WOMEN'S IDENTITY AND MORAL AUTHORITY

UNDER COLONIAL RULE IN KENYA

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ABSTRACT

WOMEN'S IDENTITY AND MORAL AUTHORITY UNDER COLONIAL RULE IN KENYA

This thesis examines moral authority and constructions of women's identities during colonial rule in Kenya. Women's farming and the use of moral authority gave women some control over the economic disruption and gender chaos caused by the colonial state. The thesis contextualises the conflict between colonial state controlled relationships (with chiefs, headmen, settlers) and resources (land, crops, labour, taxation) within the use made by women of the changing understandings of gender relations and marriage to diminish the modernist discourse of colonial rule over their livelihoods, behaviour and identity. This provides a deeper understanding of the power relations that stem from the use of moral authority and its articulation with identity. The fluid and at times contradictory uses of moral authority are still utilized in Kenya today, remaining strong reference points when applied to questions of land access, farming, marriage and gender relations.

CANDIDATE'S DECLARATION

I certify that this thesis does not incorporate without acknowledgement any material previously submitted for a degree of diploma in any university, and that to the best of my knowledge and belief it does not contain any material previously published or written by another person where due reference is not made in the text.

Clare Catherine Buswell

Dated:

SUPERVISOR'S DECLARATION

I believe that this thesis is properly presented, conforms to the specification for the thesis, and is of sufficient standard to be, *prima facie,* worthy of examination.

Dr. Yvonne Corcoran-Nantes

Date

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ABBREVIATIONS

AR	Annual Report
CMS	Christian Missionary Society
CN	Central Nyanza
CO	Colonial Office
DC	District Commissioner
DOA	Department of Agriculture
FH	Fort Hall
IR	Intelligence Report
KCA	Kikuyu Central Association
KNA	Kenya National Archives
LNC	Local Native Council
LNT	Local Native Tribunal
MC	Miscellaneous Correspondence
NAD	Native Affairs Department
OR	Quarterly Report
PBR	Political Record Books
PC	Provincial Commissioner

GLOSSARY OF TERMS

ahoi	Kikuyu: a tenant at will.
askeche	Luo: soldier, warrior.
baraza	public meetings.
chebsogeyot:	Kipsigis: a female witch doctor with only curative powers.
dala	Luo: the primary domestic unit essentially a compound in which a senior male, his wives and the houses of younger brothers and married sons lived.
githaka	Kikuyu: an individual families land.
gweng	Luo: neighbourhood. Similar to kokwet.
irua	Kikuyu: rite of initiation involving the ceremonies of circumcision, and instruction, *kuumithio* and seclusion *muhingo*.
imbaret a' mossop	Kipsigis: Cultivated field the produce of which belongs to the household.
imbaret ab soi,	Kipsigis: men's own field.
kabungut	Kipsigis: women's own field.
kagiri ka ntichio	Kikuyu: the name of a group of very old women also known as '*kiama kia aka'* or a 'committee of women elders'.
kang'ei	Kikuyu: name given to a woman whose first child has not yet been initiated and who came under the authority of a *nyakinyua* and were required to perform services to the latter in order to progress through the organizations ranks.
kimiet	Kipsigis: wimbi or millet flour boiled to the consistency of plum pudding. It is the main dish, and always served with boiled vegetables, milk or blood.
kokwet	Kipsigis: neighbourhood (pl: *kokwotinwek*).
laibon	Kipsigis: seer, future teller.
libamba.	Luo: *Libamba* was the maximal lineage group. It was a land holding unit, consisting of a group of agnatic kinsmen who cooperated on matters of defence, farming and community cohesion.
mariika	Kikuyu. Age set.
m'bari	Kikuyu: linage, or clan or sub clan. (pl: *m'bara*).
mboco	Kikuyu: a type of maize.
mogonda wakwa	Kikuyu: a wife's own individual garden.
mondo	Luo: Man's field used to cultivate crops which he had sole control over.
motiiri or nyakinyua	Kikuyu: elder woman.
muciarwa	Kikuyu: an outsider, adopted by a landowner, given land and a wife. Muciarwa is sometimes spelt Muciar*ua*.
muguri:	Kikuyu: a person given the use of land against a loan of stock.
muhoi	Kikuyu: landless person given land under certain conditions.

