of a husband, a wife or wives, and their offspring. Therefore, the family is incomplete in the absence of the father or the husband. Therefore, the absence of men ruptured the family link and nearly led to the disintegration of family life, rural poverty, and rural decline. During the first two decades following the creation of colonial administration, the separation of families caused by men's employment was limited to a few months, but it eventually grew to encompass years. In certain cases, women abandoned their marriages and returned to their patrilineages, particularly those whose dowries were not paid. Some even eloped and settled with other men (Ndeda, 1991). This split resulted in the loss of land rights for women as they could now not access and use land that they formally had when they were married.

The male labour migration also had a negative impact on agricultural production in Nyanza. The colonial government initiated reforms that would improve African agriculture in the province. As late as 1963, it was stated that a high proportion of the adult males were in employment outside the district. All too often, the women and the children and the old men were left to till the land and it was estimated that in some sub-locations, 60 percent of adult males were away. The result was a marked lack of energy and initiatives among those remaining (African Land Development in Kenya, 1946-62- Ministry of Agriculture and Animal Husbandry, Nairobi, 1962 forward by sir Michael Blundell, KNA).

The participation of men as migrant labourers undermined agricultural production in the rural areas since the able-bodied men went either in the settler's farms or in the European homes in the urban centres to become wage labourers. Women were abandoned in the countryside to raise their children and provide for their families. According to Jalango-Ndeda, economic insecurity, marital disharmony, financial and emotional anguish, and issues relating to sexual immorality and the legitimacy of children all resulted when men engaged in migrant labor while leaving their wives and children at home (Jalango-Ndeda, 1991: 302). The colonial labour patterns therefore had serious ramifications on women participation in agriculture and food production during the colonial period.

4.3.6 Colonial Taxation

Colonial taxes in Africa have been the subject of sufficient academic study (Tarus, 2004; Mkandawire, 2010). These scholars have argued that taxes were a tool of the emerging colonial state that was used to coerce Africans into contributing to the colonial economy and maintaining the colonial sector. The colonial state established a system of taxation in order to raise revenue that would help in the administration of the colony. The colonial government applied certain measures to force Africans to pay taxes. For instance, taxation was introduced so as to make Africans move out of their farms in order to seek wage employment in European homes and farms to obtain money to pay taxes. The introduction of taxes also had humanitarian and paternalistic motivations. For instance, tax collection was one of the few occasions when the colonial authorities interacted with the peasant people. And it helped Africa's manufacturing and agricultural sectors flourish. However, the European colonists were exempted from paying taxes. After Stewart's death in 1905, the new commissioner, sir James Hayes Sadler, who had arrived

from Uganda, lobbied for and received approval from the colonial secretary, Lord Elgin, to exempt them from paying taxes (Tarus, 2004: 60).

The hut tax rules of 1901 authorized his majesty commissioner to impose tax upon any *Makuti* huts or other huts used as residence, and every occupant of any hut was compelled to pay the taxes imposed therein (DC/KSI/3/5, KNA). According to Tarus (2004), the East African Hut Tax Ordinance of 1903 replaced these regulations, which empowered the East African Protectorate Commissioner to impose a tax on all huts and to vary it from time to time provided that the rate imposed would not exceed three rupees per year. He further stated that the justification of imposing hut tax by the colonial government was that it was easy to collect and that in most cases, there were enough people to work and contribute to taxable resources in the household. Therefore, any person who resided in the hut was supposed to pay the tax regardless of the hut tax paid by the owner of the hut. The enactment of this ordinance coincided with the establishment of colonial control in South Nyanza, and as such, households in South Nyanza began to remit Hut Tax of 3 rupees per hut in 1903 (Onduru, 2009).

It's important to remember that this law didn't apply to only one gender, provided that an adult was present in the hut. Consequently, there was no requirement for a hut occupied by a single man or woman. The ordinance as it stood was very clear that a man for instance who married six wives paid six taxes and an unmarried man who had no hut paid one. Therefore, all legal tax-paying adults had to do so. This type of tax was sort of a 'wife tax' since she was part of the property that a man owned and they ought to pay taxes for all the property owned by a man (Zwanenburg, 1985). If a man had more than one wife at the time, he had to pay an extra 3 rupees per month in hut tax for each one. The ordinance was thus used to penalize polygamous households severely.

The colonial government did not exempt any one from paying taxes as long as they were adults including women who were widowed and those divorced or separated from their husbands. As long as they owned huts, they were supposed to pay taxes. Nyakwaka (2013: 53) observes that when women were exempted from paying taxes, the colonial administration was worried that all huts would be registered to women. Women were therefore not exempted from paying taxes. In Nyanza province, the total tax exemptions had increased steadily and since cultural norms were changing that now permitted women to own huts (PC/NZA/1/3/48/1, KNA). These norms changed as a result of men leaving the homes in search of wage labour. It therefore followed that women were now required to pay taxes even for their husbands who were not present.

This was shown by a case of of Kolanya Raboti, a widow, was taken before Mr. Montgomery, the DC of Central Kavirondo in Kisumu, to explain why she was unable to pay taxes on a hut she owned. This case exemplifies the colonial authorities' eagerness to collect taxes. It was maintained that Kolanya was the rightful owner of the hut in question because, according to Luo tradition, women were allowed to own property. The court ruled that a woman is required to pay hut tax on whatever huts she owns as per the ordinance. The court ordered her to pay a twelve shilling hut tax since she resides in a hut. However, Kolanya claimed to be poor and unable to pay her taxes since her animals had perished. For this reason, distress was used to collect the twelve shillings owed and her relatives' cows, sheep, and goats were confiscated as payment(PC/NZA/1/3/48/1, KNA).

The hut tax was paid through various ways in Kasipul. For instance, it was paid in form of tails of rats so as to eradicate rats which were a menace at the time. Nyakado (KII, Gamba, 23/4/2021) informed the researcher that in order to fight the challenge of plague that was occasioned by the rats' menace in many parts of Kavirondo, the colonial government compelled

all the heads of households to bring 20 tails of rats per household, which was a form of hut tax in form of rat tails. This would promote killing of rats to manage plague that was rampant in the area. Later, taxes were now being paid in cash to enable the colonial government to provide services to the people.

The enactment of Hut and Poll tax Ordinance of 1910 led to the introduction of poll taxes which was levied alongside the hut tax. The Ordinance provided that every adult male not liable to pay hut tax was required to pay a poll tax of three rupees. Every adult male of sixteen years of age was required to pay Poll tax of three rupees (Tarus, 2004). According to Oboler (1985), by 1920, the poll tax had been raised to eight rupees for most tribes in the colony including those in South Nyanza. The introduction of this tax made men who previously did not see the need to be compelled to look for money now had to search for the money as they were now required to pay taxes. They needed to seek for wage labour in order to get money to pay taxes.

A part from the hut and poll taxes which were being paid in form of money, the colonial government also introduced a symbolic taxation in form of communal labour. A system of forced labour was introduced for those could not pay the tax to work on public projects like road construction, building of government houses and general cleanliness of the administrative stations (Tarus, 2004: 63).

Taxation was definitely a 'double- edged' sword. Zeleza (1985) notes that while taxation was meant to stimulate peasant commodity production, it was also meant to make Africans to seek wage employment in the European settler farms. The Europeans had perceived Africans as indolent, lazy and idle and therefore taxation was the chosen to enable them either work on their farms or work in the European farms and other public works in order to get money to pay taxes

(Nyakwaka, 2013). Taxation was therefore meant to play a dual role of creating revenue for the administration of the colony while at the same time converting the African peasants into wage labourers (Oboler, 1985). The government of the nascent colony also introduced certain cash crops in the rural areas in order to generate revenue. In Kasipul Division, the government introduced crops such as coffee, cotton, groundnuts, sim sim which stimulated peasant commodity production by the people in order to fulfil their tax requirements. The colonial taxation policy was therefore served the sole purpose of making the Africans to work and get engaged in the colonial cash economy.

Chiefs and headmen were appointed by the colonial government to aid in tax collection on behalf of the colonial state. These chiefs were men who were regarded as ‘nobodies’ in their communities although the colonial state gave them both executive and judicial powers which were not known in the communities (Nyakwaka, 2013). The natives therefore kept on complaining of the oppressiveness and corruption among the chiefs. In order not to compromise tax collection but suit the interests of the natives, the colonial government singled out the rogue chiefs, dealt with the cases of corruption, apprehended and dismissed the chiefs who were oppressive and corrupt. For instance, in 1911, D.R Crampton, the district commissioner at Kisii complained to the Provincial Commissioner at Kisumu stating that;

“There seems to have been a great deal of dissatisfaction in certain clans owing to oppression by the chiefs. When we first came in to the country, an effort was made to strengthen the hands of the chiefs and give them authority over their respective tribes, and although this was to a great extent brought about, it resulted in the chiefs levying fees in the name of the Government but without reference thereto, and with the object of enriching themselves only” (DC/KSI/1/1, KNA).

The colonial government therefore responded by replacing the chiefs who were rogue and corrupt during tax collection. Ndege writes that the complaint led to the retirement of Kasipul's

chief, Oyugi Bala, in 1914. He was succeeded by Omiti, who in turn was succeeded by Auma Ogalo, and finally by Philip Owili, the first chief to attend school beyond elementary level. Like many other chiefs, Philip Owili was brutal and corrupt. Discontent grew as a result, and the religious movement known as Mumboism became a focal point of expression against the brutality in tax collection by the chiefs of Kasipul (Ndege, 1987: 115).

Later, Mumbo and Kabondo were merged under the name Kasipul and the area placed under the leadership of Chief Gedion Magak (DC/KSI/1/8, KNA) after visits by the Chief Native Commissioner and the Governor in South Nyanza District. Ndege argues that Chief Magak was different from his predecessors in that he had been exposed to western education and had served the colonial administration for a long time as a tribal policeman and in the Kings' African Rifles (KAR) from 1916 to 1935. He further notes that Magak's tax collection was efficient, and he was responsible for a number of positive social and economic changes in the area. For instance, he advocated for Kasipul's population to cultivate tax-generating commodities like cotton, beans, maize, and groundnuts, which would then be sold to Indian traders in Oyugis and other local markets. Consequently, the colonial rulers held him in high regard, ranking him second only to chief Paul Mboya of Karachuonyo.

The chiefs and headmen who were responsible for the collection of taxes in their areas were men and not women. Since all the tax policy makers and implementers were men, they therefore did not care about the implications of these taxes on women who were not exempted from paying taxes (Nyakwaka, 2013). This was the condition in the colony in general including in Kasipul Division. Tax collection was thus seen as a crucial ritual because it demonstrated on a yearly basis the power of the state over and the subordination of women and men as individuals to the state.

Chiefs and village headmen were given too much power in tax collection by the colonial state. They used their role as tax collectors to amass wealth including land and livestock. Corporal punishment was administered in public to men and women who could not pay taxes, with their livestock being taken away, their houses burnt, homes looted and women raped (Zezeza, 1989). This cruel manner in which taxes were collected made chiefs unpopular among the people. Indeed, among the Luo of Kasipul, taxation became such a burden that the people tried to avoid it by demolishing huts in their compounds so that women could share huts thus avoid payment of taxes (Nyakado, KII, Gamba, 23/4/2021).

4.3.7 Impacts of Colonial Taxation on Women Land rights and Food Production in Kasipul

Colonial tax policies had a number of impacts on women in Kenya generally and those in Kasipul in particular. For instance, women were separated from their husbands and sons who went out to seek wage labour in order to obtain money to pay taxes. There was pressure from the nascent colonial state to obtain revenue to run the affairs of the colony which was to be obtained from the Africans who would in turn seek wage labour in order to obtain money to pay taxes. In Kasipul, most of the men went out to work as migrant labourers in European settler tea estates in Kericho and Sotik as well as urban centres such as Kisii, Kisumu and Nairobi (Nyakado, KII, Gamba, 23/4/2021). Separation of families implied that men would sometimes stay away longer and women left behind would opt to pull out of the marriage thus making them loose the rights to land that they had access to as wives.

The separation of families was initially for a few months but as time went by, the months became years. Men who worked as migrant wage laborers' were paid very low wages and as a result, they did not go along with their wives. This made them to turn to the prostitutes to satisfy their sexual demands. At the time, prostitution was more prevalent in towns due to acute demographic

imbalance of sexes and unemployment for women (Nyakwaka, 2013). The outcomes of these sexual encounters with prostitutes led to the outbreak of venereal diseases which were reported in towns such as Nairobi and Mombasa (Okuro, 20002). Women's health was compromised every time men returned from labour contract in towns, a phenomenon which continued throughout the colonial period as men sometimes stayed away for a very long period even up to ten years. Women's ability to produce food was jeopardized due to them being infected by venereal diseases.

Another impact of taxation on women was the gradual change in the social division of roles in the structure of the family. Whereas men left for wage labour, women were left at home to perform labour task in the farms like clearing of fields, breaking the soil and ploughing which were previously done by men (Akinyi, O.I, Oyugis, 5/7/2021). The labour burden for women thus increased substantially. Households were now led by women who performed the double role of raising the children and at the same time ensuring that there is enough food for their families. However, the female headed households did not guarantee women the right to land and decisions concerning the produce in the farm as men remained the *de jure* household heads. Women remained ceremonial heads of households as they still sought directions from their absentee husbands who could sometimes be away for more than three months.

The hut tax which was also christened the 'wife tax' had adverse effects for Luo women generally particularly those in Kasipul. The Luo traditionally had polygamous arrangements and the huts of the wives were built in the same compound. Sons also built their *simba* within their parents' home. However, men brought down huts within their compounds to reduce the burden of paying taxes for every hut (Nyakado, KII, Gamba, 4/4/2021). Thus women who were forced to live in one hut in order to reduce the tax burden had their privacy compromised as all the

wives of the owner of the home resided in one hut. This undermined the Luo socio-economic and political set up with family as the focal point of that organization.

Taxation also increased the burden for women through production and sale of crops in order to obtain money to pay taxes although they never owned property such as land. The colonial state had proposed taxation of women since they were regarded as owners of the huts in which tax was levied. They argued that women held property in trust for their families in the absence of their husbands and were therefore liable for taxation. Even widows paid taxes for their huts and were liable in case of tax default. In 1924, Archdeacon Owen of the Kavirondo Tax payers Welfare Association (KTWA) called for the exemption of women and widows from paying taxes but this was vehemently opposed by the colonial government who argued that exemption of women from paying taxes would make the people to register all the households in the name of women (Nyakwaka, 2013).

Although old women and widows paid taxes in the absence of their husbands due to labour migration, they did not have the right to own or inherit property in the homestead such as land and livestock. The colonial government argued that according to the African traditions, a woman was herself property hence could not own any property. In Kasipul, Ndege (1987) notes that although women who lived in the huts were responsible for the tax payment, it was their husbands who were held responsible in case of default in tax payment. This is true to what the study found out that taxation basically a source of women oppression during the colonial period. Taxation added to the many challenges that women have experienced such as violence and oppression which intersects at gender and cultural norms.

4.4 Conclusion

In this chapter the study focused on the establishment of colonial rule in Kasipul.. It has however started by going back in time to discuss the Luo, in terms of lineage formation in Kasipul, pre-colonial land tenure and labour patterns and how it impacted on women land rights and food production in Kasipul. The chapter also discussed the colonial policies on land, labour and taxation and their impacts on women rights to land and food production in Kasipul. The study established that the pre-colonial Kasipul social and economic structures were altered following the introduction of capitalist modes of production. Land, labour and taxation policies introduced by the colonial state greatly altered land and labour relations that existed during the pre-colonial period. Women were greatly affected by these changes. The rights to land that women initially enjoyed were undermined hence affecting their ability to produce food for their families. Moreover, these policies not only institutionalized patriarchal norms but also added impetus to other challenges that women faced including violence and marginalization.

CHAPTER FIVE
POST- COLONIAL GOVERNMENTS' LAND REFORM, WOMEN'S LAND RIGHTS
AND FOOD PRODUCTION IN KASIPUL, 1963-2010

5.1 Introduction

The preceding chapter explored the impact of colonial policies on land, labor, and taxation on women's land rights and food production in Kasipul. This chapter discusses the post-colonial period following Kenya's independence in 1963. However, the granting of independence did not alter the status of women; for them, it merely signified a transfer from one form of marginalization to another. This was despite the fact that the government had issued Sessional Paper No. 10 of 1965 on African Socialism, the blueprint for Kenya's development, which stipulated that Kenyan men and women would have equal economic possibilities, including access to and ownership of land. At independence, the patriarchal relations that had been a characteristic of the colonial period were solidified with the new male leaders consolidating political power and relegating women to the periphery (Waiyego, 2004).

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

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

Democratic Union (KADU) for the Kalenjin, Maasai, Turkana, Samburu (KAMATUSA) and the Luhya groups; New Party of Kenya for the settlers; and several other smaller parties representing smaller groups and interests (Kanyinga, 2000).

Divisions around the land issue, thus, became the foundation for different projects of national independence. On the one hand, KANU preferred a unitary form of government and a stay on further land reforms until political independence was obtained or pending the release of Jomo Kenyatta—their leader—from detention. On the other hand, KADU, because of the independence eve and the fear of domination by the Kikuyu and the Luo, preferred a federal system of government, *Majimbo* with regional assemblies whose most significant duty would be the administration of land matters (Harbeson, 1973; Bates, 1989).

