



ISSN: 0975-833X

RESEARCH ARTICLE

INFLUENCE OF GENDER ON LAND OWNERSHIP AMONG THE SAMOR COMMUNITY IN BARINGO COUNTY, KENYA

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ARTICLE INFO

Article History:

Received 10th December, 2014

Received in revised form

10th January, 2015

Accepted 05th February, 2015

Published online 31st March, 2015

Key words:

Gender,
Land Ownership,
Community,
Kenya.

ABSTRACT

In most African societies, land provides one with identity, a sense of belonging and is a pillar for human development. Gender is an essential factor in determining the social and relational aspects of individuals in any society. This is particular true when it comes to the question of land inheritance. In most African communities the inheritance of land is governed by the community's social structure and culture. The general objective of the study was to examine the influence of gender in land ownership among the Samor community of Baringo County. The study adopted a descriptive research design. A purposive sampling procedure was employed to select Kabarnet Mosop location. The study was conducted in all the four sub-locations of Kabarnet Mosop. The study employed survey method with questionnaire as the main tool of quantitative data collection. Three hundred and sixty-four (364) questionnaires were administered. In addition 10 in-depth interviews with key informant were carried out to obtain qualitative data. Quantitative data was coded and managed using the Statistical Package for Social Sciences program and the data was presented using tables, figures and percentages. Qualitative data was manually analyzed according to themes and narratives developed, analyzed and presented in form of verbal quotations. The results of the study showed that much of the land in Samor community is owned by men. The study also showed that the women who own land acquire it through purchase. Thus even though men do not allow women to inherit land, they sell it to women or allow them to buy without any negative socio-cultural impacts. The study concludes that for men and women to have equal access to land gender relations as they are informed by historical, legal and political factors need to be addressed. The findings of this study are thus relevant as they can be used to address inequalities in access to and ownership of land between the two genders in Samor community and, indeed, other communities in Kenya.

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INTRODUCTION

Women worldwide play a central role in that they ensure there is food security in the family (KLA, 2003). They also produce goods and provide services to earn income for the family, as both primary and secondary income earners (ibid.). Land, especially in rural area is seen as the foundation of all human activities since it is crucial to the attainment of economic growth, poverty reduction and gender equity. Despite all these many cultural settings, patriarchy is entirely responsible for appropriating available resources in the social, political and economic structures to the detriment of women (Warutere, 2009). According to Kamari-Mbote (2002), Kenyan women access land only to the extent that they perceive or believe to be the case in or within marriage relationships. It only dawns to them that they neither own nor control land when such relationships go sour (Kibwana, 1995).

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Gender and Land rights in Kenya

Land is mainly a commodity rather than a secure base on which to sustain a family and the individualization of rights on which participation in the land market depends hence tends to exclude women wherever male heads of the family holds legal title to land on behalf of the family unit (KLA, 2002). The most persistent obstacles to improving gender equity in land rights are seen to have their roots in patriarchal values and practices which tend to survive and flourish in capitalist and socialist societies alike (Kanogo, 2005). In Kenya where women constitute the majority of small scale farmers and do more than 75 per cent of the agricultural workforce, they are routinely denied the right to own the land they cultivate and on which they are dependent to raise their families (KLA, 2002; Kanogo, 2005). Land is defined as a productive resource and cultural heritage. Family land in the village provides all family members with a place where they belong and can always return to. In many societies land ownership reflects, if not determines, a person's citizenship status or degree of inclusion in community organizations.

Studies done by FAO (2003) have shown that while proportion of the labour working in agriculture decline over the 1990; the proportion of women working in agriculture increased, particularly in developing countries. Studies have shown that resources controlled by women are more likely to be used to improve family food consumption and increase overall well being of the family (Daley & Birgit, 2010; KLA, 2002). Ownership of land empowers women and provides income and security. Without resources such as land, women have limited say in household decision-making, and no recourse to the assets during crises (FAO, 2003). For instance, in regions of conflict, the impact of unequal land rights has particularly serious consequences; women often become the only survivors. For example, since Kenya's post-election conflict situations in 2007, the number of women-headed households has increased sharply as many men have either been killed or are absent. Women without their husbands, brothers or fathers in whose name land and property titles were traditionally held find themselves denied access to their homes and fields by male family members, former in-laws or neighbours. Without the security of a home or income, women and their families fall into poverty traps and struggle to make ends meet (Kanogo, 2005).