mumo	Kikuyu: apprentice female adolescent.
muramati	Kikuyu: the eldest son of the eldest branch or founder of the Mbara who is responsible for land distribution amongst other arbitration responsibilities.
mutamia	Kikuyu: married women (pl: *atumia*).
mwendia ruhui	Kikuyu: was the father of a widow's children and was allowed usage of the land belonging to the widow's family.
ndundu	Kikuyu: Women's Council with organisational economic social and judical functions.
ngwatio	Kikuyu: women's communal labour arrangement.
ngundu	Nandi: neighbourhood, compound.
ngwaci	Kikuyu: tubers.
njahe	Kikuyu: Lablab bean, favoured by pregnant women.
Njuri Nceke	Kikuyu: a council of elders in the Meru section of the Kikuyu Reserve.
nkatha	Kikuyu: the name given to young married women.
nyakinyua	Kikuyu: woman elder whose first child has been initiated.
orgoyo	Kipsigis: Men from specific clans attributed with a variety of supernatural powers.
peek	Millet, an important food crop.
pim	Luo: elderly women who instruct girls on correct social behaviour and community lore.
pitet	Kipsigis: law, custom and nature (pl: *pitonik*).
ponindet	Kipsigis: a person who able to use an 'evil eye.
puriet	Kipsigis: army.
riika	Kikuyu: an initiation set comprised of all men and women circumcised in a certain year. Also used to describe a generation.
ruracio	Kikuyu: bridewealth.
shamba	Cultivated plot.
sigiroinet	Nandi: Communal house used by young unmarried men and women, adolescents.
simba	Luo: communal house of unmarried men and adolescent boys.
siwindhe	Luo: communal girls house.
thingira	Kikuyu: men's hut.
wiree or *wiren sogot*	Kipsigis: public execution of a person who has been declared a witch or a thief.

CHAPTER 1

INTRODUCTION

Overview

The colonial period has bequeathed Kenya extensive legacies. It is cited both as the driver of progress and the cause of ills in the development of the Kenyan State.[1] For women, during the colonial period and in recent times, the impact of the period from 1900 to the declaration of Independence in 1963, dictated their livelihoods, challenged notions of moral authority, and changed understandings of identity. The introduction of waged labour, and the commercialisation of agriculture not only commodified land and marriage, but significantly displaced women's spheres of production, political power and moral influence. The resultant reduction of women's power within marriages, their control over resources and the entrenching of male authority via the co-option and legalisation of customary law, remain potent legacies of the colonial period.

The colonial period also produced a powerful construction of Kenyan women as ignorant, backward, needing education in child welfare and hygine practice, and this has strongly influenced the interpretation of modern Kenyan women's lives.[2] For example, we now have a post-colonial literature that defines women as downtrodden, disadvantaged subalterns who need development and progress if they are to reach their full potential.[3] The

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[1] Ogot B., 'Mau Mau & Nationhood. The Untold Story.' In: Odhiambo E. S. Atieno & Lonsdale J., *Mau Mau & Nationhood*. James Currey. London. 2003. p. 9. Mandani M., *Citizen and Subject: Contemporary Africa and the Legacy of Late Colonialism*. Princeton University Press. New Jersey. 1996. p. 50.

[2] KNA . DC Mks. 1/1/32. 1954. p. 19. KNA. Kiambu DR. 1956. p. 9–10.

[3] See Boulding E., Integration into what? Reflections on Development Planning for Women. In Dauber R. & Cain M., (eds), *Women and Technological Change in Developing Countries.* Westview Press. Colorado. 1981. pp. 9–10. Feldman R., 'Women's Groups and Women's Subordination: An Analysis of Policies Towards Rural Women in Kenya'. *Review of African Political Economy*. No. 27/28. 1983. Scott G., Recognizing the "Invisible" Women in Development: the World Bank's Experience. World Bank. Washington. 1979. Ahmed Z., 'Rural Women and Their Work'. ILO. *Review*. Vol. 123. No. 1. 1984. p. 75.

post independence literature is in short an imperialistic literature that now not only sets the terms of development programmes, but also defines key concepts such as gender, empowerment, ethnicity, justice, and governance.[4] The application however, of such concepts to diverse African contexts has led African women to question their bias, relevance and usefulness.[5] In particular the use of the concepts of empowerment and gender equity as the justification for women only orientated programmes has, according to Mbilinyi, promoted self help and voluntarism which has reduced demands on the state and pushed more work onto women.[6] The term, gender subordination is also of concern when other power relations such as religion, custom, ethnicity or class may be the overriding reason for discrimination.[7] For example, in Kenya it is the customary marriage arrangements, made legal under the Law of Succession Act, that deny women the ownership of any property, leaving them destitute when marriages fail or when husbands die.[8]