Internally, both of the African parties were also deeply divided over the land reforms. In KANU, a radical function, led by Oginga Odinga and Bildad Kaggia, rooted in nationalist position on the issue of land championed for wholesale seizure of the expropriated land in the White Highlands to settle the landless and squatters who had lived in the Rift Valley for decades. To them, the resettlement schemes of 1961 did not make sense since squatters and other landless persons were required to pay deposits and acquire loans to buy the farms. Opposed to the radical wing were groups of liberal capitalists, led by Thomas Joseph Mboya and Jomo Kenyatta, who sought to encourage the emergence of a free market in land in order to promote more rapid economic growth and provide a basis and greater security for accumulation by the landed elite (Kanyinga, 2000: 47). The liberal group feared that any radical departure from what the land reforms had achieved would jeopardize economic growth by antagonizing relations with foreign investors.

KADU led by Daniel Arap Moi on the other hand made it clear that they wanted a constitutional provision that guaranteed their ethnic groups fair compensation for land that had been effectively expropriated by the colonial government. They also emphasized that respect for property rights in land should apply to individuals as well as ethnic communities (Harbeson, 1973).

The political conflict at the time of the transition to independence, and the overwhelming defeat of the radicals, had two significant outcomes. Firstly, a constitutional arrangement evolved that favoured the sanctity and inviolability of private property rights and which also provided for protection from deprivation of property without compensation. Secondly, it resulted in the adoption, without alteration, of the legal framework on which the colonial reform of land tenure was based (Kanyinga, 2000). This formed the basis of land tenure policy in the post-colonial period.

5.2 Reflecting on the Kenyatta era (1963-1978)

Kenya attained political independence in 1963 from the British colonial rule with Jomo Kenyatta as the first Prime Minister and later in 1964 as the first president of the republic with Oginga Odinga as the Vice President. The new African regime had an ambitious plan to transform the young nation politically, socially and economically. One of the issues that the new government set out to deal with was land which had been a thorny issue during the colonial period. Accordingly, the land tenure reform that had been begun during colonial times was carried further as official policy once independence was achieved in 1963.

The Sessional Paper No.101965, drafted by the then Minister for Economic Planning Thomas Joseph Mboya as a blue print of the Kenyatta administration, came up with concrete proposals to land tenure reforms that would enhance agricultural production in Kenya. The paper stated that there is need for a land tenure policy to ensure agricultural production by everybody but not a

few individuals. Most fundamentally, the paper stated that a credit economy depends critically on a system of titles in land and their registration, and that investment can only occur if credit is readily available (Republic of Kenya, 1965). Since this is the case, land ownership needed to be made clearer and more definitive if land consolidation and development are to be achieved to their full potential.

With this paper as a guide, the new administration set out to implement land reforms that would give Africans back the land that had been taken from them by the colonial state and provide them legal protections over their land through processes of land adjudication, consolidation, and registration. The new government therefore made legal protections for private property rights a priority and worked to shape economic policies. They were adamant about not upsetting the colonial government's legally enshrined framework for economic development because they believed that stronger protections for landowners would increase the agricultural output on which the economy relied (Kanyinga, 2000).

It is worthy to note that the new government led by Jomo Kenyatta retained some aspects of the colonial structures and systems. For instance, the first four-year development plan of independent Kenya (1966-1970) had stated that the peasant sector should be assigned priority while maintaining that the large-scale sector should continue to offer the necessary support to the economy. Land reforms that followed also institutionalized patriarchy and marginalization of women in land ownership. Therefore, the status of women did not change despite the crucial role they play in agricultural production. After gaining independence, the Kenyan government implemented land reforms, and the Sessional Paper together with the country's first four-year development plan laid the groundwork for them. However, these documents did not mention the position of women in the land reforms.

Moreover, the Kenya development plan (1970–1974) likewise noted that expanded land registration and consolidation will lead to more agricultural growth. The plan also suggested that landowners and farmers would be more motivated to enhance agricultural activities if they had access to title deeds, which would allow them to secure agricultural finance using their land as collateral (Development Plan, 1970-1974). However, the plan also just like the earlier ones, failed to recognize women's equal participation in development, particularly in the subsequent land tenure reforms.

Therefore, marginalization of women that began during colonial rule persisted into the post-colonial era. The status of women was not prioritized in the country's development plans. Several policy documents that addressed women's issues were written but never put into action, collecting dust on government shelves. Economic, political, and social exclusion of women persisted. For instance, the topic of economic exclusion has been investigated here, with a focus on the role of property ownership in that context. Despite the fact that women make up the vast majority of farmers, their rights to land have been consistently eroded due to historical and cultural reasons.

Nevertheless, a shift occurred in Kenya's development planning between 1974 and 1978, when emphasis shifted toward projects that promoted women's involvement in development in some way. It wasn't until the United Nations Decade for Women (1976-1985) that women were given any real attention in a development strategy. For the first time, women issues were mentioned in the Development Plan of 1974-1978, a pattern which was largely carried over into subsequent development plans (Nyakwaka, 2013: 115).

The Women Decade declared that the member states of the United Nations introduce changes and initiate policies and programs that are likely to promote and speed up the advancement of women. The International Conferences on women in Mexico, Copenhagen and Nairobi women also had similar responsibilities. For instance, the Mexico conference that was held in 1975 addressed the concept of women development that emphasized peace, equality and development of women (Staudt, 1990 quoted in Waiyego, 2004). The conference also encouraged women to participate in income generating activities in order to improve their economic status in the society.

At the same time, governments worldwide began to establish ministries that deal with women issues or women bureaus to institutionalize and legitimize women status. Therefore in 1976, the government of Kenya established Women Bureau in order to focus and integrate women in national development. According to Maria Nzomo (1989) the objectives of Women Bureau as stated in its 1988 document known as *Women in Development in Kenya* included to promote awareness of issues that affect women as policy makers; to co-ordinate all women programs in the country; to establish and promote income generating activities for women; to train women leaders in relevant skills required to develop their projects and to coordinate and register women groups.

However, at the time of its formation, the Women Bureau was a toothless dog in as far as the issues women empowerment is concerned. It was just a division within the Ministry of Culture and Social Services, was not funded properly and was unable to push for radical changes that affect women (Nzomo, 1989). Nonetheless, the creation of Women Bureau became important as it was a step of integrating women in national development programs. Asiyo concurs when she averred that women started to be issued with National Identity cards which could now enable

them to register and have title deeds for land to ensure land tenure security and increased agricultural production (Asiyo, KKI, Karachuonyo, 2/1/2022). Moreover, the Law of Succession Act was passed around this time which enabled widows to have land titles changed in their names as they held it custody for their sons meaning that women could now have titles in their own names. The Bureau therefore helped the government to try and improve the social, political and economic conditions of women.

5.2.1 Land Reforms and their Impacts on Women Rights in Kasipul during the Kenyatta era

The attainment of independence in Kenya in 1963 witnessed fundamental continuities in the colonial and post-colonial land tenure systems and agricultural production. Soon after independence, the government continued with the colonial policy of adjudication, consolidation and registration of titles in land hence individual ownership of land. As already been discussed in the previous chapter, before Kenya attained political independence in 1963, the colonial state had introduced the Swynnerton Plan of 1954 which was a plan to intensify African agriculture within the reserves. The plan introduced individual land tenure systems which was a shift from the communal land tenure.

According to Musalia (2010), the plan was implemented in areas where settler presence was more pronounced in the colonial Kenya which were regarded as the so called 'white highlands' and that it favoured women ownership of land in these areas although they were unable to fulfill this dream due to economic difficulties. However, in Nyanza, the plan was not implemented until after independence. Pilot schemes were only conducted in the Nyabondo area and Odiado Hills in Central Nyanza (Coldham, 1978). In particular, South Nyanza where Kasipul Division is part, the plan was never implemented due to the absence of land alienation for white settlement.

Land reform formed an integral part of Kenya's decolonization process especially after the Swynnerton plan. In particular, the land question was now centered on issues like whether the white highlands should be reverted back to Africans to ensure continuity of colonial economic and political structures after independence for the good of the country (Ndege, 2012). As stated earlier, following the attainment of independence, the new government wanted to implement land reforms that set out to revert land that had been alienated by the colonial state back to the Africans legally through the processes of land adjudication, registration and consolidation. This was supported by the Development Plan (1970-1974) which stated that land owners be issued with title deeds and fragments of land be consolidated into single economic units (Development Plan, 1970-1974).

5.2.1.1 Land Adjudication

This method is used to make a conclusive determination of land rights by recognizing and confirming rights that already exist, without adding to or changing the rights in question. This procedure is outlined in cap. 284 of the Land Adjudication Act of 1968. A committee decided who owned different pieces of land, and then that person's name and land area are registered in a public database (Laws of Kenya cap 284). According to the act, the adjudication officer who is a public officer appointed by the Minister in charge of Lands and Settlement was supposed to appoint a committee of not less than ten persons who are resident of the Adjudication section to sit in the adjudication committee (Coldham, 1978). The goal of land adjudication was to ensure legal ownership of the land in question, making it easier to build infrastructure and attract investment. This would prevent individuals from stealing farmland and allow farmers to secure loans from banks to expand their operations.

In South Nyanza District, Land Adjudication began in the 1970s following the promulgation of the Land Adjudication Act of 1968. The Land Adjudication Act, which provides for separate registration of holdings as well as the registration of family or lineage land under the names of at most five people was applicable in Kasipul although the adjudication officers often advised against separate registration since separate registration of fragments did not allow economies of scale and farmers spent a lot of time moving from one fragment to another as they were widely spread from each other. Kanyinga (2000) notes that the land officers opposed land fragmentation by arguing that it undermined the basic objective of land reform which was to effectively utilize the land holdings. Owners of the neighbouring land holdings were therefore required to negotiate and compromise to allow for consolidation to take place.

Kasipul women, just like the rest of women in other Kenyan communities, were marginalized during the land adjudication process. According to the land adjudication act, land reform was to begin with the appointment of the Land Adjudication Committee by the adjudication officer after consultation with the provincial administration. However, the members of the Land Adjudication Committee comprised mainly of male individuals as women were left out. This was shown by the appointment of a Land Adjudication Committee which comprised of only men to handle land adjudication by the District Commissioner of South Nyanza District (KNA, DC/HB/1/2).

Moreover, land related issues were the sole purview of males in Luo society. Luo society in Kasipul, just like that of most of Kenya, was a patriarchal society; hence only men were chosen to discuss issues related to land rights of individuals. As a result, land ownership was restricted to men and women as a social entity did not get a chance to own land. In support of this assertion, according to an oral informant (Midigo, KII, Oyugis, 12/4/2021), women were never

allowed to attend or speak at meetings where land issues were being discussed. In case, they attended, they just sat there to rubberstamp what men had discussed. Women as a social group were thus barred from ever being landowners but were basically appendages of men in terms of land ownership.

The process of land adjudication further eroded women rights to land in Kenya. This is because the government failed to brief them on the steps involved or the legal consequences of the process concerning their rights to land. Land adjudication was a concept that the women of Kasipul had never heard of. As a result, they mistook the procedure as a confirmation of their usufruct rights over family land and of the patriarch's position as trustee. The concept of private property did not also exist among the indigenous Luo societies hence women ignorantly allowed their husbands to register their names as land owners. Due to a lack of education, women among the Luo of Kasipul just like the rest of the Luo community, at the time enabled their husbands to register land in their own names, laying the groundwork for the legal exclusion of women from land ownership (Muma-Adhanja, OI, Ouru, 14/4/2021).

5.2.1.2 Land Consolidation

The term "Land Consolidation" is used to describe the process of bringing together separate parcels of land that once belonged to the same farm in order to eliminate the problems caused by the property being split up into too many little pieces. Small fragments of land are consolidated into single economic units to ease agricultural production. After the Land Consolidation Act (1968) cap 283 of the laws of Kenya was passed, it became law. Both the Swynnerton plan of 1954 and the Land Adjudication act of 1968 formed the basis for this legislation. This was because, throughout time, people grew to dislike land consolidation, which frequently resulted in land conflicts particularly boundary disputes. People often complained that consolidation efforts

were thwarted by the customary tenure system in that was in force in certain communities (Kanyinga, 2000).

The Luo of Kasipul had to consolidate their landholdings in order to cultivate cash crops like coffee and tea, which placed further strain on the already overworked female population. Women were expected to collect coffee beans and transport them to the Ayoro Coffee Society in Oyugis, while simultaneously tending to food crops (Olero, OI, Oyugis, 18/4/2021). Cotton was also grown in the lower altitude areas and taken to a cotton ginnery which was situated at Kosele market. Since land was scarce, female respondents said they could not plant all varieties of food crops (Akello, KII, Oyugis, 4/4/2021). However, male respondents disputed the claims made by female respondents, stating that cash crops have never been planted in areas that were originally intended for food crops, and that food crops grown in the area were only done for subsistence and that the area was heavily forested (Aol, KII, Oyugis, 5/5/2021).

The effects of land consolidation on Luo women were substantial. When land was consolidated and registered, Shipton (1986: 41) noted that women were often ignored. In practice, it resulted in men's land rights being more rigid in the form of total legal ownership, to the exclusion of women and children. Land remained overwhelmingly owned by men because they were the legal heads of households even if new rules were instituted after independence allowing women to possess land regardless of marital status. This was confirmed by an FGD held in Kosele centre, North Kamagak location where all the eight widows in North Kamagagreed that women had never before been landowners. After their spouses passed away, however, the women either possessed the farm outright or held it in trust for their kids particularly their sons (FGD, Kosele, 23/7/2021).

Men were also affected by land consolidation, particularly young men who anticipated their families would subdivide land for them. One respondent claimed that he would only give his sons a section of his land to farm and build on, but he was evasive when asked if he would subdivide the land and grant them legal titles (Opap, KII, Oyugis, 25/4/2021). The respondent did not say whether or not he planned to split the land among his sons before his death. There would be inevitable land disputes between families as a result of this.

The goal of land adjudication and consolidation, as stated by the International Women's Human Rights Clinic (IWHRC), was to establish who had customary rights to specific areas of land and transform those areas into single, registered freehold parcels of land. These land rights authorities did not acknowledge women's entitlement to land since customary law states that men, not women, are entitled to govern land and property. Further, the group claims that whereas women under customary law only possessed rights of use over land, men on the other hand continued to hold rights of allocation and these Acts were inevitably biased against women securing land titles (IWHRC, 2009).

5.2.3 Land Registration

Land registration is whereby a land owner has their land registered and placed in the land register. The Registrar prepared registers under the laws of Kenya, the Registered Land Act 1963 (Cap. 300), after land adjudication and consolidation, giving the registered land owner absolute and indefeasible title to the land. The result of this change was that landowners who formerly held title under the Land Adjudication Act now hold title under the Registered Land Act. In 1987, the Act was revised to make title deeds legal tender instead of land certificates. The title deed proved full ownership of the property that had been recorded under the Act of 1987. Essentially, continuous communal law gave way to individual ownership via the Registered

Land Act of Kenya. This eroded the principle of multiple rights in land and enforced exclusivity as espoused in the land reform programme(Kanyinga, 2000; 54).

Women never had titles to land hence they lacked control over land. The titles were held by men and women only accessed land through their relation to men. Nzioki (2000) notes that few women have ever had titles, making them powerless in matters of land ownership and a woman could only gain access to land through her male relatives because land titles were always held in the name of a man. Moreover, title to land gave men's traditional rights a solid basis in law and increased their economic value. After registering property, the owner was granted complete control over it and might forcibly remove any occupant at any time. Therefore, the registration process jeopardized women's security of tenure on the land they occupy or have access to. Kasipul's women found themselves in a similar predicament because their property rights weren't properly acknowledged throughout the registration procedure. The Registered Land Act of 1963 did not grant women right to access land through registration which in turn, hampered the region's ability to produce food (Opecho, KII, Sikri, 4/4/2021).

The Registered Land Act of 1963 granted men absolute ownership of land as a result of the adjudication and consolidation process, while failing to recognize even the derivative rights of women to that land. Section 27 of the Registered Act stated that when a person is registered as the proprietor of land, the land and all rights and benefits associated with the land are transferred to the registrant. The Kenya Land Alliance claims that because men were the pioneers in registering land, they now possess it all to themselves (KLA, 1999).

The act also provided that the customary rights of women in terms of land access and use was not legible for registration and could not be protected as overriding rights. This had a negative

impact on women land rights as they held merely five percent of land registered in their names despite the fact that they provided the vast majority of agricultural labour force and are heads of households of about 32 percent of the Kenyan households (Karanja, 1991; KLA, 2004). This was the same case in Kasipul Division in which women are active in the production of crops through their labour but very few of them have got land titles registered in their own names.

The Registered Land Act thus provided that land was to be registered in the name of just one male member of the family. The land register did not include the customary right of occupation and use hence the customary rights of men were legally institutionalized and given the market value. Therefore, women customary rights were eroded and their rights to own land guaranteed only through their relationship with men (World Bank, 2006). There were measures put in place to ensure that women customary rights to land are not interfered with. However, land adjudication and registration undermined those rights and the situation was worsened by the introduction of market in land where men sold land without consulting their spouses. The RLA of 1963 therefore replaced the communal land ownership with individual ownership which undermined women rights to land.