International agreements have repeatedly reiterated the importance of women's land rights. The Beijing Platform for Action (BPA) affirmed that women's right to inheritance and ownership of land and property should be recognized. Article 15 of The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) provides that state parties agree to accord men and women the same rights (Thongori, 2002). Women's land ownership is an implicit part of achieving the Millennium Development Goals (MDGs), specifically Goal 1 on eradicating extreme poverty and Goal 3 on gender equality (Republic of Kenya, 2010). UNIFEM advocates for women's land ownership as part of its core strategy to enhance women's economic security and rights and reduce feminized poverty (Deininger, 2003). Women need to have their full share of power over local resources as well as getting their land rights. There is a strong focus on ensuring that women benefit from equal rights to property under the law, as well as in actual practice at the grassroots level (Colman, 2009). The above studies touching on gender disparities in land ownership and the ever increasing proportion of women working in agricultural sector showed the need to find out whether such challenges on property rights hamper women in Samor community from land ownership.

Kenyan customary law constitutes the unwritten social rules and structures based on the tradition of communities (Kameri-Mbote, 2005). It is not uniform across regions and nations but common factors can be elicited. One is that customary law tends not to be codified, it is the unwritten social rules and structures of a community derived from a shared community values and based on tradition. Some scholars have argued that customary law has come to be defined by men and does not reflect women's interpretation of custom. Customary law pertaining to women's land tenure like statutory law is based on social relations between men and women and more specifically husband and wives (Kameri-Mbote, 2005). In most ethnic groups in Kenya, like the Samor community, a married

woman does not own land during marriage. In some communities, all her property, whether acquired before or after marriage, is in the sole control of her husband during the subsistence of the marriage. He has the power to use and dispose of it as he wishes. Although the wife has the right of use over property, for example, cultivation of land allocated to her, such control must be exercised with the consent of the husband. She may not sell or otherwise dispose of such land without her husband's consent (Benschop, 2002).

According to Daley and Birgit (2010), most of the control exercised by women on land and other valuable properties is biased towards use rather than control and ownership. In marital contexts, men assume a superior position as they have control over their wives' land regardless of whether it is separate or not. This subordination of women socially and economically weakens their position in society since their economic power, limited to use only in most cases, does not make them as competitive as they should be under the current economic structuring of society. Male dominance is a situation in which men have highly preferential access, although not always exclusive rights, to those activities to which the society accords the greatest values, and the exercise of which permits a measure of control over others. It is significant that Friedl (1975) recognizes that men are favoured in terms of accessing certain economically and socially significant materials and rights, such as access to land and property. These institutions and positions in communities play a role in elevating men over women (Friedl, 1975). Bland (2002) also defines male dominance in terms of an institutionalized complex consisting of asymmetrical frequencies of sex-linked practices and beliefs. The practices and beliefs, in this case, would instil prestige and status to the male gender and devalue the contributions and capabilities of female gender. Under all systems of law in many African countries, land ownership is anchored in patriarchy (Warutere, 2009). The law can be used to reinforce or make permanent social injustices, and, in the realm of women's rights, legal rules may give rise to or exacerbate gender inequality. Legal systems can also become obstacles when change is required: often the *de jure* position, which may provide for gender neutrality, cannot be achieved in practice due to numerous obstacles. The reviewed studies provide a generalization of customary laws in Kenya which has been portrayed to give women minimal control over land.