For women in Kenya, their lives revolve around land and marriage because after 50 years of independence Kenya remains a predominantly agricultural country, with women constituting 70 percent of the agricultural workforce, providing 80 percent of the labour for

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[4] Sweetman C. (ed.), *Gender and the Millennium Development Goals*. Oxfam. Oxford. 2005. See also Staudt K. A., *Women, Foreign Assistance and Advocacy Administration*. Praeger. 1985. New York. Parpart J. L., 'Who is the Other?: A Postmodern Feminist Critique of Women and Development Theory and Practice.' *Development and Change*. Vol. 24, No. 3. July 1993. pp. 439–464. Rathgeber E., 'WID, WAD, GAD: Trends in Research and Practice.' *Journal of Developing Areas*. Vol. 25, No. 4. July 1990. pp. 489–582.

[5] Oyewumi Oyeronke, 'Family Bonds/Conceptual Binds: African Notes on Feminist Epistemologies.' *Signs: Journal of Women in Culture and Society*. Vol. 25, No. 4. Summer 2000. pp. 1093–1098. Kalu Anthonia C., 'Women and the Social Construction of Gender in African Development.' *Africa Today*. Special Issue on African Women. Vol. 43, No 3 1996. pp. 269–288.

[6] Mbilinyi M., 'Changes for Civil Society.' *Africa Agenda*. Vol. 3, No. 4. 2000. p. 40. See also: Transparency International-Kenya. 2003. "Women's groups, Harambees and corruption: Pooling People's Wealth to Create Poverty?" *Adili* 50, Dec 2003. pp 4–6. Nairobi. http://www. Tikenya.org/documents/Adili50.pdf

[7] Mwenda Kenneth K., Mumba Florence N. M. & Mvula-Mwenda Judith, 'Property-Grabbing Under African Customary Law: Repugnant To Natural Justice, Equity, And Good Conscience, Yet A Troubling Reality.' *The George Washington International Law Review*. Vol. 37, No. 4. 2005. p. 949. Adjetey, Fitnat Naa-Adjeley, 'Religious and Cultural Rights: Re claiming the African Woman's Individuality.' *American University Law Review*. 4. 1995. p. 1351

[8] Walsh J., 'Double Standards: Women's Property Rights Violations in Kenya.' *Human Rights Watch*. Vol. 15, No. 5. March, 2003. Available at www.hrw.org/reports/2003/kenya0303/kenya0303.pdf. p. 26.

food production and 50 percent of the labour for cash crop production.[9] Women's wages are on average 58 percent lower than men's, and women's literacy rate, 76 percent, is also lower than men's 89 percent.[10] Agriculture, accounts for the largest percentage of Kenya's Gross Domestic Product at 26 percent.[11] Cash crop production consists mainly of tea, coffee, cut flowers and horticulture. Sixty five percent of Kenya's flowers, fruits and vegetables are exported to Europe, with the cut flower industry meeting 31 percent of European demand.[12] As the above figures show women's livelihoods are linked to the land and in terms of GDP women's labour is pivotal to the economic success or otherwise of the agricultural sector.

Despite such an important contribution to Kenya's economic output, women have very insecure property rights in relation to land and little control over management of the land, they cultivate. Women hold 1 percent of registered land titles, with around 5–6 percent of titles held in joint names.[13] Land in Kenya is subject to approximately 75 different laws, some of which contradict each other or are subject to particular clan arrangements.[14] For women however, their access to land has not been improved by the existence of statutory land law or land titling, because the customary practice that marriage always determines women's land access has remained entrenched, thus limiting women's opportunities to purchase land outright.[15] Kenyan women are not alone in this. Land ownership and access across Sub-Saharan Africa is predicated on the belief that women's property allocations are only available to them via marriage and inheritance.[16] The development of land markets which,

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[9] *Gender and Economic Growth in Kenya*. World Bank. Washington 2007. p. 10. *Africa Research Bulletin*: Economic, Financial, and Technical Series. Vol. 47. Issue. 5. 2010. pp. 18695A–18696A

[10] Gender and Economic Growth in Kenya. Op. cit. p. 76. Walsh J., Op. cit. p. 9.