Land rights insecurity by women limited their ability to invest in land in order to make it productive and increase its economic value. Secure rights to land leads to increase in agricultural production (Bruce and Migot-Adhola, 1994, World Bank, 2006). Women who were de facto food producers did not have secure rights to land. In many instances families designated heads of households or the eldest male members of the household or family to have land registered in their names without considering the impact this would have on that person once the land is registered in their names. According to the act, the right of occupation and use by women based on the customary law could only be protected if those rights were included in the register during

registration of which women in Kasipul did not take into consideration (Apiyo, O.I, Oyugis, 4/4/2021).

During an oral interview with the Chief of North Kamagak location and who has been the chief of that area for more than 10 years, it was established that the women of the area understood land consolidation to mean that land could be held in trust for the family by the male members and not dispossession of family rights to land by the individual men which became of land registration. The registration procedure thus loosed the position of women as men dominated it and women of Kasipul did not have land titles. Once land has been registered in the name of an individual, it followed that the individual would have economic prowess. This was not the case with women of Kasipul because the registration act did not grant them title to land thus having a negative impact on them (Midigo, KII, Kosele, 23/4/2021).

It is worthy to note that women did not participate in land adjudication, consolidation and registration process. These processes were controlled by men and male organizations. Almost without exception, men served as adjudicators, consolidators, and members of land committees and boards. According to the Luo custom, women were even not allowed to participate in the committees that were supposed to resolve land disputes (Okuro, 2008).

Evidently, women of Kasipul did not participate in land adjudication, consolidation and registration from the earnest. Women were not part of the Land Control Board during the Kenyatta era. As already been mentioned in the previous chapter, during the colonial period, clan elders allocated land for cultivation and grazing during the pre-colonial epoch and that each woman was allocated land for cultivation. However, the Swynnerton Plan of 1954 introduced land adjudication, consolidation and registration which gave land titles to men and not women.

It undermined the usufruct rights to land that women previously enjoyed as women were excluded from the land reform process by the colonial state.

Mackenzie (1998) notes that the fight for land rights was a battle fought not only by men but also by both women and men at the intersection of gender and socio-economic status. So, it's fair to assume that socio-economic status was another factor along with gender in determining who may own land. For instance, while women's access to land was limited due to gender bias, men's access to land was limited due to socio-economic status. Lower-class women and men were excluded from the land adjudication procedure that led to the formal registration of property ownership. As a result, males and male-dominated groups staffed every stage of the process, from adjudication to consolidation to registration. Women's involvement in this process was minimal at best.

Land registration in the name of men encouraged men to have exclusive rights to land. For instance, men could dispose or sell land at will without consulting their wives. Musalia (2000) asserts that land registration encouraged land sales by individual men due to weak traditional institutions that could no longer safeguard individual rights of women to land. Moreover, individual titling also affected family relations as it gave the land owner the right to determine land use without seeking consent of the family members. It also denied women access to land which was traditionally guaranteed through customary tenure. She also argues that land registration made women particularly widows vulnerable as land was registered in the names of their husbands who when they die, the widows are not entitled to inherit the land.

The preceding debate suggests that the administration of Kenya's first president, Jomo Kenyatta, discriminated against women in regards to land ownership. This was accomplished by registering

land according to the standards set by the former colonial overlords and ignoring the African norms about land ownership. During the Kenyatta regime, women were never issued with Identity Cards. This was a continuation of the colonial injustice meted against women since the colonial government did not recognize women as persons (Asiyo, O.I, Karachuonyo, 2/1/2022). Men therefore stood at a pole position over women in land registration since having an Identity Card was a requirement for registration of titles in land.

The Kenyatta regime marginalized women rights to land in terms of ownership. This was done by carrying out land registration within the context of the mechanisms that were established by the colonial land policies that ignore the African customary law on land tenure. For whatever reason, the British had mistakenly translated trusteeship in the traditional Luo setting as ownership under the Victorian understanding of private property. This ideology disregarded the women usufruct rights to land as superseding interests.

5.3 Political Patronage and Affirmative action during the Moi era (1978-2002)

When Kenya's founding father, Mzee Jomo Kenyatta, died on August 22, 1978, his vice president, Daniel Arap Moi, took over as president. It was a constitutional necessity at the time that the Vice-President automatically succeeds the president in an acting capacity when the presidency became vacant. Before that time, however, influential people close to the sick president Jomo Kenyatta attempted to alter the constitutional provision that states the Vice President shall succeed the President in the event of the latter's death or resignation. The goal was to prevent Moi from becoming president, hence this was done. However, demands to amend the Constitution were unsuccessful. Fully aware of his enemies, when Moi ascended to power, he adopted authoritarianism with a mixture of diplomacy, force, manipulation and tokenism. This

style of leadership would later influence his relations with the women folk with whom he had soft spot for.

After Kenyatta's death in 1978, President Moi took office, and he continued to care about the land question just as much as he had when he was a KADU activist in the 1960s. This was a key theme in his public statements, many of which addressed the need for regulations on property acquisition in order to "defend popular interests." At times, government workers mistook his populist rants for actual commands. Aiming to establish his own independent political support system, he began mandating the speedy individualization of farms owned by land-buying groups (cooperatives, corporations, and partnerships) in 1980s. This included the registration of titles for the individual owners (Kanyinga, 2000).

The first years of Moi's presidency were marked by widespread optimism and high hopes among Kenyans. He was talented in the theatre and sought to portray himself as a selfless, low-ambition African Christian statesman sympathetic to Western concerns (Munene, 2012:123). He also adopted the Nyayo slogan, which essentially says he will continue the work of the late Mzee Jomo Kenyatta. This indicated that he would continue the same social, political, and economic policies of his predecessor, Jomo Kenyatta, while also representing the polished "*fimbo*" or club that Kenyatta was known for using. Hence, the ideals of Nyayoism grew to serve as a unifying slogan for the entire country.

In order to quell opposition, especially from those who had anticipated retaliation and revenge, such as in the case of the group that wanted the constitution modified and the *Ngoroko* architects who had intended to assassinate him in order to allow for the continuance of Kenyatta rule, the succession also presented a continuation of the Kenyatta legacy (Ochieng, 2007).When the

*fimbodoc*trine was implemented, the excitement about the change from the Kenyatta to the Moi rule quickly faded. As Munene pointed out, the Moi's *rungu* "became the emblematic of the clobbering that those who disputed his beliefs would get" (Munene, 2012).

The ideology served to solidify the populist Nyayo regime while simultaneously stifling all forms of dissent. It was used to rid the country of "dissidents," some of whom were associated with Kenya's elite educational institutions like the University of Nairobi and Kenyatta University College, the country's respected legal community, the Law Society of Kenya, and political caucuses that advocated for multipartyism and democracy (Ochieng, 2007). This claim is similar to one made by an informant who was a student at the University of Nairobi at the time. This person believes that any kind of political activism, whether it was by intellectuals, civil society groups, university students, or politicians, was dealt with straight on (Matunga, OI, Oyugis, 12/4/2021). The state and its agents came to personify autocratic control, and a culture of political patronage was developed to bolster public approval of the administration. Land was one of the concerns utilized as a patronage resource, and as a result, women's land rights were diminished in Kenya as it was mostly men who benefited.

Despite his philosophy's hot-and-cold nature on women's issues, which he had sworn to carry on in Kenyatta's footsteps, Moi had a soft place for women. The colonial legacy of institutionalized sexism and the relegation of women to the home sphere rather than the public realm was maintained by the Kenyatta dictatorship. Women were treated as second class citizens in all spheres of society, including the political, economic, and social. Nonetheless, Moi sent contradictory messages with his policy decisions that may be interpreted as either economic empowerment or disempowerment of women.

At the time when Moi rose to power, the agenda of Women's Decade (1975-1985) was on going and encompassed the themes of gender equality, development and peace. The gender equality was required in the economic sphere particularly their rights to land. However, what followed during the period of Women decade was gender discrimination in all spheres. Discriminatory laws continued to operate in the areas such as inheritance, marriage and divorce, child custody and support, employment related benefits such as house allowance for married women and maternity leave. Moreover, there were punitive actions against women and girls who got pregnant while enrolled in government institutions, violence against women and alteration of customary laws to deny women the rights to bury their diseased husband (Nzomo, 1989). This demonstrates the patriarchy and persistent male chauvinism in most of the Kenyan communities.

The 1985 Women Decade conference that was held in Nairobi marked the beginning of the awareness by the Kenyan communities about the issues of women empowerment in order to realize the aims of gender equality, development and peace. During the Women Decade (1975-1985), the Kenyan government joined the international bandwagon of integrating Women in Development (WID) policy in which the government now recognized the importance of women in the development process (Nzomo, 1989: 9). The Kenyan government was thus implementing the UN recommendations that all member countries to come up with policies and programmes that are meant to promote the advancement of women.

Moi and his government were therefore satisfied that women had made tremendous progress of achieving the decade's objectives of equality, development and peace. However, many years after the end of the decade, government's action on the question of women remained just a public relations exercise and that it lacked a clear policy and interventions to make sure that the progress of women is sustained and enhanced (Nzomo, 1989: 10).

Women had limited rights to land due to the patriarchal nature of the societies, past laws and policies as well as socio-cultural and economic factors. Women did not own land in their own names but accessed land by virtue of their relationship with men. The percentage of women who owned land remained low as land ownership was skewed in favour of men. However, Moi had a soft spot for women and as such, engineered the passage of various legislations in parliament and implementation of various international concessions to legitimize women ownership of land.

The African Charter on Human and People's Rights (ACHPR) which was adopted in June 1981 by the defunct OAU and which is now called Africa Union (AU) was implemented by the Moi's government and it provided a foundation for human rights in Africa including the land and property rights for women. In addition to recognizing women's rights, the document states that all people, regardless of their race, religion, color, or political affiliation, have the right to enjoy all of the liberties and protections given by the charter. The charter also forbade gender discrimination against women in regards to land and property rights by stating that in case of divorce, separation or dissolution of marriage, women and men have the right to equally share property acquired during the period when they were married (FIDA, 2013). The charter also provided that member states were obligated to end all forms of discrimination against women and to safeguard the rights of children as enshrined in the international laws and treaties.

The Law of Succession Act (1981) was also enacted during the Moi administration. It's a method by which the deceased's property can be distributed to those who will benefit from it. There was legal equality between men and women regarding property ownership, inheritance, and transfer. The act was not discriminatory to either gender as it gave both men and women the right to land inheritance, ownership and disposition. However, it was discriminatory because it stated that a

woman's stake in the property would end if she remarried, while a man's interest would not end if he did (FIDA, 2013).

Luo customs held that women had no place as landowners or heiresses, and the Law of Succession Act (LSA) provided no further protections for female heirs. During field research, one respondent averred that;

“The law of succession did not make sense to the Luo because when a husband died, his wife was inherited by her brother-in-law or the sons of the eldest wives if she was young in the case of polygamous marriage” (Asiyo, KII, 2/1/2022).

This therefore shows that women were regarded as a man's property, to be inherited like a piece of land. Therefore, the law does not shield the widow from detrimental cultural traditions like widow inheritance once the spouse dies. Therefore, laws that guarantee the ownership rights of women do not exist. Nzioki (2000) notes that widows inherited land in custody for their sons. This gave her the right to produce from the land and will also prevent the deceased husband's relatives from interfering with that piece of land during her lifetime.

Little was done during the Moi era to improve the lot of women in Kenya and, in particular, Kisumu with regards to land ownership. Men dominated the provincial administration and served as the heads of many boards, including the Land Control Boards. Since the Luo were a patriarchal society; so, men were the natural choice for membership on land management bodies. This was because, according to Luo custom, women had no place in land administration or dispute resolution (Okuro, 2008).

In addition, Moi decreed that the land disputes authority was transferred from the courts to the council of elders (all of whom were men) as per the Disputes Tribunal Act of 1984. Traditional methods of settling legal disagreements were something he strongly supported, especially when

it came to controversies over property. Nevertheless, it made no difference whether the issue was sent to the council of elders, where customary laws were applied, or to the courts, where statutory laws were applied, due to the prevalent application of patriarchy and the Victorian conception of women (K'Okello, O.I, 30/5/2021). As a result, women were further excluded from the land ownership system, as patriarchal norms ingrained in both statutory and customary land laws gave men sole authority over all property matters inside the nuclear family.

Concurrent with Moi's proclamations, the trend of using land as a patronage resource grew. President Moi turned to land and other resources in the agricultural sector's resource-rich parastatals during the 1980s recession caused by fluctuations in the cost of primary commodities on foreign markets. As a result, in the latter half of the 1980s, land became an increasingly essential resource for building and sustaining patronage links with leaders of groups seen as strategically significant in terms of political support (Kanyinga, 2000).

The increased land grabs can be attributed in part to the recasting of land as a patronage commodity. Ndege (2012) claims that the elite of Kenyan politics used their influence as politicians and ministers to pursue their own personal and racial interests in order to seize property. Due to the escalation of land grabbing during the Moi rule, the former Kenyan president appointed a presidential commission of inquiry into the country's land law system, headed by former Attorney General Charles Njonjo. Involvement from the Ministry of Lands and the Ministry of Local Government was also confirmed by the Commission (Republic of Kenya, 2002). The commission also identified the following causes for this trend: an ineffective and corrupt institutional framework for land management; a lack of a comprehensive land policy; and the absolute powers of the state and the president in the purchase and distribution of land to

people (ibid). Men in positions of power tended to be the ones who seized control of the land. Land was likewise doled out by the powers that be, though overwhelmingly to men.

With the increasing demands for political reform beginning in the early 1990s, the rate at which political elites appropriated public land accelerated, even as Moi tried to hold on to his dwindling cadre of supporters. Some within the KANU leadership, fearing that the advent of multipartyism would spell the end of the Moi administration, began using the land question as a political weapon to target others who opposed them (Kanyinga, 2000). Consequently, areas of Kenya's Rift Valley and western region were afflicted by politically-motivated tribal conflict.

The government first introduced the Draft National Policy on Gender and Development in 1998, and it was ratified the following year (GoK, 2003). The policy aimed at serving as a blueprint for bringing about the necessary domestic implementation of international instruments on gender. The policy provided realistic steps for addressing and eliminating gender disparities. It also examined the political, cultural, and economic dynamics that determine who has access to, and power over, development resources such as land.

The foundation for what would become Kenya's new constitution was laid under the Moi administration. To establish a constitutional amendment process, the Kenyan government established the Constitution of Kenya Review Act in 1997 to provide a legislative framework, structure and vision of the constitutional review process after the general elections. However, the act did not satisfy everyone and after lengthy discussions between the government and the civil society, the statute was revised through the Constitution of Kenya Review (Amendment) Act in 1998. The people-led process of reviewing the Constitution was included into these alterations and the hardline position taken by those in government and the ruling party that constitutional

change could only be done through a parliamentary initiative did not see the light of day. As a result, religious authorities sparked the development of the *Ufungamano* initiative, a citizen advocacy group focused on the constitution. The group was tasked with making a constitution for Kenyans by Kenyans (Juma, 2002).

The *Ufungamano* initiative was subsequently merged with the parliamentary group to form the Constitution of Kenya Review Commission led by Professor Yash Pal Ghai following the amendment of the Constitution of Kenya Review Act in 2001. The main mandate of CKRC was to facilitate the comprehensive review of the constitution by the people of Kenya. However, in October 2002 when Moi dissolved parliament to pave way for elections later that year, the march towards a new constitution was halted. KANU led by Moi, and whose presidential candidate was Uhuru Kenyatta, lost the elections to the then opposition coalition, the National Rainbow Coalition (NARC) led by Mwai Kibaki who won the presidency.

From the above discussion, it can be deduced that although Moi did not give a legal force to women land rights, it nonetheless made some attempts to secure women rights to land. For instance, it was during the Moi regime that women were now being issued with Identity Cards which enabled them to have land registered in their names and that they could have title deeds. The Kasipul women just like elsewhere in Kenya acquired Identity Cards which were very important in land registration. Moi also issued a pronouncement that girls had the rights to inherit property from their parents including land and the pronouncement was implemented. However, this was not followed by enacting it in the constitution to provide for a mandatory inheritance of land by women.

5.3.1 Structural Adjustment Policies and their impacts on women Land rights in Kasipul

Structural Adjustment Policies (SAPS) are policies which were imposed on the countries in the global south by the international financial institutions such as the World Bank and International Monetary Fund (IMF) as a condition to be given loans in the 1980s. These economic policies marginalized the people of Africa particularly women and children since the mandated budget austerity led to the reduction of social spending and increasing taxation by increasing the cost of education (Kawewe & Dibie, 2000). Rono (2002) observed that SAPS consisted of a set of economic policies designed to generate rapid and sustainable economic growth and macroeconomic stability. Moreover, the main components of SAPS include the economic model of private ownership, competitive markets and an outward oriented development strategy.

One major effect of SAPS was to reduce the funding of the social services such as education and health services, especially among the vulnerable groups, families and individuals and increased infrastructure funding even through loans (Rono, 2002). In Kenya, SAPS were first introduced in the early 1980s by the World Bank because of the decline in the economy as a result of the oil crisis of 1970s hence poor terms of trade and inflation and drought 1970s and early 1980s leading to food shortage (Ongile, 1992). Through SAPS, the government introduced cost-sharing strategies in the provision of social services such as education and health as one of the austerity measures to the declining economy. For instance, the cost-sharing in education led to gender-biasness, non-enrolment, grade repetition and drop outs especially from among children from the poor families whose parents were unable to raise funds for their education (2002). This greatly affected the education for girls as parents preferred to take their boys to school and left the girls at home to help them in domestic chores.