Statement of the Problem

The Kenyan Constitution guarantees equality of land ownership rights for all Kenyans regardless of sex (Republic of Kenya, 2010). Women are free to buy, inherit and sell assets as they choose like men. However, in practice women's ownership of land is severely restricted by customs (where the society reminds them that they were only brought to take care of what that family has acquired in terms of permanent assets) whenever they ask for which essentially prohibits women from inheriting land. Although women seem not to own land, they work on it more than any other member of the family as well as produce farm-derived income but have no control of the products of their labour (Kanogo, 2005). This is simply because men in most African societies are the determiners of every development to be done either at home or in the public

arenas. Therefore, women do everything with the consent of the men first, even giving suggestions. Therefore, due to lack of land ownership by these women and control of products, they seldom access various resources for development. Even when women are able to acquire assets, their husbands often act as intermediaries in the transaction. Thus, their central position in economic production, contrasts with the systematic discrimination they face (often reinforced by culture, customs, conventions and law) in land ownership and control over basic assets needed (Daley *et al.*, 2010).

FIDA (2007) observes that in many Kenyan communities, women have access to family land but lack control and ownership, which prohibits them from using land as a form of collateral to access other resources. They are normally locked out of land ownership negotiations and representations hence locked out of participations in decision making forums like those on land inheritance. Their agricultural productivity is hampered by their insecure access to land as well as their limited access to financial services, heavy workload resulting in time constraints and women's lack of involvement in decision making (Duncan & Brants, 2004). This situation also has negative implications for women's socio-economic status (Kanogo, 2005). Unequal land ownership may place constraints on women's productive roles and affect their power and influence in the household and the community as well as the country at large. When women are denied equal land ownership they experience reduced social economic and even political status (Taylor & Francis, 2010).

The above concern raised by FIDA (2005) echoes what the World Bank (2000) says, that women in Kenya play crucial roles in agriculture as producers and providers of food. They work on land more than men, providing 80% to 90% in subsistence production, and over 70% in cash crop production. The Constitution of Kenya provides opportunity to examine how laws in favour of women's land rights including right to ownership of land may be enforced given the fact that there has always been laws giving both men and women equal rights to land ownership, Chapter Five, Part 1 of the Constitution, but these have suffered from issues of implementation (Republic of Kenya, 2010). Under most Kenyan customary settings, like in Samor community, women seem locked out, especially in land inheritance from their spouses or parents. This is a serious matter considering that women constitute slightly over half of the Kenya's population (Ministry of Education, 2006; Republic of Kenya, 2010). These prompted the author to carry out this study to examine the influence of gender in land ownership among the Samor community.

MATERIALS AND METHODS

The study was carried out in Kabarnet Mosop Location of Kabarnet Division, in Baringo County (formerly Baringo Central District), Rift Valley Province of Kenya, mostly occupied by the Samor community. The Samor are highland Nilotic speaking community living in the Southern parts of Rift Valley and border Nakuru to the South, Turkana County to the North, Samburu and Laikipia Counties to the East and Elgeyo/Marakwet to the West. The 11,015 km² area County has an altitude that varies from 1000m to 2600m and has a very

conspicuous topography accentuated by the Tugen hills. Kabarnet Mosop Location exhibits a society of people with diverse cultural backgrounds. The majority of the settlers come from the various Tugen sub-tribe of the Kalenjin tribe. Although Samor community are the majority, Arror and Lembus are the most dominant here. Other communities living here include, Kikuyu, Luo, Kisii, Luyhas, Wanubi and other countable representatives of other tribes in Kenya. Kabarnet Mosop location has four sub-locations as shown above. These are the areas where research was conducted and its population per sub-location.

This study was conducted through descriptive research design. It was concerned with gender disparities in land inheritance among the Samor community. Both qualitative and quantitative data were collected to get information on how land is owned between genders in Samor community at Kabarnet Mosop Location. The target population for the study was members of the Samor community aged between 18 and above 57 years (11,804) in the four selected sub-locations in Kabarnet Mosop Location. Samor community is a sub-ethnic of the Tugen sub-tribe of the Kalenjin tribe. The group occupies the former Baringo Central District. A sample of 364 respondents was used in the study. Both married men and women comprised the sample population. The required sample size for the study was determined by Fisher's exact Formula by using a 95% confidence interval. The sample was thus allocated proportionately using Fisher's formula. This study was conducted through descriptive research design. The study was concerned with gender disparities in land inheritance among the Samor community. Both qualitative and quantitative data were collected to get information on how land is owned between genders in Samor community at Kabarnet Mosop location. Purposive sampling was used to determine the study area. Out of 5 divisions in Baringo County, Kabarnet Division was purposively selected because it had the largest population. Purposive sampling was also used to select persons endowed with information regarding land ownership in the Samor community between genders. These included clan elders, land officers, sub-chiefs of every sub-location and the chief in charge of the location as the key informants.