[11] *Kenya Economic Update.* (2nd ed). World Bank. Washington. June 2010. p. 13.

[12] *Africa Research Bulletin*: Economic, Financial, and Technical Series. Vol. 44, Issue. 6. 2007. p. 17454A.

[13] *Gender and Economic Growth in Kenya*. Op. cit. p. 21.

[14] Ibid. pp. 23–24.

[15] Whitehead Ann & Tsikata Dzodzi, 'Policy Discourses on Women's Land Rights in Sub-Saharan Africa: The Implications of the Re-turn to the Customary.' *Journal of Agrarian Change.* Vol. 3, Nos. 1&2. January 2003. pp. 79

[16] Razavi Shahra, 'Liberalisation and the Debates on Women's Access to Land.' *Third World Quarterly.* Vol. 28, No. 8. 2007. p. 1489.

some have argued, could circumvent customary practices in relation to women's land access,[17] has really only added another layer of disadvantage to the majority of women who are poor, cash strapped and yet rely on land for their livelihoods.[18]

For women in colonial Kenya, marriage constituted land access, personal security and respect. In relation to personal security marriage provided land for the growing of food and the bearing of children brought a married women pride and power. It claimed for women the ability to further the lineage of her husband and in so doing, to hold over men the power of female fertility. The use of wages to purchase bridewealth in real terms changed this power relationship in that it allowed men to increasingly view women as a commodity, as wives were increasingly paid for with Shillings and less, with the symbol of male authority and fertility, cattle. Today this commodification of marriage is evidenced in provisions in the Kenyan Constitution that exclude women from discrimination laws, with regards to property ownership and inheritance rights.[19] Numerous studies point to the subordinate position of women in postcolonial Kenya, highlighting women's lack of access to credit, land, education, and employment opportunities,[20] relegating women to a subordinate position in Kenyan society and leaving the importance of their work unrecognized.

Aim of the Research

This thesis is concerned with women in colonial Kenya and how the intersections of colonial rule, gender relations, identity and moral authority impacted on their lives. The

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[17] Tripp A., 'Women's Movements, Customary Law and Land Rights in Africa: the Case of Uganda.' *African Studies Quarterly*. Vol. 7, No. 4. 2004. p. 4

[18] Lastarria-Cornhiel S., 'Impact of Privatisation on gender and property rights in Africa.' *World Development*. Vol. 25, No. 8. 1997. p. 1323.

[19] Mweseli T., Women and the Law of Succession. In: Kibwana K. & Lawrence M. (eds.), *Law and the Quest for Gender Equality in Kenya*. Claripress. Nairobi. 2000. pp. 141–160.

[20] See, for example: Creighton C. & Yieke F. (eds.), *Gender Inequalities in Kenya*. UNESCO 2006.

major contention of the thesis is that women's lives and identities, more so than those of men, were bound by the established conventions of gender relations and moral authority. The thesis seeks to show that it is in those conventions expressed in the obligations that men and women owe to one another, and women's obligations to their kin, that influence what decisions women take and ultimately define women's agency. Moral authority is power that is present when a person is defined: male, female, woman, boy, girl, elder. The act of defining a person does two things simultaneously. It imparts an identity, as in "she is a woman", and implies a power relationship as in "she is a married woman". The latter reinforces both the identity and perceptions about the power of that identity. For example, if someone is known as an elder, then certain expectations are made concerning that person. If we now title that person 'a female elder' the perceptions and expectations differ from that of the person who is a male elder. The thesis argues that, in utilising the moral authority inherent within accepted concepts of identity, women may capitalise on the power that comes from implied expectations to their advantage. Thus, I argue that moral authority is gendered in that it is linked to and creates identities, roles, status and power. Moral authority is related to myths, rituals and obligations in that these cultural expressions dictate behaviour and condemn those who move outside its socially determined norms. In colonial Kenya issues of identity — what it was to be a woman or a man, what it was to be a Kikuyu or a Luo, what constituted marriage — were contested in the landscapes of farming, land, labour and marriage. It is these areas that the thesis utilises in examining the use of moral authority as an empowing tool for women.