Due to the introduction of SAPS, many countries in the global south were affected by the reversal of the development success that was witnessed in the 1960s and 1970s hence increase in poverty levels. Women have been greatly affected by the increased poverty levels introduced by the SAPS. For example, studies have shown that in the world of work, more men than women have been employed, increased wage differentials between men and women and deteriorating working conditions between men and women especially in the informal sector (Tsikata, 1995).

It was during the Moi era when the government adopted SAPS by cutting costs in education and other social services such as health services. The people of Kenya therefore had to cost share with the government in social service sectors such as education and health services. Families or individuals unable to cost share due to financial challenges were thus unable to continue with their education leading to high drop out rates from schools and more families living in abject poverty. SAPS have also contributed to growing inequalities in Kenya between the rich and the poor. While the rich had access to social and economic opportunities, the poor on the other hand had limited opportunities hence a widened gap between the rich and the poor. Women in Kasipul also suffered greatly due to the implementation of SAPS. The policy came up with retrenchment of government employees and the few women who worked for the government were retrenched and became unemployed. They therefore lacked collateral to obtain credit to improve agricultural production (FGD, Oyugis, 21/7/2021). Since they also lacked title deeds for their lands, it followed therefore that women were not able to obtain credit to improve agricultural production although they were majorly the food producers. Moreover, their husbands who lost their jobs negatively affected the source of livelihoods of families. Their husbands upon return from home and without any source of income opted to sell their family land without the consent of their

spouses in order to meet their family needs. Cases of distress land sales began due to loss of jobs and poverty a situation that was exacerbated during the era of HIV/AIDS pandemic (Okuro, 2008).

5.4 Conclusion

This chapter has examined the post-colonial government's land tenure reform efforts and their effects on women's land rights in Kasipul from the Jomo Kenyatta era to the end of Moi regime. The post-independence government's initiative to restructure land tenure has its roots in the 1954 Swynnerton plan to intensify African agriculture through land consolidation, adjudication, and title registration. Following the passage of the Land Registration Act in 1963 and the Land Adjudication Act in 1968, which confirmed patriarchy because every member of the land adjudication committee was male, these reforms were implemented. Since the majority of Kenyan communities were patriarchal and men were the legitimate heads of their households, women were excluded in land ownership.

Moreover, the process of land registration, adjudication and consolidation during the Kenyatta era were done within the realm of customary law which stipulates that men are the controllers of property. Land adjudication and consolidation also insulated men right to land and failed to acknowledge women derivative rights to land. International conventions such as the CEDAW and women conferences did very little to avert this situation. This chapter has therefore shown that women occupation of the periphery when decisions regarding land are made is a colonial legacy. The coming to power of the second president of the republic of Kenya Daniel Arap Moi came with mixed feelings for women. Moi's policies on women were meant to promote their empowerment. At first, he promised that he would follow the footsteps of his predecessor through the Nyayo Philosophy meaning he would continue with the social, political and economic policies of the founding president. The entrenchment of his autocratic rule and

hegemony saw dissatisfaction and rebellion against him from various civil society groups, politicians and the clergy hence he began to use land as a patronage resource to gain political support. Women did not benefit from this.

CHAPTER SIX
CONSTITUTIONAL REFORMS IN KENYA, WOMEN'S LAND RIGHTS AND FOOD
PRODUCTION IN KASIPUL, 2002-2012

6.1 Introduction

This chapter has discussed constitutional reforms in Kenya, women's land rights and food security in Kasipul from 2002 to 2012. It was during the Kibaki regime that the new constitution was promulgated in the year 2010 which ushered in the golden era for women land ownership in Kenya. From the standpoint of land reforms and the land rights of women in Kenya, the chapter therefore heralded the beginning of a new era in historical as well as constitutional changes in the nation. The chapter has began with a discussion on the clamour for constitutional reforms which led to the first referendum that was held in 2005, then followed the 2007 general elections and ultimately the promulgation of the 2010 constitution of Kenya. The constitution provided for equitable access to land, security of land rights between men and women and elimination of gender discrimination in land. However, implementation of these provisions have not been actualized at the local level due to the multiple challenges they face they encounter at the nexus of gender and class. These difficulties included the presence of patriarchal structures, backward cultural practices, violence and lack of awareness about the existence of these rights and fear or stigma attached to inheriting land. The chapter also appreciates that the new constitutional dispensation has strengthened women rights land thus enhancing their ability to produce food for their families.

6.2 From Despair to Hope: Women Land rights and Food Production during the Kibaki regime (2002-2010)

When Mwai Kibaki was elected president in 2002, he promised to fight corruption, revive the economy, and deliver a new constitution within his first hundred days in office. Consequently, a national constitutional conference was convened at the Bomas of Kenya to debate, amend and

adopt the draft constitution. The conference adopted the draft constitution of Kenya which came to be popularly known as the Bomas draft. Pheobe Asiyo, one of the delegates during the process recalls that during the deliberations at Bomas the contentious issues not only centred on devolution but also women ownership and inheritance of property which was rejected by men due to patriarchal nature of most Kenyan societies (Asiyo, KII, Karachuonyo, 2/1/2022). However, in 2004, conflicts surfaced within the ruling coalition due to the partners' disregard for the Memorandum of Understanding (MoU). The process of creating a constitution would soon be derailed by this debate. In the same year, the court stopped the commission chairman Yash Pal Ghai from presenting the draft constitution to the Attorney General for tabling in parliament.

Consequently, parliament amended the act to give itself the powers to draft the constitution leading to the publishing of the Kilifi draft which was then harmonized by the Attorney General and it came to be popularly known as the Wako draft. Significant improvements to land administration, as well as increases in both access to and control of land, had been proposed in the draft constitution. Land ownership and inheritance rights for women were also included in the proposed constitution. This draft was presented to a referendum on November 21, 2005 on a proposed but was resoundingly rejected by a majority of Kenyans. As a result of the vote, however, the draft constitution was rejected by a large margin in Kenya (Kanyinga, 2008: 339).

The draft constitution had a number of contentious issues which led to its defeat. For instance, a number of Kibaki administration officials felt that certain provisions of the constitution were incompatible with their traditions, and therefore they voted against it. The right of women to inherit property adjacent to their mothers' homes was one of the most hotly contested provisions. With Kenya being a traditionally patriarchal nation, this clause became highly political and may have played a significant role in the document's eventual defeat.

As a result, the majority of Kenyans in Kenya generally and Kasipul included, voted against the proposed new constitution in 2005. Despite the fact that the draft constitution included provisions that would give women the legal right to own land, a majority of them voted against it. This was due to the patriarchal culture of the Luo society which relegated women to the periphery as far as land ownership and inheritance is concerned. Ownership of land was considered a preserve of men and women who were seen to support the draft constitution of 2005 were perceived as resistive and doing the opposite of what the society requires of them in the social context. The women who supported the draft constitution were also ridiculed and the men who supported the document in the referendum criticized and tormented by women who argued that they were not taking charge of their households by ensuring everyone voted against the draft constitution (Obondo, KII, Kachien, 12/5/2021).

Following the referendum that divided the Kibaki administration right in the middle, President Kibaki dissolved the cabinet and those who were opposed to the draft constitution led by Raila Odinga sacked from government. Political tensions were accentuated after the proposed new constitution was rejected in 2005, contributing to the disputed presidential elections of 2007 and the subsequent post-election crisis that followed. Former UN Secretary-General Koffi Annan chaired an Africa Union-appointed panel of eminent African personalities who negotiated a National Accord and Reconciliation Act of 2008 that ended the crisis. The act provided the legal groundwork for among other things, formation of a grand coalition government and providing the structure and institutions necessary to launch a process that would ultimately result in a new constitution for Kenya.

Therefore, parliament passed the Constitution of Kenya (Amendment) Act in 2008 and the Constitution of Kenya Review Act of 2008 to provide a legal framework for achieving a new

constitution (Maingi, 2015). The act provided for the establishment of the Committee of Experts whose which was mandated to among other things harmonize the previous draft constitutions, address the contentious issues and come up with a draft that would be acceptable to all.

6.2.1 Post- election Violence and Land Reforms in Kenya, 2007-2010

On December 27, 2007, Kenyans went to the polls. Violence broke out in the Rift Valley, Western, Nyanza, Nairobi, and the Coastal areas of Kenya, where the opposition commanded a large following, after the final vote count and the consequent pronouncement of Mwai Kibaki as the victor of the disputed presidential poll. Opposition group Orange Democratic Movement (ODM), a party that was launched soon after the divisive 2005 referendum led by Raila Odinga, claimed the elections were fraudulent. Over a thousand lives were lost, and hundreds of thousands of people were forced to flee their homes as a result of the violence. As a result of the unrest, many domestic and international commercial transactions came to a standstill. The first quarter of 2008 saw a precipitous decline in the seven percent annual growth rate of Kenya's economy, which had been its previous norm.

There were several different patterns of violence after the election. At first, it erupted out of nowhere and took the guise of a protest in response to news of vote counting irregularities and allegations of rigging. The second style was institutional violence, where police and other government agents would go into neighborhoods seen as safe havens for protesters and break them up. These areas were majorly in the Luo Nyanza region and some areas in the capital, Nairobi. The third one was an organized and coordinated violence which was planned and financed by politicians as well as wealthy business people who recruited criminal gangs to execute the violence.

The fourth type of attack was a form of retaliation. Because the Kikuyu are the majority in the province of Kenya's Rift Valley, they orchestrated these campaigns to drive out the Kalenjin, Luo, and Luhya who had rented homes in the city's outskirts, as well as from Naivasha and Nakuru in the province's eastern part. Finally, criminal violence grew rapidly and quickly took on a class dimension. Groups of young people, backed financially by their ethnic leaders and businesspeople, were responsible for all of these acts of violence (Kanyinga, 2008).

As a result, the international community intervened via the Africa Union (AU), which dispatched a group of prominent African personalities led by former UN secretary general Koffi Annan to mediate in an effort to end the dispute. As part of the National Peace Accord, the "Agreement on Principles of Partnership of the Coalition Government" was signed on February 28, 2008, by representatives from both sides of the political divide. They came up with four agenda items that would help resolve the post-election crisis. Within these items of agenda was the case of unresolved land question which continued to bedevil the country more than forty years after independence.

Among the agenda items were land reforms with the view of addressing the historical land injustices. Land was viewed as a critical matter that precipitated the post-election crisis. Land issues in Kenya were therefore seen as both emotive and contentious. Pursuing land reforms was the surest way of ensuring land tenure security touching on both men and women. The government therefore embarked on the process of land reforms. For the first time in the history of Kenya, a comprehensive land policy was drafted and later entrenched in the constitution of Kenya.

6.2.2 The National Land Policy

Kibaki's government, under James Orengo's leadership at the Ministry of Lands and Settlement, drafted The National Land Policy (2009). Initiating the formation of the policy was a direct result of the suggestions made in the Njonjo Commission report (2002) and the Ndungu report (2004). The former inquired about Land Law Systems of Kenya and the new institutional framework for land administration and the latter inquired on the irregular and illegal allocation of public land. The Njonjo Commission had been appointed by President Moi in 1999 to review land issues and recommend principles that would ensure economically efficient, socially equitable and environmentally sustainable land tenure and land use systems (Mbote, 2005). The commission further recommended that gender issues in access, control and ownership of land be addressed. However, the recommendations of this commission were not addressed as the Moi regime was soon replaced by the Kibaki regime after the 2002 general elections (Ndege, 2002).

The Kibaki government came to power under the National Rainbow Coalition (NARC) and soon after, government appointed the Ndung'u Commission of Inquiry into Irregular and Illegal Allocation of Public Land in 2003 to look into the issue of illegally allocated public land in Kenya and make recommendations for legal and administrative measures to return the land to its rightful owners and intended use. According to the Ndung'u Report, the post-colonial administration utilized the settlers' former landholdings for political patronage. The objective of this was to strengthen and form political coalitions (Ndung'u Report, 2004).

In the former Moi regime, this tendency persisted and even accelerated. As political patronage dwindled under Moi's rule, Southhall (2005) and Klopp (2006) contend that he and his cronies increasingly used public land as a patronage tool and political reward. The president improperly converted his constitutional role as trustee of public land into *de facto* ownership powers, making

public land an attractive patronage asset due to its accessibility. Even when land was used as a patronage resource to win political support, women were excluded or were not beneficiaries of this. The table below shows an example of the people who benefited from the illegal distribution of Kiptagich forest land in the Rift Valley province.

Table 6.1: List of beneficiaries of irregular land allocation in Kiptagich forest in Rift Valley province

Beneficiary	Owner and Position in the Moi Regime
Kiptagich Tea Estates Limited	President Moi
Jane Cherotich Chepkwony	Wife to Wilson Chepkwony, the former State House comptroller
John Kipchumba Lokorio	Former State House comptroller
Col Joseph Kipkemboi Rono	Military officer and aide de camp to former President Moi
Samson Cherambos	Former GSU commandant
Hosea Kiplagat	Former chairman cooperative bank
Mark A. Too	Ex-chairman of Lonrho Ltd
Zakayo K Cheruiyot	Former PS internal security (OP)

Source: The Ndung’u Land Report, 2004. List of beneficiaries of irregular and illegal allocation of land in Kiptagich forest

Table 5.1 demonstrates how land was given out as rewards during the Moi administration. From the data presented above, it is clear that these unlawful and skewed distributions not only served to solidify political hegemony but also lacked any regard for the needs of either gender. What is clear from the above table is that only one woman benefited from these skewed land distributions. These allocations favoured men more than women, which further marginalized women in property ownership.

The Ndungu Land Report thus recommended, *inter alia*, that the irregular allocations be nullified; properties that were illegally constructed in the illegally allocated land be demolished; investigation and possible prosecution of individuals who were found to have illegally allocated land; repossession of land belonging to the ministry of lands, state corporation, settlement

schemes and Trust and revocation of land titles issued to them. Most fundamentally, the report recommended the establishment of a Land Titles Tribunal, National Land Policy, and National Land Commission (Ndege, 2012). As a result, the cabinet adopted the National Land Policy on June 29th, 2009, and the Minister for Lands was tasked with drafting a Sessional Paper, which became known as *Sessional Paper no.3 of 2009* on the National Land Policy.

The Draft National Land Policy (DNLP) was devised with the long-term goal of directing or guiding the nation toward efficient, sustainable and equitable use of its land (DNLP, 2009). By addressing the issue of equitable distribution of land, the policy intended to take care of the land rights of vulnerable groups such as women and children. The necessity of safeguarding traditional land rights was also acknowledged in the policy. It also demanded that all types of landholdings have their derivative rights recognized and safeguarded. When it comes to acquiring property rights, women made the most progress through these derivative rights. The Kasipul women were not left behind.

Intergenerational and intergenerational fairness, gender equality, secure land rights, effective regulation of land development, sustainable land use, access to land information, efficient land management, thriving land markets, and strong, representative democratic control of land are all principles outlined in this policy. It suggested that women's land rights should be given extra consideration. It established a comprehensive legislative framework to defend women's rights on issues of land inheritance, including the enforcement of existing laws and the repeal of laws and outlawing of regulations, conventions, and practices that discriminated against women in connection to land (DNLP, 2009).

The policy also supported universally applicable joint spousal consent to land disposal and joint spousal registration and documentation of property rights. The National Policy was a success for women because it guaranteed the right of unmarried daughters to inherit their families' land, stressed on the need to repeal existing laws and outlaw regulations, customs and practices that discriminate women in relation to land, emphasized the importance of public education campaigns to end cultural norms that prevent women from inheriting property, and mandated equal representation of women at all levels of government agencies and organizations responsible for land management (DNLP, 2009).

Moreover, the policy implied that female citizens had less secure and indirect access to land than male citizens. It further claimed that village councils had used norms that discriminated against women in order to assign land to the heads of households, who were typically men, and that traditional provisions protecting women's land usage rights had been weakened. As a result, it established that women could legally buy or be given plots of land. However, customs and traditions would still dictate the order of succession for clan land (DNLP, 2009).

The policy also recommends that the government should overhaul the existing institutional framework for land administration and management to facilitate the delivery of efficient, cost-effective and equitable services. To ensure access to land management and administration by the poor, the policy proposes creation of land boards to deal with land matters at district and community levels and requires that these bodies be representative of different groups (Mbote, 2005).

Since the onset of colonialism, when women's derived rights to land were not guaranteed by any law, this policy was crucial to women's land ownership as it addressed the fundamental

difficulties which women faced. Because of this, women were at the whim of patriarchal institutions that did not respect their right to land ownership or governance. Institutional opposition to change, insufficient implementation strategies, capacity limits, a lack of lasting political goodwill, an absence of monitoring and evaluation plans, and a lack of public education and awareness are only some of the problems that have plagued this policy's implementation (Wayumba, 2015:80). This meant that the policy existed primarily on paper, with weak implementation at the ground level. This is because people aren't familiar with the policy's guidelines. In regards to land ownership, women's marginalization persisted unabatedly. However, when the new constitution was promulgated in the year 2010, these provisions were entrenched and became part of the constitution and articulated in chapter five on Land and Environment (Republic of Kenya, 2010).