The research used questionnaires and interviews guides as the main tools for data collection. The selection of these tools was guided by the nature of the data to be collected, the time available as well as the objectives of the study. To facilitate the analysis, coding, processing and entry into the computer was undertaken. Data processing exercise commenced with the coding of all the responses obtained to facilitate easy analysis using Statistical Package for Social Sciences (SPSS). Quantitative data was presented in form of pie charts, tables and graphs. Qualitative data are analyzed by themes and narratives and presented as verbal quotations.

RESULTS AND DISCUSSION

Influence of Gender in Land Ownership

Land as Property

The informants were asked to state whether or not they were aware that land is a property. Their responses were as shown in

Table 1. The results indicated that majority of the respondents who were male, 179(98.4%) stated that land is a useful asset to them. When it comes to women, the number who agreed that land is valuable to them dropped slightly to 139(76.4%), which is still high, compared to that of men as shown in the table above.

Table 1. Land is a Valuable Property to the Respondents

Response	Male		Female	
	Frequency	Percent	Frequency	Percentage
Yes	179	98.4	139	76.4
Not sure	3	1.6	43	23.6
Total	182	100	182	100

The reason women gave is that they are indirectly benefiting from the commodity and they do not have freedom to manipulate it like men. This implies that most of the respondents, both male and female (87.4%), are aware that land is a property that is of great value to them. This is likely to elicit different perceptions towards the ownership of land by both males and females in Samor community. Land is very valuable among the Samor (as confirmed in Table 1), as it is in many ethnic groups, especially now that it has acquired a new monetary value. The Samor community is closely attached to land due to the fact that all their daily requirements are provided by the land. For instance, when people die, most of them are laid to rest in their specific pieces of land. Therefore, being laid to rest on their land expresses a sense of unity and belonging to one's ancestors and homeland. Today, though a number of Samor have other income apart from income from the land, they are still attached to land.

One male key informant stated that;

- Land is a necessary requirement and a person without land is difficult to govern and enforce authority in the society, hence perceived as an outsider.

Land Ownership

Traditionally, land among the Samor, as in many other African communities, was communally owned, mainly by the clans. The land was owned by the clan and later co-owned by the heads of the family who are usually men of the same clan. To the Samor community, women are perceived as 'temporary' members of the society; this is because women get married off to other clans. Women who have children while still at home are given access to land for their use but there is no inheritance land for them. When such women get married and leave behind their children, the children are not entitled to inheritance land from the uncles (from the mother's side). The society believes that they do not have a clan.

One male informant stated that:

- My father (who was the only son with three sisters inherited land from our late grandfather) died when we were young. The aunts took care of us in where they were married. Our land was sold by the family instead of giving to our aunts. Women don't have a clan and are considered strangers by the community, therefore cannot inherit land.

The United Nations Development Programme (UNDP) (2001) indicates that access to land and control over its use are the basis for food and income production in rural areas and, more broadly, for household well-being. As land becomes a valuable asset, family and community members who would have respected a woman's access rights to land in the past may violate or ignore those rights, particularly in the case of widows, abandoned, or divorced women. Generally, excluding women from equal land ownership denies them full citizenship status (James *et al.*, 1973). According to Boserup (1970), access to land and other resources is important to basic livelihood and is a part of fundamental human rights. Dollar *et al.* (1999) state that the domination of Agriculture in Kenya's economy suggests the importance of land as a basic tool of development. Another issue is that land is mainly considered a commodity rather than a secure base on which to sustain a family and the individualization of rights on which participation in the land market depends hence tends to exclude women wherever male heads of the family holds legal title to land on behalf of the family unit (KLA, 2002). The most persistent obstacles to improving gender equity in land rights are seen to have their roots in patriarchal values and practices which tend to survive and flourish in capitalist and socialist societies alike (Kanogo, 2005).