Research Methods

The thesis uses both archival material and secondary sources. The archival material was gathered over the course of three, six week field trips to the United Kingdom between 2005

and 2010, Archival material from the Kenya National Archives was sourced from both Cambridge and Flinders University libraries. Specific archival documents were sourced from Rhodes House Oxford University, the Public Records Office and the School of Oriental and African Studies in London. It uses material from government reports of both the Republic of Kenya and the Government of Great Britain. I have also made extensive use of material published by contemporary researchers on both colonial and present day Kenya. In searching the data collected, I was looking for evidence of women's actions and the responses to them, so as to highlight how women were able to influence those in power who affected their livelihoods.

My aim was to show that women's actions were diverse and sometimes contradictory. By combining both the archival data and the material from current research I hoped to explore how women made use of accepted gender norms and also to highlight the impact that women's actions had on men whether these be husbands, brothers or the colonial district commissioners. I wanted to examine, by using the Kikuyu, Luo, Nandi and Kipsigis ethnic groups as focal points, how women's use of cultural expressions, such as myths, rituals, witchcraft, and the informal institutions that support them, allowed for actions that improved or changed women's lives, be that materially or psychologically. Moreover I wished to study whether it were possible to apply similar actions in today's context. The thesis therefore, does not adopt a specific theoretical approach as the area of examination crosses many established theoretical boundaries. The thesis does however use a feminist analysis to approach its many themes. To facilitate this the thesis is divided into six sections.

Scope of the Research

In contextualising the concept of moral authority in the wider literature, Chapter Two argues that the academic research agenda has inadvertantly stereotyped Kenyan women, constructing them within the confines of the body, i.e., their sexuality, wombs, and marriage whilst their work is consistently portrayed as poverty driven, subsistence agriculture. The literature which examines women's own attempts to determine their own lives or to protest the excesses of husbands, the colonial regime and post independent governments has straight-jacketed women into that of unruly, beings who have little understanding of the modern state and who remain subjugated by cultural heritage and mythical beliefs. By examining the themes of ownership, identity and moral authority, I attempt to challenge this canon arguing that the literature, whilst trying to explain what it is that Kenyan women do, or in examining better ways to improve women's lives, fails to illuminate the complex layers that inform women's decisions. These themes are chosen as they allow for a fluidity of experiences and influences, not merely those based on the politics of the body or historiography. In examining the power that comes from the use of moral authority and its links with both the real world, the spirit world and that of female agency, I argue that a more nuanced understanding of women' decision making and power is gained.

Chapter Three outlines the production systems and cultural arrangements of the Nandi, Kipsigis, Luo and Kikuyu peoples so as to juxtapose the impact of colonial rule on these cultural practices in the following chapters. The four groups that are the focal point of this study are all agriculturally based, form the largest ethnic groupings in Kenya and have been at the forefront of the impact of the colonial administration and its legacy, the modern Kenyan state. In these four groups, women's farming involved subsistence food production, which was intimately linked to male status and formed the basis of group cohesion and personal

identity. By contextualising the gendered divisions of labour, household arrangements and marriage configurations within these four ethnic groups, the chapter identifies the separate spheres of influence of women and men in pre-colonial Kenya. For both the men and women of each of these ethnic groups, marriage forms the basis of survival, wealth and political power. Marriage gave women access rights to land, to children and the important ability to utilize female fertility to bring about abundances for her family and her clan. The chapter examines how conjugal relationships, inheritance processes and lineage advancement inter-connects with familial positions (such as first wife, co-wife) and establishes the power of moral authority. In particular, the concepts behind cattle ownership, land ownership and allocation, and land use follow strict gender divisions, which are tied into the gendered experiences of identity and ritual. These delineations are reflected in food taboos, gendered crop cultivation practices, and the separate male and female councils that dictated accepted gender behaviours. It is this segregated but interdependent and patriarchal world that the British colonial administration attempted to control. The chapter details the complexity of relationships and their interconnectedness to property, usufruct rights, fertility powers, and male wealth.

Chapter Four argues that the advent of taxation, wage labour and the colonial push to get men to take up cultivated crop production, had a devastating effect on women's labour and their own farm production. Within this context the chapter overviews of the changes wrought by the colonial administration during the first thirty years of colonial rule. The alienation of land by the Colonial Government for the Settler community forced the Kikuyu in particular into the waged labour force and into squatting. Furthermore, in promoting high yielding seeds and improved agricultural techniques to important men and their sons, the colonial administration began solidifying power arrangements between its representatives, the

District Commissioners and important men, elders and appointed chiefs.[21] The establishment of Maize as a major commercial crop changed land use practices which left women unable to control where or how their labour was utilised or rewarded and furthered male power alliances.