6.3 The Constitution of Kenya, 2010

The new constitution, which was inaugurated in during the Kibaki regime in 2010, provided a watershed moment for women's rights to property ownership equality with men. Odeny (2013) notes that women rights to land is an essential step in their empowerment and is also critical in determining their economic wellbeing as well as social status. Accordingly, women are the primary food producers in the world, and that their access to land is essential for agricultural productivity (Karanja, 2008). The constitution of Kenya (2010) therefore guarantees equitable rights to land such as access, ownership and use in Kenya generally and women of Kasipul in particular. It also provides for security of land rights and elimination of gender discrimination in law and customs in land.

As was mentioned earlier in the study the Kenyan land laws were drafted in light of the country's pre-existing customary rules which gave women limited rights to land. Moreover, the

encroachment of capitalism, the colonial legacy of sexist laws and the reality that society is class-based and socially stratified contributed to amplify already-existing gender disparities and produce significant legal, socio-economic, and political disparities between the sexes, which have shown themselves in the unequal land tenure arrangements (Ochieng, 2014).

Women in Kenya, once married, are at the mercy of a legal system that does not establish clear standards for ensuring that both spouses have equal access to and authority over matrimonial assets. According to the Kenyan legal system, an archaic British statute known as the Married Women's Property Act of 1882 featured a single technical clause which was used by the courts to regulate property allocation between spouses, thus denying women an equal portion of the matrimonial property (Ochieng, 2014).

Where there is no legislation outlining and addressing the management and control of matrimonial property, prejudice or discrimination against women is the *modus operandi* in the society. One barrier to sustainable land usage in Kenya is gender discrimination. The old constitution made things worse for women financially because it failed to distinguish land from other forms of property and hence failed to acknowledge its importance as a social and economic issue that shapes Kenyans' lives. The failure to preserve private property regardless of how it was gained has contributed to the isolation and poverty of women in patriarchal societies, where men are considered the exclusive proprietors with unquestionable rights over all property transactions (Karanja, 2008).

As a consequence, Women of Kasipul were negatively affected by the lack of property rights and the ensuing absence of economic security. For instance, Kenyan women became more vulnerable to poverty, disease, assault, and homelessness due to the lack of legal protections for their

property. The Constitution of Kenya, 2010, was written with these difficulties in mind, especially as they related to women and property ownership. The drafters of the constitution thus focused on the above issue with the view of entrenching it in the document to give it a legal backing.

During field research, it was discovered that despite the existence of laws that guarantees women ownership of land, culture of the community is also considered in guaranteeing women land ownership. An oral interview with the chief of North Kamagak location revealed that despite the provisions in the new constitution which allow women to own land, the Luo traditions takes precedence especially in matters concerning land inheritance. He further states that;

“Both the statutory and customary tenure systems in Kenya were developed and approved by men who secured their rights at the expense of that of women. The colonial British developed the statutory land tenure systems to secure their right to farm large tracts of land for agricultural exports whereas the cultural elders sought to secure their reign and rule over the masses. These two systems created large disparities for women in terms of ownership and control of land” (Midigo, KII, Oyugis, 22/04/2021).

When questioned further about whether he was aware of the new constitution's guarantee that women have the right to own and inherit land, he replied that he was, despite the fact that the actual situation is somewhat different due to Luo culture and customs. The majority of women in Kasipul consequently have access to land, but as the majority do not own and control property, they are unable to use it as security for loans to increase agricultural output. The few people with title deeds who own land hold it in trust for their sons who will eventually inherit it, particularly widows.

This happens because men are often the household heads in patriarchal African civilizations, and as a result, their names are put on the deeds to the marital properties. Since the majority of women in Kasipul do not hold the title deed, which is often kept in the name of the male

breadwinner who guaranteed legal protection to that land, they only have the right to access family land but lack the legal authority to take it.

According to Maria Nzomo (2003), equal rights and privileges have still not been attained despite legal measures that emphasize gender neutrality. The so-called "gender neutral" laws that assert to grant women the same rights as men have always been followed by *de facto* discrimination. This is because law acts in both the socio-economic and political domains and does not exist in a social vacuum. Since Kenyan society is patriarchal, it will be more difficult to change people's preconceived notions because they are difficult to overcome.

6.3.1 Gains for Women under the new Constitution (2010)

The Kenyan constitution (2010) under article 10 sub-article 2 (b) guarantees human dignity, equity, social justice, inclusiveness, equality, human rights, non-discrimination and protection of the marginalized under the national values and principles of governance. Gender equality has also been provided for in the constitution under chapter 4 of the bill of rights. The constitution has obligated the government to preserve individuals' fundamental liberties and rights while also advancing social justice to support women's fights for equity and gender equality (Constitution of Kenya, 2010).

The constitution has also provided for elaborate principles of land policy and has recognized land as the basic resource for improved livelihoods of the people and material wealth. The principles included equitable access to land; security of land rights and elimination of gender discrimination in law, customs and practices related to land and property in land. Odeny (2013) contends that the Kenyan constitution of 2010 overcomes the difficulties faced by women in acquiring property and establishes the appropriate institutional and legal framework to ensure that women fully exercise their rights to land and other relevant resources.

The constitution also created the National Land Commission (NLC) to ensure that the principles of land policy are observed. The roles of NLC are included but not limited to recommending a national land policy to the national government; investigate the present and historical land injustices as well as encouragement of the application of traditional dispute resolution mechanism in resolving land conflicts (Constitution of Kenya, 2010).

Moreover, the passage of the National Land Commission Act in 2012 gave the commission a legal framework within which to execute its mandate. The act specifies NLC's roles in promoting equitable land access for all including women. The act also mandated the commission to ensure security of land rights which was necessary for the commercialization of land resources. Women should have the same legal protections as males when it comes to the ownership and use of land. For instance, this provision could safeguard the rights of women who face eviction from their marital houses due to the dissolution of their marriages or the deaths of their husbands. The act therefore provided for spousal consent in land transactions, equal recognition of men and women and co-ownership of property (Odeny, 2013). However, the provisions if well utilized can lead to improvement of the lives of the women of Kasipul in the community, in consideration of the crucial roles they play in food production.

Additionally, Kenya abides by international treaties and legislation that guarantee women's property rights. The constitution of Kenya, 2010 has also incorporated some of the provisions of this convention and other treaties which Kenya is a signatory (Ochieng, 2014). Kenya, for example, has ratified the 1979 Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW). CEDAW stands out from other human rights documents because it is solely focused on advancing and defending the rights of women, operating under the assumption that patriarchy is a universal reality (Olum, 2015). It is the most important legally

binding international document concerning the human rights of women. Article 14 of CEDAW mandates that rural women have equal access to land, agricultural credit and loans, marketing facilities, adequate technology, and fair treatment in land and agrarian reform. That is to say, regulations pertaining to land ownership and succession should be built on a foundation of fairness for all parties involved. Furthermore, article 16 stipulated that women's property rights be safeguarded throughout marriage, divorce, and after the death of a husband as a result of land reform (CEDAW, 1979). Kenya recognizes this convention and some of its provisions entrenched in the constitution and if implemented as per the later and spirit of the constitution, discrimination of women of women in terms of land ownership will have been eradicated.

The constitution of Kenya (2010) provided for a number of gains for the women of Kasipul in terms of gender equality. This is in cognizance of the fact that it provides for the legal ground by ensuring that men and women have got the same legal rights to land and other property ownership. Article 45 (3) of the constitution provides that 'parties to a marriage are entitled to equal rights at the time of the marriage, during the marriage and at the dissolution of the marriage' (Constitution of Kenya, 2010). This implied that during marriage, men and women have equal rights to land and other property and that they are supposed to jointly own the property as couples. The enactment of the constitution also saw land acts which had incorporated customary land tenure being repealed since they hindered women rights to land. The land acts that were repealed included the Registered Land Act, Land Adjudication Act and Trust Land Act. Women were explicitly barred from land ownership under the customary law that these Acts cited. The new constitution made it possible for women to be landowners, hence these laws had to be changed or eliminated (Odeny, 2013).

The Registered Land Act (1963), which had granted the land owner total and unassailable rights of ownership, was repealed because its clauses forbade women from owning land, which was against the new constitution. The Luo, being patriarchal society land was registered in the name of the head of household, who was typically a man. This disenfranchised women. Part 4 of the act protects land registered under the act from any other rules, processes and activities that are inconsistent with its provisions. The Act did not recognize the Kasipul women's traditional usufruct rights as registrable and dominant interests. By recognizing women's usufruct rights and enabling their registration and predominating interests in land, the repeal of this act was supposed to address the ongoing marginalization of Kasipul women's rights to own, access, and utilize land, much like other women's rights in Kenya.

The shared marital ownership barred one spouse from selling property arbitrarily without informing the other, and in such a circumstance, both parties would need to consent. For instance, if a spouse sells a home or piece of land that is registered only in his or her name, the buyer is obligated to find out whether the spouse has given their consent. Moreover, if one of the spouses does not agree to the sale or challenges the sale in case of forceful sale, this means that the transaction is cancelled (Vengi, 2016; Okello, KII, Oyugis, 10/4/2021).

Whenever such issues were reported to the administrators such as chiefs to ventilate, they often invoked the provisions of the constitution, the National Land Commission act (2012) and the Registered Land Act (2012) that provides for equal access to land for both men and women. Widows are very much affected through loss of land rights. During field research, an oral informant who is a widow informed the researcher that when her husband died, her brothers in law wanted to chase her away from the land where they had built. At the time of her husband's

death, the land was still registered in his name and therefore she never had security of tenure. She averred that;

“When my husband died, she left me with only one child who is my son. I tried to put a house in this land but my brothers-in-law kept on demolishing the house. They wanted me to leave their land because they alleged that am the one who killed their son. But I stayed put and sought assistance from the chief who helped men acquire title for this land” (Akinyi, OI, 5/7/2021).

This implied that chiefs were empowered by these acts to resolve disputes that arise in their respective jurisdictions more so those that involved women. This was in line with the provisions of the constitution which encouraged the use of traditional dispute resolution mechanisms to resolve land disputes. The study thus established that chiefs are empowered to resolve land disputes at the grassroots level even before the adoption of the judicial process.

6.3.2 Challenges for Women

Although the women of Kenya had their rights to land guaranteed in the constitution, these provisions are yet to be actualized due to multiple factors. Many communities in Kenya generally and Luo of Kasipul in particular are yet to put into practice these provisions. These challenges are elucidated in the present study. First, the continued application of customary land tenure has undermined women’s rights to land. It prohibits women from owning land by registering titles in their own names. This scenario gets even worse for a woman who becomes widowed. Widows are constantly facing the threat of loss of their land rights from their brothers-in-law following the demise of their husbands and only overcame this when they established women groups which enabled them to have a forum where they could fight for their rights. During the FGD, one woman remarked inter alia that;

“A woman has no share in the husbands land. In case of divorce, you either went back to your parents or got married again. But in the situation of death of the husband, the woman got protection from the husband’s relatives especially if they had children to take care of. In most cases a widow would be inherited by the brother of the deceased” (FGD,Kosele, 12/07/2021).

This implies that if a woman refused to be inherited then she automatically lost her rights to the land of her deceased husband. Therefore the constitutional provision that guarantees women land tenure security is just on paper as most communities are yet to embrace it. Musangi (2017) noted that despite the new constitution, women are disadvantaged in terms of actual land ownership and also their participation in key land administration bodies such as land control boards due to cultural or traditional beliefs. According to Crenshaw (1991), Intersectionality, analyses the various ways in which race and gender interact to shape the multiple dimensions of black women experiences. It also exposes the women’s multilayered structures of power and domination by adopting a grounded praxis approach by engaging with the conditions that shape and influence the interpretive lenses through which knowledge is produced and disseminated (Cho et al., 2013:805). Therefore, the challenges of women rights to land are multi-layered and the study established that patriarchy alone did not undermine women rights to land but other multiple factors.

Other factors that have undermined women rights to land included colonialism’s entrenchment of male ownership of land, male preferences in land inheritance, male privileges in marriage, male bias in governmental programs of land distribution, gender inequality in land markets, biased institutional practices, poverty, gender-based violence, and, most crucially, women's lack of understanding of their rights-have contributed to poor land rights by women (Okuro, 2008). Moreover, HIV/AIDS has been singled out as a stand-alone factor in the violation of land rights of women particularly widows and orphans. The violations of women rights to land are in the

form of distress land sales to buy drugs take care of the patients, land disinheritance and land dispossession of the widows by their in-laws (Okuro, 2008).

During an interview in East Kamagak location, an oral informant who was a young widow whose husband died narrated as follows;

“When my husband died, he had not yet established his own home as we were still in my father in laws compound. He had left me with a three year old son. He was yet to receive a share of the family land although had been shown where he would build by my father in law. We used to live in Nakuru with him before his death as he was doing casual jobs there. When I returned home after the burial so that I can cultivate his share, my in laws chased me away claiming that I go back to the town where we used to live with my husband. I tried to establish a home but the pulled it down. With the help of the local chief, land was demarcated and I now have my share with a title deed although they still want me out” (Marcela, OI, 21/7/2021).

Therefore the young widow’s security of land tenure was primarily related to marriage. This means that when there is a problem in that marriage particularly death of the husband, then there is insecurity of land tenure. Furthermore, in Kasipul marriage alone does not bring security of tenure but is reinforced by other factors such as socio-cultural ties, fulfillment of certain obligations to family members, respectability, age, and social status in order for them not to be branded as ‘town wife.’ These coupled with the existence of patriarchal laws and customs prevailing in Kasipul, women have continued to be denied the right to own and inherit land.

All these factors continue to prevail despite legislations and the constitution which provides equality in the rights to land. Odeny (2013) avers that despite legislative safeguards, women in Africa face significant barriers to obtaining and owning land due to their socio-economic condition, insecurity, and government policies and practices. Moreover, there is a gender gap in Africa when it comes to control and ownership of land, and that the customary land tenure system has had a disproportionately negative impact on these factors. Statutory land tenure

system in the new constitution dispensation also provided women with various opportunities with regards to land such as ownership and inheritance. Although a large number of women are aware of these opportunities, a number of challenges such as culture, negative receptions, lack of an enabling environment, and lack of adequate structures to facilitate the process have affected their ability to exploit and demand for these opportunities (Ochieng, 2014).

A Focus Group Discussion was organized in North Kamagak Location at Kosele market to investigate whether the introduction of statutory land tenure system have improved women land rights especially ownership and inheritance rights. It established that more fifty percent of the participants agreed that a majority of women Kasipul have acquired land in their own names. However, most of the participants in the FGD contends that a majority of the women who are widows, own land in trust for their sons who once they become mature, they took over the lands. Few women bought land in their own names even if they had the money (FGD, April 2021). It therefore true to say that although a number of women in Kasipul now own land and have titles registered in their own names, what is clear is that a number of them still holds the titles in trust for their sons. Few of them especially the employed and salaried women own land through purchase and have titles to those lands with the freedom to develop them.

This was also the position of Naybor (2014) in his study of Uganda, where customary law undermines the rule of law codified in the constitution and the Contested Land Act of 1998, and efforts to advance women's land rights have been met with limited success. He concluded that enforcement of these laws are crucial in safeguarding women's usage, ownership, and inheritance rights if privatized title rights or customary rights exist. Reconstructing both customary and statutory law to acknowledge women's value as regards land and empower institutions to carry

out implementation of women's rights to land is necessary to address gender disparities in land usage and ownership rights.

In an interview with Susan Omodho (OI, 27/4/2021) the researcher asked her whether she is aware of the provisions of the land act of 2012. She responded that she is aware of it and that it provided for spousal consent in land transactions, equal recognition of men and women and co-ownership of land and property. On probing further to find out if they have registered land they have jointly with her husband, she responded as follows;

“I cannot do that because according to the Luo traditions, wives are the property of their husbands and therefore if i was to tell my husband this, he would chase me away and seek a divorce because of challenging his absolute authority of traditional ownership and control of property. I am his property and the land is his property too” (Omodho, OI, 27/4/2021).

It is, therefore, clear that traditions and culture continue to be an impediment in the quest by women to have secure rights to land for enhanced food production. This is despite the fact that women may be aware of legislations that have guaranteed them these rights. However, these provisions, if implemented can enhance women rights to land (Odeny, 2013). According to FAO (2008) maintained that sound land legislation is never put into effect because it lacks the enabling legislation, regulations, and processes. FAO has therefore suggested that creating policies, methods, and implementation techniques that are gender-neutral in regards to land law enforcement.

Not all women are aware that the new constitution and other legislations have allowed women to own and inherit land. While some may be aware, others are completely unaware due to illiteracy. Nyong'o and Ongalo (2005) at similar conclusions in their study which established that women are not aware of their property and inheritance rights. Consequently, most of them fail to assert

their right to property and allows their in-laws to disinherit them and they believe that they cannot be able to do anything to them.

6.3.3 Impact of the Land Tenure Reform on Women's Land Rights and Food Security in Kasipul

This sub-section explores the impacts of the constitution of Kenya (2010) on women land rights and food production in Kasipul. From the intersectional lens, women's land rights challenges are multiple and intersect at the point of gender and race/ class and how this has perpetuated violence against women. Calls for equality of ownership should focus on feasibilities of deriving benefits of ownership of the resources. The theory of Intersectionality has guided the researcher in understanding the dynamics of challenges that women face in the quest to have secure rights to land and how it has impacted on their traditional role as food producers.

Agriculture is the mainstay of the economy of most African countries. There is a direct correlation between agriculture and food security and women plays a significant role. According to (FAO, 2009), women play a very important role in ensuring that there is food security within the households. Rural women carry out most of the food processing so as to ensure divergence in the home diet. However, inequalities in the control of livelihood assets such as limit women food production.