The study, therefore, sought to establish the person who, in terms of gender, owns land in Samor community. The results were as indicated in Figure 1 below.

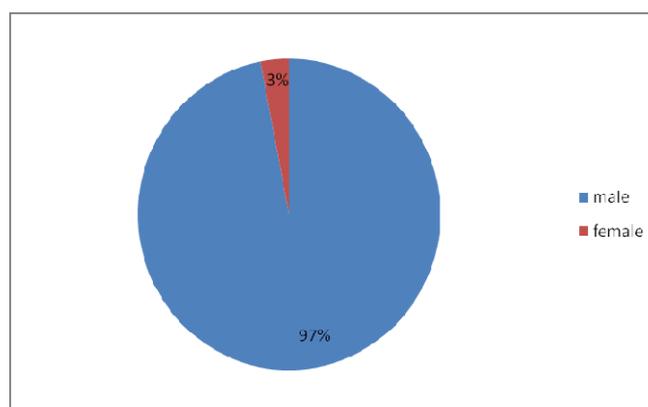


Figure 1. Who owns land in Samor

Figure 1 shows that most of the land in Samor community is owned by men (97%) while the remaining 3% stated that land was owned by women; although it is still in the hands of their parents or their husbands, hence women refer to the land given as land for our father (*Mbaretab kwandanyo*). This is because she only has access to the land use but not own it. There were exceptional cases where women owned land. For example, when a man seduced a woman and eventually married or had sex with her, and promised to give her land, with evidence the woman was given land to inherit. The society called this kind of land, 'the land of the thigh' (*Mbar nebo kibeas*). This is a piece of land given to women by the mother-in-law (in case she owns land) during marriage. In most cases such kind of land is not given to male children to inherit because it was believed to stigmatize them. In most families, this kind of land may no longer be there; although a few are still may still be acquiring land through this cultural process.

A male informant stated:

- Women do not have a say in anything to do with the land even in deciding where to dig or what to plant. Men who are the original members of the clan own land, because women were 'brought' (*kikimutu*), we do therefore name children after women. Women hold land in trust after the man dies for only male children born by the deceased. But when she has girls alone, she can access the land and after her death the family members take back their land. To the society women are only given land to tilt (*Kigochin tiibin mbaret koame bai*).

This implies that many respondents consider men as dominating in land ownership in Samor community. The general idea of gender in modern thinking and development practice has become a topical issue in contemporary concerns regarding social change as well as economic uplift (Kamweru, 2002). But the key issue here is that the few women who own land actually bought it. Thus as asserted by Kameri-Mbote (1995), women's rights to land continue to be determined by their marital status and by laws of inheritance and divorce.

An observation by a female high school teacher further confirms the foregoing:

- Not inheriting land is women's burden. In Kenya, inheritance of land is patrilineal thus predominantly inherited through male relatives. Most fathers share pieces of land among their sons excluding the daughters who are assumed to inherit their husbands' land, which is not the case, hence females are left wondering where they belong. Societies should do something about it or else we will violate the norm and forge on.

What needs to be done is well captured by a woman activist thus:

- It is time for the government and the society at large to implement those laws concerning land inheritance between genders, not just in black and white but in actions to target and change those legal barriers that have constrained women's progress. To the society, it is high time to change attitudes in order to recognize the benefits that will accrue from bringing into the mainstream of policy and participation of women whose potential has largely untapped.

Land Acquisition

The respondents were asked to state how land was acquired among the Samor community. The results were as shown in Table 2 below.

Table 2. How Land is acquired in Samor Community

How land is acquired	Frequency	Percent
Inheritance	256	70.3
Others	108	29.7
Total	364	100.0

It is instructive to note that overall, majority of the respondents (70.3%) stated that land is mainly acquired through inheritance.

The remaining section on others, which can range from buying, as a present and so on, it was not looked into the details on how they acquired land because the researcher's main concern was on inheritance. Therefore, most of the land in Samor community is owned through inheritance from great grandfather, grandfather and so on in the same lineage. This means land is only passed to the males of that clan through inheritance.