Chapter Five argues that the advent of land titling combined with the increased commercialisation of agriculture firmly established accumulation and money as the new symbols of wealth and power. Women could not convert their food production activities or the use of their labour power on men's cash crops into an economic base that granted them access into the new economy. The chapter reveals how, in changing the gendered spheres of male and female influence in relation to farming and land, the colonial administration broke the nexus between obligations concerning labour and mutual care that indigenous marriage contracts assured. Marriage became the site where identities, moral authority, and understandings of marriage were contested.

The final chapter examines the theme of confrontation during the last three decades of colonial rule. Women in Kenya contested both the domain of households, clans and the institution of marriage and the domains of forced labour, circumcision, markets and civil war. The use of public shaming by women of their menfolk in courts or during spirit possession rituals or by circumcising themselves to prove their womanhood during the Emergency, took women's actions away from the silent world of diffident behaviour and respect for husbands into the open maelstrom of colonial politics. The actions of women began to change perceptions of gender roles, familial obligations and marriage. The chapter shows that women and their actions were not invisible to their menfolk or the colonial administration and

[21] Lewis Joanna, *Empire State-Building. War and Welfare in Kenya. 1925–52*. James Currey. Oxford. 2000. p. 30.

that both were cognisant to them. The creation of moral chaos was integral to the colonising process in Kenya. The confrontation by women of men within marriages, in courts, and in public protests, threatened to bring the colonial project in Kenya in to its knees.

CHAPTER TWO

CONSTRUCTIONS OF KENYAN WOMEN

Introduction

The post-colonial literature on Kenya has seen a shift in emphasis from debates concerning the rise and development of the Kenyan state,[1] its articulation with capitalist processes: the control and strategic manoeuvre of the components of GDP,[2] establishment of markets, and accumulation by local elites,[3] to historiographies which unravel the complex arrangements that exist within and between ethnic groupings, clans,[4] lineages, compounds, and households and the importance of these arrangements on the processes of development.[5] Arguments concerning the development of the Kenyan state[6] laid the foundation of a meta-narrative that

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[1] Ogot B. A. & Ochieng W. R. (eds.), *Decolonisation and Independence in Kenya.* James Currey. London. 1995. Ogot B. A. (ed.), *Politics and Nationalism in Colonial Kenya.* Nairobi. 1972. pp. 46–70.

[2] Leys C., *Underdevelopment in Kenya. The Political Economy of Neo-Colonialism.* 1964–1971. passim pp. 149–161. Berkley University. California 1975. Leys C., 'Capitalist Accumulation, Class Formation and Dependency: the significance of the Kenyan case.' *Socialist Register.* London. 1978. Brett E. A., *Colonialism and Underdevelopment in East Africa. The Politics of Economic Change 1919–1939.* Heinemann. London. 1973. Swainson N., 'The Rise of a National Bourgeoisie in Kenya.' *Review of African Political Economy.* 8. 1977. pp. 39–55. Cowan M., Commodity Production in Kenya's Central Province. In: Heyer J., Roberts. P. & Williams G. (eds.), *Rural Development in Tropical Africa.* Macmillian. London. 1986. pp. 121–142. Schatzberg M. G. (ed.), *The Political Economy of Kenya.* Praeger. New York. 1987.

[3] Kaplinsky R., 'Capitalist Accumulation in the Periphery: The Kenyan Case Re-examined.' *Review of African Political Economy.* 17. Jan–April, 1980. pp. 83–105. Langdon S., Industry and Capitalism in Kenya: Contributions to a Debate. Carlsen J., *Economic and Social Transformation in Rural Kenya.* Scandinavian Institute of African Studies. Uppsala. 1980. Hetherington P., 'Explaining the Crisis of Capitalism in Kenya.' *African Affairs.* Vol. 92, No. 366. January 1993. pp. 89–103. Anderson D. M., 'The Crisis of Capitalism and Kenya's Social History: A Comment.' *African Affairs.* Vol. 92, No. 367. April, 1993. pp. 285–290. Himbara D., *Kenyan Capitalists, the State and Development.* Lynne Rienner Boulder. 1994.