Women comprise more than 50% of the country' population and more than 70% of them live in rural areas and eke their living through agricultural activities (Karanja, 1991). As the majority of Kenya's farmers, women's access to and control over agricultural land is essential to the country's food security. The position of women concerning land ownership is weaker than that of men and the position of female-headed households are at a disadvantage compared to their male-headed households (Agarwal, 1998; Davidson, 1988; Okuro, 2002). This despite the fact that women are

the custodians of food security. Therefore when women have rights to land, they are likely to use it for the purpose of growing food unlike their male counterparts.

An appropriate land tenure system that provides for land ownership rights is a necessary precursor for the attainment of food security (FIDA, 2013). Therefore in order to ensure that there is a conducive environment for agricultural development and subsequent food security, greater emphasis must be placed on ensuring that women have got secure rights to land (FAO, 2010). A large portion of the Kasipul women still lack adequate and secure access to land and if the situation is not addressed, then global trends suggests that the food insecurity situation is likely to escalate. Therefore strategies that are adopted to improve land tenure security must recognize the role of women in food production. Moreover, their ownership and control of land determines household food production. Karanja (1991) notes that land ownership by women leads to increase in food production in the household.

The traditional beliefs that men must control land in the lineage group has continued to inhibit women farmers to decide on crops or any other inputs to invest on the farm. Although there are women who may have legal right to own land, there are few elitist women who are able to buy land. Most rural households are still controlled by patriarchal relations (Vengi, 2014). This implies that most of the agricultural resources such as land and crops are still at the control of men. In addition, men cultivate commercial crops and participate in off farm activities but expect their women to grow and produce enough crops to feed their families on daily basis.

In Africa, research has shown that women play a very critical role in the process of food production. According to Englert and Daley (2008) women in Africa grow between 60% to 80% of food in addition to performing other household responsibilities such as child bearing and

rearing, fetching water and looking for firewood. Food production is done by women alone except at the initial stages where men clear the land for ploughing. However, one of the serious challenges that women face in food production is land tenure insecurity. Land tenure security is not just limited to private ownership of land but also leases and the right to use land. For women to use land effectively so as to contribute to food security, they must access, manage and control land and other land resources as well as the economic benefits that are provided by the land tenure security (FAO, 2010).

In Kasipul, the growth of food crops was greatly impacted by the shifts in access to the means of production. In the beginning, the people of Kasipul cultivated various crops in several ecological zones to guarantee diverse yields. East and West Kamagak are located in upland ecological zones, where people grow crops like maize, beans, bananas, and sugarcane. However, North Kamagak is located in a lowland ecological zone, where people grow crops like millet, sorghum, cassava, and groundnuts. The purpose of this was to provide some insurance for families against times of food scarcity or even famine.

Due to land consolidation, farmers were prevented from accessing various soils, limiting the range of food crops they could plant. In order to increase agricultural output, only people with titles could receive advances on agricultural finance. When the government introduced cash crops like coffee and tea into the area, only farmers who grew these new commodities and who were mostly men were eligible for agricultural financing. Nobody who grew our food could get a loan. Men were given credit for increasing cash crop yields because they were more likely to be landowners and not women. However, these farms relied heavily on female laborers (Apiyo, OI, Oyugis, 30/4/2021).

Women are crucial to the upkeep and strategic use of land and natural resources. Apart from being household managers and food producers for their families, women are the keepers of local knowledge, survival skills, and cultural memory. When productive resources such as land are provided to women, agriculture develops hence poverty is reduced. However, women of Kenya were unable to adequately cope with this issue because to unfavorable land tenure reforms (Moyo, 1995).

Moreover, based on their research, Maxwell and Wielbe (1998) claim that food security and stable property rights go hand in hand. They noted that in an agrarian community, a drop in income and food security follows immediately from a drop in access to and control of land. They argue that improved food security can be achieved by higher tenure security in productive resources, which would lead to increased agricultural efficiency and profitability.

In a predominantly agricultural community, tenure systems govern household access to resources, which in turn affects food security. Land is still the most essential factor in being able to produce food, and this is true whether it is inherited, purchased, or allocated. A growing proportion of women, notwithstanding this fact, lack access to adequate land to provide for their families. There is an immediate need to investigate the future of food producers at this time when overall food production is insufficient to feed the expanding population (Nzioki, 2000).

Women in Kenya are the primary producers of food, making the nature of their relationship with the land crucial to the nation's food security. Understanding how land tenure changes might affect agricultural output is of paramount importance. The study sought to establish how women's rights to land was transformed through land reforms that culminated to the constitution of Kenya (2010) and how this impacted on food production. The capacity in which a person

utilizes land is necessary since it influences the time frame in which the land is used and one's eligibility to obtain loans. According to respondents, a wife uses agricultural land for food production. Although the constitution allows women to legally own land, a number of women still do not own land but they utilize the land for production of both food crops and cash crops.

Once land was allocated, it ought not to be reallocated. However, since men possessed titles to the land, they often did the reallocation of the land to the disadvantage of women. This was done through sale, exchange as presents and leasing for financial gain (Ong'ou, OI, Oyugis, 6/1/2022). However, Pala (1983) notes that after land were given to a wife under the traditional tenure system, it remained hers for the rest of her life and could not be given to anyone else. As a result of this re-allocation, women lost access to land that had previously been utilized for food cultivation, which had a severe impact on food security.

The reallocation of land was done by men in the pretext that they are the legal owners of the land. They therefore had the right to dispose the land anytime they wish. One woman farmer in Kachien village, North Kamagak location named Hellen Okoth (OI, Kosele, 4/4/2021) during an oral interview told the researcher that she did not feel motivated to continue farming because of the uncertainty surrounding her right to do so. On further probing as to why she felt demoralized and the alternatives she was considering, she averred that her husband had been re-allocating her land for other uses after she had worked on the land without compensating her for the work done. She also noted that since she was too old for regular employment, she was considering engaging in pottery. She claims that the registration of land solely in the name of her husband was to blame for his unilateral re-allocation of their shared property without her knowledge or consent. It is therefore worth noting that there was a correlation between women's food production and the amount of land allocated to them.

Although women are the ones who use land in Kasipul after it has been allocated to them, they had no similarity in the rights of the allocation of land. Since women did not have the right to allocate land, it therefore followed that their role in agricultural production was subordinate to men who had the rights to allocate land. The rights to allocate land also influenced the types of crops to be grown on land. The multiple challenges of women's rights to land affects their access to and use of land hence having a direct impact on agricultural production.

Women in Kasipul did not have the authority to lease, mortgage, and transfer or sell land. According to an oral informant, Nyabola (KII, Oyugis, 23/8/2021) land was administered under the principles of whereby men had indefeasible control of productive resources such as land. This therefore implied that women did not have the right to effect transaction on land or challenge their husband on dealings on land. This had a negative impact on food security because, the women depended on the goodwill of their husband to give allocate to the land for agricultural production.

It has been observed that individualization of land tenure would lead to increased agricultural production since farmers with land tenure security by virtue of having titles in land would obtain credit from financial institutions to increase agricultural production (Bruce and Migot-Adhola, 1994). However, the relationship between land tenure and loans from financial institutions proves that when one loses rights to land, they also loses their ability to access loans from these institutions since title deeds were used to obtain agricultural credit (Shipton, 2009). Since its men who hold the land titles, it's them who could obtain loans although women could still depend on their husbands but after they approved of it.

Men were required to obtain credit from their titles to land. Hay (1989) notes that due to patriarchy among African communities where men had exclusive rights to allocate land, it follows that when they get loans, they ought to develop the land by planting more cash crops in order to repay the loan. The end game is that women lost part of the land they had for food crops and never got the proceeds from the cash crops that men grew.

Moreover, when men mortgaged the land for credit, women's rights to the land became under immense threat. Shipton (2009) notes that men used the title deeds to land to obtain credit which they had a direct control over. He further asserts that credit obtained due to land mortgages remain firmly in the hands of men thus threatening the land rights of women. In light of the above, it is therefore imperative to note that registration of titles in land for the purpose of obtaining credit will continue to disenfranchise a majority of women farmers. This was because land was to be registered in the names of men and not women. This had a negative impact on agricultural production since lack of land ownership denies them ability to obtain credit so as to increase food production hence food insecurity.

Land tenure reform also led to increased labour burden by women. For instance, women worked on the cash crop plots which were usually controlled by their husbands while at the same time engaged in food production for their families and other income generating activities. Okoth-Ogendo (1976) notes that land tenure system had not only split the family economy into subsistence and monetary sub-sector but also transformed the role of women in that economy. He further argues that women lost their control of the family economy, while at the same time continued to supply labour necessary for both sub-sectors. This led to increased burdens for women.

The introduction of cash crop farming also had an impact on traditional land use and control systems. The split in the family economy into subsistence and monetary sub-sectors completely transformed the role of women in the economy. Davidson (1988) notes that this led to the shifting of the economic status of women from relative sufficiency to relative dependency. While the women lost control of the family income, they are the ones providing the labour for the sustenance of that economy for both subsistence and commercial agriculture, thereby increasing economic burdens of women in rural area (Nzioki, 2000). Therefore, despite lack of control of the land that they used, women contributed more in terms of their labour for both commercial as well as subsistence farming.

Depending on the size of the family's plot of land, different types of crops were cultivated. Davidson (1988:167) notes that when it comes to cultivatable land, smallholders can be categorized differently. In general, a small scale farmer uses a greater proportion of his or her land for food production than a large farmer does for cash crops.

Additionally, agricultural labor was largely performed by women. In the past, women's participation in the formal labor force was limited. Moreover, when men worked as wage migrants, women stayed on the reserves and farmed family land to provide food. This established the private realm as women's proper place and the public sphere for men. Girls were not encouraged to go to school, so they did not participate in the formal labor force (Nyakwaka, 2013). After the first two decades of independence, this pattern persisted since so few women joined the formal labor force. It's safe to assume that they kept working on the farms, increasing food supply.

Nevertheless, a steadily increasing number of women entered the paid labor force. The development plan for the Rachuonyo district from 1997 to 2001 states that out of a total 1989 workforce of 112,913, 50,442 were males and 62,471 were women. That number, with women making up the bulk, was predicted to rise over time. The expansion of credit to youth groups and the building of youth polytechnics and vocational training centers may have contributed to this rise. Therefore, women made up the majority of the district's workforce (RDDP, 1997-2001).

Food crops including maize, beans, sweet potatoes, cassava, and sorghum, and cash crops like tea, coffee, cotton, pineapples, and horticulture crops, were the mainstays of Kasipul's agricultural economy after the country gained independence. The trends in production of these crops are as shown in the table below;

Table 6.2: Trends of the major food and cash crops produced in Kasipul between 1991 and 1995

Crop	1991	1992	1993	1994	1995
Maize	29.53	28.99	10.33	28.77	19.76
Beans	6.01	3.66	1.25	2.25	1.21
Cotton	6.98	6.91	1.50	6.05	0.79
Tea	0.019	0.027	0.034	0.038	0.039
Sorghum	18.20	13.56	11.52	18.63	10.05
Groundnuts	1.53	1.56	0.76	0.77	0.73
Rice	0.02	0.012	0.014	0.014	0.003
Sunflower	0.15	0.33	0.46	0.69	0.13

Source: District Agriculture office, Kosele, 1996.

From the data in the table above, we can tell that maize production in Kasipul fell between 1991 and 1994, before showing a modest uptick in 1995. Reasons for this could be attribute to the National Cereals and Produce Board's (NCPB) failure to ensure a market for maize and the resulting drop in maize prices. As with corn and wheat, bean, sorghum, and cotton harvests fell

between 1991 and 1993, increased slightly in 1994, and then fell again in 1995. Within the same time frame, both peanut and sunflower output fell.

Women made up the vast majority of the agricultural workforce and were consequently the primary creators. Most of these women, however, were either completely or partially illiterate, meaning they lacked the knowledge and skills necessary to use modern farming practices that would increase output. The misconception that women can't break soil on their own when their husbands are gone from the farm is a significant barrier to growth in agricultural output. As a result of this and other causes, agricultural output decreased leading to food insecurity (RDDP, 1997-2001). This is so because women spend most of their time in the production of cash crops at the expense of food crops which affected the amount of food that they were able to produce.

Hay (1989) argues that the production of export cash crops altered the sexual division of labour and significantly increased the total labour time of all members of the rural household, especially women. Men commonly withdrew from food production tasks when they began to produce export crops; women not only took up the slack in food production, but also helped with the colonially imposed export crops. These means that, the introduced land reform and subsequent commercialization of agriculture has led to increased burden on the part of the women. Although women in Kasipul contributed a majority of labour for both cash and food crop production, they did not benefit from the money obtained due to the sale of the cash crops. Men monopolized the proceeds from the sale of these cash crops (Olero, OI, 10/4/2021). Relatedly, Kimani (2008) notes that women contribute over 70% of cash crop production labour yet they suffer discrimination in all matters relating to land ownership.

6.3 Conclusion

This chapter has examined the impacts of the constitution reforms on women's land rights in relation to food production in Kasipul from 2002 to 2012. The chapter began by analyzing the Kibaki regime which promised to deliver a new constitution within one hundred days. The journey to the new dispensation was not a walk in the park. However, the enactment of the new constitution in the year 2010 was supposed to remedy the situation to give women land ownership rights a legal backing. The chapter shows that although women have had certain gains in land ownership, there are still multiple challenges they experience as regards land ownership and inheritance. The study established that despite the constitution guaranteeing women security of land rights, equality in access to land and elimination of gender discrimination as regards to land, women rights to land is still not yet guaranteed. Land registration is still skewed to men as very few women possess title deeds. Moreover, women land rights have been undermined by multiple factors such as retrogressive cultural practices, patriarchy, violence and lack of awareness for women as regards their rights to land. The chapter has also found out that due to lack of rights to land as a result of land tenure reforms, food production has greatly been hampered since women are the main food producers hence food insecurity.

CHAPTER SEVEN

SUMMARY OF THE FINDINGS, CONCLUSIONS AND RECOMMENDATIONS

7.1 Introduction

In this chapter, the summary of findings, conclusions, recommendations of this study and suggestions of areas for further research are presented. The general objective of this study was to interrogate from the historical perspective, Women's Land Rights and Food Production among the Luo of Kasipul Division, Homa-Bay County Kenya since 1908. The work was anchored on the premise that women are the main food producers but a majority of them do not have secure rights to land, which is the most basic resource of food production. The specific objectives of the study were to account for British colonial policies on women land rights and food crop production among the Luo of Kasipul from 1908 to 1963; evaluate the post-independence government land policy towards increased food production in Kasipul from a gendered perspective; examine the effects of new constitutional dispensation on women land rights in relation to household food production in Kasipul. However, the study went back in time to trace the pre-colonial period in order to historicize women and land in relation to food production.

7.2 Summary of Findings

This section presents a summary of findings of the study based on the specific study objectives. It, therefore, contains three sub-sections.

7.2.1 British Colonial Policies and their Impacts on Women Land rights and Food Production up to 1963

The rights of women to land include their access to, ownership of, use of, and management of land for increased food production. Land is the most important aspect in agricultural productivity and women play a very important role in this. The majority of food is produced by women. Nevertheless, despite numerous efforts to protect their land rights, their rights have remained undercut. Women played significant social, economic, and political roles in African communities

prior to the arrival of European colonial rule. This was true notwithstanding the patriarchal system that existed at the time. They were expected to submit to the males. Women were also subordinated because they were now only being used as tools of repression and oppression. They were consigned to the work of production and reproduction. In addition to working hard on the farms for long hours to support their families, their work was reduced to childrearing and rearing.

The beginning of British colonization did not alter this position either; rather, it exacerbated it by enforcing regulations that kept women in the background. The introduction of the capitalist mode of production into a pre-capitalist social formation would not result in the complete and total replacement of the pre-existing mode of production by the capitalist mode of production, as suggested by Berman (1984) in the theory of the articulation of modes of production. Instead, aspects of non-capitalist production systems will eventually be incorporated into and used by the capitalist mode of production. The pre-existing non-capitalist modes of production start to change, disappear, are marginalized, and be subjugated as capitalism grows more pervasive.

The theory is useful in this situation because it clarifies the underlying mechanisms underpinning the changes colonial capitalism brought about in Africa. Additionally, it aims to comprehend how capitalism retains and gains from the pre-capitalist production systems that are within its area of influence. The tension in the articulation stance arises from the capitalist sector's strong desire to preserve the status quo of earlier forms of production but its necessity to build new relations of production. As a result, the expansion of women's land rights in Kasipul can be viewed as a process in which the traditional mode of production did not necessarily perish as a result of the capitalist mode of production taking precedence. The study demonstrates that women possessed property rights and had property ownership safeguards in pre-colonial Kasipul.

In contrast to the popular belief, the arrival of European imperialists did not immediately put an end to women owning land; instead, they took advantage of the already-existing non-capitalist mode of production. Women continued to own and use property in the absence of men, who were not only engaged in wage labor but were deployed as carrier corps during the First and Second World Wars. However, they did so in order to preserve the colonial sector in addition to growing food to support their families. This was further reinforced by the Victorian concept of women (Waiyego, 2004).

Colonialism reduced women's involvement in the colonial economy, which increased their dependence on men. They found it difficult to combat patriarchy because of this. The colonial state implemented a number of land, labor, and taxation regulations that had a negative impact on women's rights to land in a number of different ways. For instance, in contrast to the earlier communal land tenure systems, colonial land laws established the idea of individualized land tenure which meant that land was to be registered in the names of the household heads, who were mostly men. The usufruct rights to land that women had before during the pre-colonial era were also compromised by the land policy.