In Samor community land was first acquired by the clan when breaking virgin land (*Toree*) by the members of the same clan who were mainly men. The more the members of that clan the larger the land the clan has and depending on their ability. The clans had to have mutual agreement before they acquired it. The land was agreed upon (*kiyostoi*) that is any virgin land broken by the clan belonged to that clan and it was subdivided according to the agreement of the families forming the clan. The virgin land was only broken by men but after acquiring, women were allowed to cultivate, according to the man's decision.

Title Deed

The title deed is the main official document one can prove ownership of land. The author also sought information concerning whether the land respondents lives in has title deed. The results were as presented in Table 3.

Table 3. Whether there is a Title Deed on the Land Respondent Lives on

Response	Male		Female	
	Frequency	Percent	Frequency	Percent
Yes	176	96.8	5	2.8
No	2	1.0	151	83
No idea	4	2.2	26	14.2
Total	182	100	182	100

The findings as shown in Table 3 indicated that nearly (96.8%) all title deeds in Samor community bear the name of the male. This shows that they are fully in control of the land whereas 4(2.2%) did not have an idea of whether there was a title deed or not on the land they were living in. These are those who are in the age bracket of 18-30 years of age and they might not have inquired from their parents. A small percentage (2.8%) of women have title deed on the land they live on with their names on it. Most of them said that they bought it out of their own efforts. It was further noted that these women who have bought the land, have separated with the husband.

An angry woman stated:

- These men if you give them ideas on development, they dismiss you all the time. When I saw that no development is going on in the house, I got annoyed and bought this plot without his consent. As he heard that, he became angry and wanted the title deed to bear his name. I refused and that is why I decided to divorce him and do my own work. If men could allow women to discuss with them on the family development, we could be rich. Men should do away with their tradition that bind them especially when their women advice them in daily activities done at home. Why are these men scared especially when they get hard working women? I thought we got married to help one other.

The informants who responded on the presence of title deeds were further asked to state the name that appears on the title deed. Table 4 shows the responses.

Table 4. Name that appears on the Title Deed

Response	Male		Female	
	Frequency	Percent	Frequency	Percent
Male	181	99.4	180	99
Female	1	0.6	2	1
Total	182	100	182	100

The findings indicate that 99.2% of both men and women respondents combined unanimously stated that the title deed had the name of the male persons whereas 3(0.8%) had title deeds on name of female as indicated by both male and female respondents combine. This implies that very few female had title deeds on their own names and most of them bought it.

When title deeds were being started to be issued it never change the ownership of the land. Male were allocated land by their parents without title deeds because most title deeds in Samor community are still in the name of the first recipients and most of them died long time ago,

- Our grandfather had title deed to this land. We are now the fourth generation and have no title deed. When succession is done, the land will be transferred from grandfather to the great grand children. This means I will not inherit from my father because he does not have any land (A youth informant stated).

This might have an effect on the economic stability of women. This concurs with what Kanogo (2005) asserts that women without their husbands, brothers or fathers in whose name land and property titles are traditionally held find themselves denied access to their homes and fields by male family members, former in-laws or neighbours.

This view is reinforced by a female informant who observed:

- Women have been culturally regarded as ‘strangers’ who help the community build bonds with other communities through marriages.

Conclusion and Recommendations

There is gender bias on land inheritance among the Samor community to the disadvantage of the women. The study established that it is taboo for women to own land in Samor community and women do not inherit land from their father nor from their late husbands. Even though women are aware of their rights, they are too bound to traditions that limit them to inherit the commodity. While the foregoing is the general position, there are a number of women who own land through purchase.

Dialogue with traditional rulers and family heads is required to make flexible and amend their customary rules to enable both men and women to inherit land, and also the education of women on their land rights, so as to empower women in strengthening individuals so that they can fight for equality themselves. This will give women a strengthened status and thus an ability to challenge patriarchal structures in the household and in the communities where rural women live.

This will challenge and change in their favour existing power relationships that place them in subordinate economic, social, and political positions. This should be done by educating the community leaders to embrace equity and equality in land inheritance irrespective of gender.

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