Men were required to work for compensation in order to have money to pay taxes under colonial tax and labor laws. Large swaths of land were alienated by white settlers, who then started settler farming in the so-called white highlands. They needed laborers to work for them, so they hired African laborers through the chiefs of those nations, who would provide them access to inexpensive labor. Thus, Africans worked as migrant laborers on settler farms, in colonial buildings, and in urban areas. The Europeans used Kasipul, along with the rest of South Nyanza, as a labor reserve, particularly on the tea estates and dairy farms around Kericho and Sotik. Men were the ones who primarily left their homes to work for the Europeans, leaving women behind

to take care of their families. Women of Kasipul were left to bear the labour burden as men went out to work in the European settler farms. In some instances, women accompanied their husbands as they went out to work for the European settlers. For those who remained behind, their labour burden in agricultural production increased. Although it was women who provided labour for their families, their rights to land was only limited to access and use but not absolute ownership.

The Luo women of Kasipul were also affected by the taxation policies introduced by the colonial administration. Luo women were initially exempted from paying taxes. The hut and poll taxes introduced by the colonial government compelled men to be migrant labourers in order to obtain money to pay taxes.

The reforms initiated in the later years of colonial rule only worked to exacerbate the already bad situation for women for women in certain areas of Kenya. The Swynnerton plan of 1954 had introduced land adjudication, consolidation and registration and subsequent issuance of title deeds. However, the plan was not implemented in Kasipul until after independence. The area therefore continued to apply the customary land tenure system as there was no land alienation in the area.

7.2.2 Post-Independence governments' policies in relation to Women Land rights and Food Production from 1963 to 2002

In 1963, Kenya gained formal independence, and Jomo Kenyatta served as the country's first Prime Minister and later as the first President. The new administration set out to implement a number of reforms that would aid in finding solutions to the issues the independent state was facing at the time. One of the challenges was landlessness among the populace whose lands had been alienated by the colonial state to pave way for white settlement. The land reforms sharply

divided the ruling party KANU with the radical elements demanding the resettlement of the landless in the former settler lands whereas the moderates had wanted people to buy land based on willing-buyer willing-seller.

The Kenyatta government also continued with reforms that had been initiated by the colonial government through the Swynnerton plan of 1954 which introduced land adjudication, consolidation and registration of titles. However, the plan was not implemented in Kasipul during the colonial period due to absence of land alienation. Land adjudication and registration of titles was implemented in Nyanza in the 1960s and 1970s following the enactment of the Land Adjudication Act in 1968 and Registered Lands Act in 1963 (Okuro, 2008). In Kasipul the, then MP for Kasipul and Kabondo constituency Hon. Samwel Onyango Ayodo in a heated debate in parliament had demanded to know whether land adjudication had been conducted in the area was informed by the then Minister for Lands and Settlement that adjudication had actually been completed (Hansard, 1974).

It is worthy to note that women did not participate in the land adjudication committees. They were not included in these committees either because of patriarchy that was still dominant in Kaipul and the rest of Kenyan communities. The people regarded women who could talk or be part of a conversation where land matters are discussed as disrespectful. The Kenyan land laws did not recognize women land rights by invoking the customary law (KLA, 2006). The land adjudication act, land consolidation act and registered land act relied on customary law where men controlled land and acquired the legal rights to appropriate land in total exclusion of women. Registration of titles was not done in the name of women but in the name of men who were regarded as heads of households. This was exacerbated by women lacking Identify Cards

which was a prerequisite for land registration. Women only came to be issued with identity cards in the late 1978 when laws were changed to allow women to possess identity cards.

When Daniel Arap Moi came to power in 1978, he vowed to follow the footsteps of the founding president under the philosophy of *Nyayoism* which implied that he would follow the footsteps of his predecessor social, political and economic policies. This implied that he would continue with the patriarchal structures that the Kenyatta regime had also inherited from the colonial government. He sent mixed signals regarding women that are on one hand he made pronouncements that was meant to improve their welfare while at the same time continued with policies that did not improve their welfare. This what Kimberly Crenshaw (1989) paradigm of Intersectionality propagates that uniformity for women was based on experiencing oppression but not necessarily the same oppression.

It was during the Moi's reign that the Nairobi Women's Conference was convened in 1985. The conference was the climax of the United Nations Women's Decade (1975-1985). As a result of this conference, a number of laws were enacted during the Moi era to strengthen women land rights. The Law of Succession Act of 1981 was one such act which was enacted during the Moi era to give women the opportunity to inherit land but only in trust for their sons. This act favoured the women of Kasipul especially widows who could now inherit land from their deceased husbands but they did so in trust for their sons.

However, increased political opposition to the Moi regime due to the entrenchment of political hegemony saw Moi use land as a resource for patronage to win political support. Huge tracts of public land were irregularly allocated to individuals with the hope of regaining dwindling political support from the people (Kanyinga, 2000). These irregular allocations were only given

to men at the expense of women. Moreover, there were a number of affirmative action programmes which were rolled out during the Moi regime in order to assist women socially, politically and economically. They included the marriage and divorce act, employment act which gave women the opportunity to be given house allowance and maternity leave when they bear children.

Some of the gains by women were inhibited following the introduction of SAPS. This was due to the economic depression that most African countries were experiencing in the 1980s. The challenges of SAPS were accentuated by the era of agitation for political pluralism and the clamour for the new constitutional dispensation in the 1990s and early 2000.

7.2.3 The Impact of the Constitutional reforms on Women's Land Rights and Food Production in Kasipul from 2002 to 2012

Kibaki rose to power on the platform of affirmative action and delivery of the new constitution. These women land ownership was one of the contentious issues during the process of coming up with a new constitution. Eventually, the new constitution was promulgated in August 2010 with a chapter being dedicated to land and women being given a special recognition to own and inherit land. The new constitution gave women more impetus in land ownership and inheritance. Article 60 of the constitution provided for equitable access to land, security of land rights and elimination of gender discrimination in law, customs and practices related to land and property in land. It therefore follows that the new constitution gave women opportunities to own and inherit land. During an FGD, some women informed the researcher that financial independence and the constitution of Kenya (2010) were some of their greatest motivation to own land and have it registered in their names (FGD, Kosele, 12/07/2021). This implies that those who stand to benefit are elite women and not rural women who do not have a source of income.

A number of women still do not have rights to land although the constitution has given them the ability to do so. In Kasipul, very few women own land and have got titles in their names. This is due to a number of factors that includes retrogressive cultural practices, patriarchy, lack of awareness by women about their land rights and stigma associated with inheriting land after a woman has got married. Crenshaw's Intersectionality paradigm refers to these challenges as multilayered hence needs to be peeled off one by one like an onion. Patriarchy alone is thus not a single most source of women oppression but racism, sexism, economic disadvantages, and other discriminatory institutions all contribute.

The cultural beliefs that deny women land rights are to blame for the adverse climate change that affects them currently. A part from women having the rights to land in order to grow food crops to feed their families, women needs to have secure rights to land so as to grow trees and other crops to fight the effects of climate change. During a sensitization forum organized during the Participatory Ecological Land Use Management Association (PELUM) one woman remarked;

'Women are more affected by climate change since we spend most of the times in farms than men, searching for firewood for cooking and looking for water for domestic purposes. Unfortunately, many of us are denied the right to own land...'(the standard, 1/12/2022)

Today, the adverse effects of climate change can be seen whereby we have witnessed prolonged drought and excessive flooding which has led to loss of lives and destruction of property. this has been attributed to indiscriminate cutting of trees by men. Women suffer the most as a result of these activities. Therefore, in order to address the emerging issue of climate change and food security, women should therefore be allowed to have rights to land.

7.3 Conclusions

The study concludes that structural changes brought about by land tenure reform during the colonial and post-colonial epochs eroded the traditional laws that guaranteed women rights to land. Land adjudication and registration of titles was done on the basis that power of control is equivalent to power of ownership as understood in the western sense leading to the transfer of land exclusively to men as heads of families. It is worthy to point out that despite the new land tenure laws that allow women regardless of their marital status to own land, very few of them were found to own land. Almost all land is registered in the name of men thus compromising women and their concerns on land.

The benefits accrued by one having land registered in their names and land titles issued to them is that they have the ability to use the title as collateral in order to obtain credit to improve agricultural production. The individual also have the freedom to mortgage, lease, dispose or sell land as they wished. Women are allocated land depending on their husband will and whim. Therefore, women agricultural activities is subordinate to men who have got land ownership rights and can allocate that land depending on what they want to use it for. The individualization of land tenure which is solely in the names of men has made men to allocate land for cash crop production, thereby undermining the ability of women to produce food.

The study also concludes that, a majority of women are normally left in the rural areas to continue producing food in the land that belonged to their husbands as their husbands sort for employment in urban areas. Since women did not have secure rights to the land through ownership of the title deed which belonged to men, it followed therefore that they lacked the opportunity to improve agricultural production since they lacked collateral to obtain credit. Land registration made many men in Kasipul to sell land even family land without the consent of their

spouses. Most men sell land in the study area due to poverty and leaving women and children to be vulnerable as they have no other source of income as land is their main source of livelihood. All these have negated the justification of land reforms whose aim was to improve agricultural production.

The importance of land registration and issuance of title deed in land was to boost land tenure security hence increase in agricultural production. However, the woman farmer did not have land titled in her own name hence depended on her husband's land for food production. Since she lacked land tenure security, she did not therefore have the freedom to manage land by making investment decisions concerning the farm. It was the owner of the land that had the ultimate legal authority over land use, utilization of the title deed as collateral to obtain loans and disposal or sale of produce from the farm. This affected greatly women's ability to make long term investment on land unless they are sure that they would reap the benefits of that long term investment.

The introduction of cash crops that followed the land tenure reform made women to lose control of the family economy while at the same time they continued to provide labour for both food and cash crops hence their labour burdens increased. Men earned incomes from the sale of cash crops whereas women continue to provide food for their families. Therefore, by having title deeds, men continued to maximize their incomes while for women, it continued to not only exploit but also discriminate them.

The study also took a standpoint that patriarchy is not solely the cause of women oppression. Although land tenure reform was to benefit both men and women, this was not the case due to the multiple challenges that women face that intersects at the point of gender discrimination and

violence against women. These challenges are retrogressive cultural practices, application of customary land law, and lack of awareness, stigma and fear of violence from their male relatives which have become barriers for women in terms of ownership of land. Moreover, despite women having their rights to land entrenched in the constitution, the above barriers have continued to hinder them for owning land.

7.4 Recommendations

The study recommends that the society should be sensitized about the importance of women land rights as this leads to increase in food production and security. This will help the society to appreciate that its women who are the food producers and that they constitute more than half of the Kenyan population. Their land rights must therefore be protected. The gender discrimination in land ownership should thus be eliminated. Women's rights to land are integrally linked to debates around global food security and sustainable economic development. The society should understand that the process of land tenure reform since the colonial period was meant to be advantageous for both men and women but women have had more challenges as a result of the reforms due to patriarchal structures of the societies.

The study recommends that government should strengthen the application of human rights, gender and social justice in the formation and implementation of legal, policy and administration of land. For instance, the government should fulfill obligations to respect, protect and adopt measures towards the full realization of human rights related to ownership of land and other productive resources. The state should ensure equal access to land for both men and women as per the Universal Declaration of Human Rights (UDHR), the International Convention on Civil and Political Rights (ICCPR), which guarantees equality between women and men as well as

Convention on the Elimination of All forms of Discrimination Against women which calls on the state to end discrimination against women in laws, policies and practices.

The study also recommends that the state and non-state actors should join hands in the sensitization of women on the constitutional provisions that have articulated their rights in land. This is because some of them may not be aware that their right to own and inherit land has been enshrined in the Constitution of Kenya (2010). For instance, during Chiefs Barazas, women should be educated and informed that their rights in land are now protected by law and that anybody who violates this is liable for prosecution. The NGOs should also be involved in these sensitization programmes.

The government should also ensure that a law is passed that makes it compulsory for the married couples to register land jointly after getting married. The title deed which acts as an evidence of land ownership should bear the names and Identification numbers of the couples. This would go a long way in helping women in safeguarding their rights to land and guard them against irresponsible husbands who resort to selling land without the knowledge and approval of their spouse. Women in the rural areas, they should also form agricultural cooperatives to enable them obtain credit so that they can buy land and register in their own names.

The government must also work towards mainstreaming gender as envisaged in the constitution. This should involve appointing more women in the organs of land administration such as land control boards, committees for the resolution of land disputes, land adjudication committees among others. This should be done in accordance with the 2010 constitutional two thirds gender rule.

7.5 Suggestions for Further Research

The study focused on Women's Land Rights and Food Production among the Luo of Kasipul since 1908. This essentially meant that background research had to be conducted concerning the position of women as regards land ownership since the pre-colonial period so as to put the study into context. There exists a variety of literature on land tenure and land reforms in Kenya generally. However, there is no literature about women's rights to land and food production among the Luo. The study suggests that further studies should be conducted on the history of women's role in the whole food production and the challenges they have faced in the food production process.

The study suggests that further research should be done on the socio-cultural institutions of the Luo of Kasipul and how they determined food production in Kasipul during and after the colonial period. In the Luo society, culture is tied to their economic activities and, therefore, it is imperative to examine its role in the production process. Widow guardianship was common phenomena among the Luo and therefore its influence on women's rights to land and food production should be examined.

Further research should also be done about the specific categories of women such as widows, separated, divorced and unmarried women and their rights to land. The study found out that those women's rights to land have generally not improved despite various government policy interventions which culminated to the infusion of these policies in the constitution which is the supreme law of the land. Moreover, more research should be done in cognizant of the fact that not all women are the same and, therefore, operate on different socio-cultural set ups and, therefore, policies should be designed for the different categories of women.

The study also suggests that further research should be conducted on the impacts of climate change on women land rights and food production. The study has established that since women do not have rights to land, they have no control of men's activities such as cutting down of trees which impacts negatively on climate change. Women bear more burden on the ravages of climate change as it leads to food shortages and since women are the food producers, they are unable to produce food for their people.

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APPENDICES

APPENDIX I: LIST OF ORAL INFORMANTS

1. Daniel Muma Adhanja	Oral Interview	3/4/2021
2. Hellen Okoth	“	6/4/2021
3. Paul K’Okello		10/4/2021
4. Margaret Apiyo		4/4/2021
5. Philgona Akello		“
6. Mary Opap		25/4/2021
7. Miriam Olero		“
8. Simeon Nyaoro Onuonga	„	4/4/2021
9. Chief Opecho		“
10. Monica Muma	„	3/4/2021
11. Jared Omenda Nyakado	„	4/4/2021
12. Millicent Akinyi	“	5/7/2021
13. Pamela Akoth	“	5/7/2021
14. Dorine Oyugi	“	21/7/2021
15. Elizabeth Oketch	“	21/7/2021
16. Timothy Onduru	Oral Interview	23/10/2021
17. Florence Akoth	“	21/7/2021
18. Benter Olero	“	21/7/2021
19. Emily Ouya	“	21/7/2021
20. Marcela Akumu	“	21/7/2021
21. Adislaus Mikwa Matete	„	4/4/2021
22. Peninah Obudho	“	21/7/2021
23. Hezron Aol		“
24. Thomas Nyakado		“
25. Serfine Odhiambo		“
26. Elly Juma Omollo		“
27. Zacharia Omuoyo		“
28. Mary Aoko Odhiambo		“
29. Isdora Wadanda		“
30. Peninah Akinyi		“
31. Jacob Oliyo		“
32. Yudah Abeka		“
33. Susan Omodho		27/4/2021
34. Elijah Nyabola		23/8/2021
35. Tom Obondo	“	12/5/2021
36. Mary Aoko	“	“
37. Hon. Pheobe Asiyo	“	2/1/2022
38. Chief Midigo	“	23/4/2021
39. John Matunga	“	12/4/2021
40. Elly Juma Omollo	“	“

APPENDIX II: ARCHIVAL SOURCES

- KNA/DC/KSI/1/1, South Kavirondo District Annual Report, 5th October 1908
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APPENDIX III: Consent Form

(To be filled in duplicate)

Title of Research: Women Land rights and Food Production in Kasipul Division, Homa-Bay County, Kenya since 1894.

Name of Researcher:

Supervisors: 1.....

2.....

I confirm that I have read and understood the Plain Language Statement/Participant Information Sheet for the above study and have had the opportunity to ask questions.

I understand that my participation is voluntary and that I am free to withdraw at any time, without giving any reason.

I consent / do not consent (delete as applicable) to interviews being audio-recorded.

I acknowledge that participants will be referred to by pseudonym.

All names and other material likely to identify individuals will be anonymized.

The material will be treated as confidential and kept in secure storage at all times.

I agree / do not agree (delete as applicable) to take part in the above study.

I agree to take part in this research study

I do not agree to take part in this research study

Name of Researcher Signature..... Date.....

Name of Researcher Signature..... Date.....

In case of any follow up you may reach the researcher through the following address;

Dean, School of Graduate Studies

Maseno University

P. O. Box 333.

Maseno.

Tel: 254-057-351620,351622

KIAMBATANISHI I: FOMU YA IDHINI

(kujazwa kuwili)

Madaya Mradi: Haki za akina mama kuhusiana na shamba ikilinganishwa na uzalishaji wavyakulakatikamaeneoya Kasipul, gatuji la Homa-Bay, nchini Kenya tangumwakawa 1894.

Jina la Mtafiti

Wasimamizi 1.....

2.....

Nimedhibitisha kuwa ni mesoma na kuelewa taarifa ya lugha wazi /karatasi ya taarifa ya mshirikishi kwa somo lililo hapo juu na nilikuwa fursa ya kuuliza maswali. Ninafahamu Kuwa kushiriki kwenye ni kwa kujitolea na kuwa niko huru kujitoe wakati wowote bila ya kutoa sababu.

Nimekubali/sidakubali (futa inayotakikana) mohojiano yanayo naswa kwa kanda za sauti na video.

Ninatambua kuwa washiriki watarejelewa kwa majina ya utani.

Majina yote na vifaa vingine ambavyo huenda vika watambua watu vitawekwa siri/ vitafichwa.

Kifaa hicho kitachukuliwa kama siri na kuhifadhiwa kisalama wakati wote.

Ninakubali/sidakubali (futa inavyotakikana) kushiriki kwenye somo hili.

Ninakubali kushiriki kwenye somo la utafiti[]

Sidakubali kushiriki kwenye somo la utafiti[]

Jina la mshiriki..... Sahihi..... Tarehe.....

Jina la mtafiti..... Sahihi..... Tarehe.....

OKANG III: OTAS MAR AYIE

(NyakaOgol copies ariyo)

Weche mag Ratiro mag Jomamine e weche mag Lowokuomjomamineetijepur mag cham eeKasipulhiga mar 1908.

Nyingjatim research

Jotecho mag yatim research: 1.....

2.....

Aleroniasesimo kendo awinjogigo ma owacheyorlergijagolparoewirisach ma ondikmalokanyono kendo abedoginafas mar penjopenjo. Ang’eyonigolonaparoenyomanonomaokochun kendo anyalogorasaaasayamaokachiwogimaomiyo.

Ayie/ok ayie (ruch kaka dwarore) gidayodhok ma imakoedwol kata picha mar video.

Aleronijogolparoibiroluogoginyingemopogore.

Nyingekodgigodutomanyalomiyonyingjago/parong’ereibiropando.

Gimaolosni biro bedosiri kendo ibirokane e yomabersecheduto.

Ayie/ok ayie mondo abed achiel mar risachni()

Ok ayie mondo abed achiel mar risachni()

Nying ja risach..... Sin Tarik.....

Nying ja duokpenjo.....Sin..... Tarik.....

Erokamanokuomsechenikodparomichiwo.

APPENDIX IV: ORALINTERVIEW GUIDE

Hallo, my name is Moses Mireri, am a student of Maseno University. I am conducting a study on women land rights and food production in Kasipul Division since 1908. I will be glad if you spare your time to respond to the questions that I will ask you. Your honesty in answering the questions will be of much value to the study. Feel free to participate in the discussion and ask any question of your concern. Your responses will be anonymous and confidential and will be used strictly for academic and research purposes.

SECTION A: Background information.

1. Gender_____ (i)Male__ (ii) Female__
2. Location_____ 5. Sub-location_____
3. Marital status_____ 6. Age_____

SECTION B: Questions on women rights to land and food production during the colonial period (1895-1963)

1. Explain the lineage formation process in Kasipul.
2. How did the process of lineage formation influence the economy of the people of Kasipul? Explain your answer.
3. How was land acquired during the pre-colonial rule in Kasipul?
4. Who owned land during the pre-colonial period?
5. What did the land ownership entail?
6. During the pre-colonial period, did women own land in this community?
If yes, did she have total control for access and use of land? If no why?
7. How was land administered?

8. What was the position of women in relation to land during the pre-colonial period?
Explain your answer.
9. Could women also access and use land in Kasipul during the pre-colonial period?

If yes, how did they access land?
10. How did women use land?
11. Which roles did women play in food production during the colonial period?
12. Who was the ultimate decision maker on the agricultural produce from the farms
between men and women?
13. Did men also participate in agricultural production? Explain your answer.
14. What was the level of labour involvement between men and women during the
process of food production? Who did more work and why?
15. What role did Luo culture on sexuality play in the process of food production?
Explain your answer.
16. When did colonialism begin in Kasipul?
17. Did the colonialism have any impact on women land rights in this community?
Explain how and why.
18. Which types of crops were introduced by the colonialists in Kasipul during the
colonial period?
19. Who between men and women provided labour during the farming of these crops?
20. Did the introduction of these crops strengthen or weaken women rights to land?
21. Did the colonial land policies have any impact on land in Kasipul?
22. Was the Swynnerton plan of 1954 implemented in Kasipul? Explain your answer.
23. How did these policies affect women rights to land?

24. How did this affect food security in the area?
25. What informed the idea of male labour migration in Kasipul?
26. What new change did it bring in Kasipul? If yes, how did the changes affect household operations?
27. How did the changes impact on women position as producers and reproducers?
28. Was the effect universal on all women? If yes or no then how?
29. Were the changes gradual or drastic?
30. How did the male labour migration change systems of land use by women and were other things like consistency ensured?
31. How did men react to male labour migration? Elaborate.
32. Were women consent sought as men went out to work as migrant labourers? If not, why?
33. Other than food production, did it also affect women land use in other ways?
34. Were the colonial taxation policies applied in Kasipul?
35. How did taxation policies affect women? Were they also taxed?
36. What were the impacts of colonial taxation on women land rights and food production in Kasipul?

SECTION C: Questions on Attainment of Independence, Women, Land Rights and Food Production (1963-2010).

1. Did land consolidation, adjudication and registration introduced in Kasipul after independence affect women rights to land?
If yes, how?
2. Which reforms were witnessed in land ownership and land use rights in Kasipul after independence? Explain.

3. Explain the role of women groups in enhancing women land rights and food production in Kasipul.
4. How was land administered during the Moi era?
5. How did Moi use land to gain political support/ patronage on land? Did women also benefit from this?
6. How did Structural Adjustment Programmes (SAPs) make President Moi to use land as a patronage resource?
7. During the era of political liberation in the 1990s, how and why did the political elites use land to gain political support?
8. How has pre and post-election violence in Kenya impacted on women land rights in kasipul
9. How has the 2010 constitution shaped women access to land and usage?
10. Do you think the new constitution 2010 has addressed the plight of women concerning their rights to land? If no what do you think are the challenges facing women
11. What has been the impact of the gender developments to land rights on food crop production in Kasipul?

SECTION D: Questions on Women Land rights and Food Security in Kasipul since 2010.

1. Do you know that women rights to land have been guaranteed in the new constitution? If yes, briefly mention some of the opportunities that the constitution has guaranteed women vis-à-vis land.
2. Do women in Kasipul make use of these opportunities
3. Are you aware of any programs initiated by the government at the local level to sensitize women on their rights to land?
4. What are some of the barriers that women still experience in their relation to their rights to land?
5. Do we have local community initiatives in Kasipul to sensitize women on how to overcome these barriers?

6. Do we still have active women groups in Kasipul?
If yes, have they helped women as regards rights to own land and other property in order to enhance food production.
7. Do women still make use of group farming activities in the process of agricultural production? If yes, what is the composition of these groups in terms of gender?
8. What is the role of group farming in agricultural production?
9. What is the food security situation in Kasipul currently?
10. Is there a relationship between women land rights and food security situation?
11. What are the measures that have been taken by the national and county governments to sustain food security in Kasipul?
12. Are there food security empowerment programs in the area?
If yes, how have they impacted on food security situation in the area.

APPENDIX V: FOCUS GROUP DISCUSSION GUIDE.

Hallo, my name is Moses Mireri, am a student of Maseno University. I am conducting a study on women land rights and food production in Kasipul Division since 1908. I will be delighted if you will spare your time to respond to the questions I'm going to ask. Your honesty in answering the questions will be of much value to the study. Feel free to participate in the discussion and ask any question of your concern. Your responses will be anonymous and confidential and will be used strictly for academic and research purposes. I would also like to tape record as we discuss so that I can capture all the details accurately.

Sample questions for focus group discussion guide

1. In your own assessment, how was land administered during the:
 - Pre-colonial period
 - Colonial period
 - Post-independence period
2. In your own understanding and knowledge, how was women's access and use of land handled during the above mentioned periods?
3. In your own knowledge, how was land adjudication and consolidation done in Kasipul after independence to guarantee women rights to land?
4. Based on your own knowledge and understanding, to what extent were women involved in the land adjudication process?
5. Based on your own assessment and knowledge, did the land policies during the colonial and post-colonial periods change women status in land ownership rights
6. In your own understanding and knowledge, did women participate in the following processes during the Kenyatta regime?
 - Land adjudication
 - Land consolidation
 - Land administration
6. In your opinion, to what extent did Kenyatta regime enhance women's right to land?

7. What steps did Moi regime take to secure women's right to land?
8. In your own assessment, to what extent did Kibaki regime enhance women's right to land?
9. In your own understanding, what is the relationship between insecure access to land and food shortages and increased level of poverty among the rural women of Kasipul?
10. Do you think the promulgation of the new constitution in the year 2010;
 - Has enhanced women rights to land
 - Has empowered more women to own and inherit land.
 - Has improved food production among women.
11. Based on your own knowledge and understanding, what factors hinders women from acquiring land?
12. According to you, who are the legitimate owners of land?
13. Based on your own knowledge, who is entitled to inherit family land between sons and daughters?
14. Based on your own assessment, what are some of the challenges that rural women have faced especially in their attempt to get secure rights to land?
15. Do you think over-reliance on subsistence food production has increased levels of poverty in Kasipul? Explain

APPENDIX VI: KEY INFORMANT INTERVIEW GUIDE

A) CHIEFS/ASSISTANT CHIEFS

1. For how long have you served in your position
2. Is all parcels of land in your area surveyed?
3. When did land consolidation and registration begin in your area?
4. What is the mode of land access and ownership in this area?
5. Are there land related cases that are brought to your office for arbitration
6. What is the history of land tenure system in your area?
7. Are you conversant with the processes of land adjudication and registration in your area?
If yes, kindly explain
8. Do you think the subsequent post-independence governments have addressed women land rights in Kasipul
9. Did these governments come up with policies that enhance women land rights?
10. When dealing with land disputes where women are involved, what informs your decision
11. What do you think should be done to empower or strengthen women rights to land?
12. What is the food security situation in your area?
13. Do you have programs to address food security in your area? If yes which ones


B) LAND SURVEYORS


1. Have you surveyed land in the area?
2. What is the ownership of land surveyed in terms of gender, either men or women?
3. Are women also involved in land surveying in the area
4. During the land surveying process, have you encountered any disputes arising between men and women in the area
If yes, what are the causes of these disputes and how did you solve them
5. What are women in the area doing to safeguard their rights to land
6. To what extent has land disputes between men and women affected food production

C) AGRICULTURAL EXTENSION OFFICERS

1. What is the origin of land tenure system in this area?
2. To what extent have women rights to land been promoted in the area
3. Has it changed the perception of the people concerning women rights to land?
If no, why
4. Have you ever provided agricultural extension services to women smallholder farmers?
5. What are some of the challenges they face in their quest for secure ownership of land and other property?
6. Do you think the new constitution has empowered more women to own land in the area?
7. What is the relationship between secure access to and ownership of land with food productivity?
8. How have you sensitized women farmers to ensure food security in their households


APPENDIX VII: NACOSTI RESEARCH PERMIT


REPUBLIC OF KENYA


**NATIONAL COMMISSION FOR
SCIENCE, TECHNOLOGY & INNOVATION**

Ref No: **363498** Date of Issue: **06/January/2021**


RESEARCH LICENSE




This is to Certify that Mr.. MOSES MIRERI MATUNGA of Maseno University, has been licensed to conduct research in Homabay on the topic: Women Land Rights and Food Production among the Luo of Kasipul Division, Homa-Bay County Kenya since 1894. for the period ending : 06/January/2022.

License No: **NACOSTI/P/21/8439**

363498
Applicant Identification Number


Director General
**NATIONAL COMMISSION FOR
SCIENCE, TECHNOLOGY &
INNOVATION**

Verification QR Code



**NOTE: This is a computer generated License. To verify the authenticity of this document,
Scan the QR Code using QR scanner application.**

APPENDIX VIII: ETHICAL REVIEW LETTER



MASENO UNIVERSITY ETHICS REVIEW COMMITTEE

Tel: +254 057 351 622 Ext: 3050
Fax: +254 057 351 221

Private Bag – 40105, Maseno, Kenya
Email: muerc-secretariate@maseno.ac.ke

REF: MSU/DRP/MUERC/00895/20

Date: 9th December, 2020

TO: Mireri Moses Matunga
PG/MA/FA/00082/2014
Department of History and Archaeology
School of Arts and Social Sciences
Maseno University
P. O. Box, Private Bag, Maseno, Kenya

Dear Sir,

RE: Women Land Rights and Agricultural Production among the Luo of Kasipul Division, Homabay County, Kenya since 1894

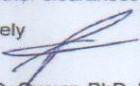
This is to inform you that Maseno University Ethics Review Committee (MUERC) has reviewed and approved your above research proposal. Your application approval number is MUERC/00895/20. The approval period is 9th December, 2020 – 8th December, 2021.

This approval is subject to compliance with the following requirements;

- i. Only approved documents including (informed consents, study instruments, MTA) will be used.
- ii. All changes including (amendments, deviations, and violations) are submitted for review and approval by Maseno University Ethics Review Committee (MUERC).
- iii. Death and life threatening problems and serious adverse events or unexpected adverse events whether related or unrelated to the study must be reported to Maseno University Ethics Review Committee (MUERC) within 24 hours of notification.
- iv. Any changes, anticipated or otherwise that may increase the risks or affected safety or welfare of study participants and others or affect the integrity of the research must be reported to Maseno University Ethics Review Committee (MUERC) within 24 hours.
- v. Clearance for export of biological specimens must be obtained from relevant institutions.
- vi. Submission of a request for renewal of approval at least 60 days prior to expiry of the approval period. Attach a comprehensive progress report to support the renewal.
- vii. Submission of an executive summary report within 90 days upon completion of the study to Maseno University Ethics Review Committee (MUERC).

Prior to commencing your study, you will be expected to obtain a research license from National Commission for Science, Technology and Innovation (NACOSTI) <https://oris.nacosti.go.ke> and also obtain other clearances needed.

Yours sincerely


Prof. Philip O. Owuor, PhD, FAAS, FKNAS
Chairman, MUERC



MASENO UNIVERSITY IS ISO 9001:2008 CERTIFIED



APPENDIX IX: RESEARCH AUTHORIZATION LETTER



MINISTRY OF EDUCATION

STATE DEPARTMENT FOR EARLY LEARNING & BASIC EDUCATION

Telegrams: "SCHOOLING" Homa Bay
Telephone +
When replying please quote
cdehomabay@gmail.com

COUNTY DIRECTOR OF EDUCATION
HOMA BAY COUNTY
P.O BOX 710
HOMA BAY
DATE: 29TH MARCH, 2021

REF: MOEST/CDE/HBC/ADM/11/VOL. II/126

Mr. Moses Mireri Matunga
Maseno University

RE: RESEARCH AUTHORIZATION.

Following your application for authority to carry out research on "**WOMEN LAND RIGHTS AND FOOD PRODUCTION AMONG THE LUO OF KASIPUL DIVISION, HOMA BAY COUNTY.**" I am pleased to inform you that you have been authorized to undertake research in Homa Bay County for the period ending **6th January, 2022.**

Kindly note that, as an applicant who has been licensed under the Science, Technology and Innovation Act, 2013 to conduct research in Kenya, you shall deposit a copy of the final research report to the County Director of Education Office after completion both the soft copy and hard copy.

Thank you in advance.

COUNTY DIRECTOR OF EDUCATION
HOMA BAY COUNTY
P.O. BOX 710-40300, HOMA BAY
Email: cdehomabay@gmail.com


MR. SHEM OMBONYO
FOR: COUNTY DIRECTOR OF EDUCATION

Cc.

- i. County Commissioner
Homa Bay County.

APPENDIX X: SGS APPROVAL LETTER



**MASENO UNIVERSITY
SCHOOL OF GRADUATE STUDIES**

Office of the Dean

Our Ref: MA/FA/00082/2014

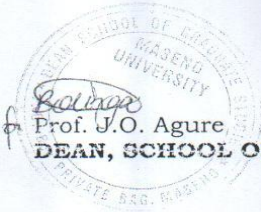
Private Bag, MASENO, KENYA
Tel:(057)351 22/351008/351011
FAX: 254-057-351153/351221
Email: sgs@maseno.ac.ke

Date: 15th September, 2020

TO WHOM IT MAY CONCERN

**RE: PROPOSAL APPROVAL FOR MIRERI MOSES MATUNGA —
MA/FA/00082/2014**

The above named is registered in the Master of Arts in History Programme in the School of Arts and Social Sciences, Maseno University. This is to confirm that his research proposal titled "Women Land Rights and Food Production among the Luo of Kasipul Division, Kenya Since 1894." has been approved for conduct of research subject to obtaining all other permissions/clearances that may be required beforehand.



Prof. J.O. Agure
DEAN, SCHOOL OF GRADUATE STUDIES

Maseno University

ISO 9001:2008 Certified



APPENDIX XI: MAPS OF THE STUDY AREA.