[4] Lonsdale J., 'When did the Gusii (or any other group) become a Tribe.' *Kenya Historical Review.* Vol. v, Issue i. 1977. pp. 123–133. Spear T. & Waller R. (eds.), *Being Maasai, Ethnicity and Identity in East Africa. London.* James Currey. 1993. Ambler Charles, *Kenyan Communities in the Age of Imperialism.* New Haven. Connecticut. 1988. Davison Jean, Who Owns What? Land Registration and Tensions in Gender Relations of Production in Kenya. In: Davison Jean (ed.), *Agriculture, Women, and Land:* The African Experience. Westview. Boulder. 1988.

[5] Thomas L., *Politics of the Womb.* University of California Press. Berkley. 2003. Guyer J. I. & Peters P. E., 'Introduction. Conceptualising the Household: Issues of Theory and Policy in Africa.' *Development and Change.* Vol. 18, No. 2. April 1987. pp. 197–214. Kershaw Greet, 'The Changing Roles of Women and Men in the Kikuyu Family by Socio-economic Strata.' *Rural Africana.* Vol. 29. 1975. pp. 173–194. White Luise, 'Blood Brotherhood Revisited: Kinship, Relationship, and the Body in East and Central Africa.' *Africa.* Vol. 64, No. 3. 1994. pp. 359–372. Dolan Catherine S., 'Gender and Witchcraft in Agrarian Transition: The Case of Kenyan Horticulture.' *Development and Change.* Vol. 33, No. 4. 2002. pp. 659–681.

[6] Chege M., 'Paradigms of Doom and the Development Management Crisis in Kenya.' *Journal of Development Studies.* Vol. 33, No. 4. 1997. pp. 533–567. Chege M., 'Introducing race as a variable into the political economy of Kenya debate: an incendiary idea.' *African Affairs.* 97. 387. 1998. pp. 209–230. Vandenberg P., 'Ethnic-sectoral cleavages and economic development: reflections on the second Kenya debate.' *Journal of Modern African Studies.* Vol. 41, No. 3. 2003. pp. 437–455.

in many ways remained peripheral to the historiographical material that was being produced at a similar time. Debates centred on which was the most important emergent capitalist class within Kenya, on whether the Kenyan economy was a dependent client economy and on the ability of the state to bring about capitalist development. Discussions on indigenous capital often ignored the informal sector, mostly because it was too hard to quantify. Even so after the ILO study of 1972, Employment Incomes and Equality, only certain sections of the sector were canvassed, often excluding for example women "street hawkers". Gender differentiation remained largely ignored.[7] Not only did this political economy literature generally fail to engage with the informal economy, but importantly it did not examine the pre-colonial economic and customary structures that modern day Kenyans deal with on a daily basis.[8] The historiographical research attempted to address these underlying structures by moving away from the meta-narratives of development theory, highlighting instead the relational bargaining that occurs over resources and the political dimensions of resource allocation.[9] In particular, historiographical analysis emphasized the negotiations that occurred among kin because of the influence of gender, patrilineage, seniority within families, and the conventions of cultural heritage.

Aspass's study of female-headed households and intra household economics, for example, situates them within the context of relational bargaining. She details the

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[7] *Employment Incomes and Equality*. A strategy for increasing productive employment in Kenya, Report of an Inter-agency team financed by the UN Development programme and organised by the ILO. 2nd ed. Geneva 1973. For a review of the early literature on the informal economy see King K. *Jua Kali Kenya: Change and Development in the Informal Economy 1970–95*. James Currey. London. 1996.

[8] In relation to customary law and its influence on modern day life, see in particular: Heyer Amrik, Nowadays they can even kill you for that which they feel is theirs. In: Broch-Due Vigdis, *Violence and Belonging: The quest for identity in post-colonial Africa*. Routledge. London. 2005. p. 51. Heyer Amrik, 'The Gender of Wealth: Markets and Power in Central Kenya.' *Review of African Political Economy*. No. 107. 2006. pp. 67–80. Ihonvbere J. O., 'The 'irrelevant' state, ethnicity, and the quest for nationhood in Africa.' *Ethnic and Racial Studies*. Vol. 17, No. 1. January, 1994. pp. 42–60. For the impact of witchcraft on modern relations see Dolan C., 'Gender and Witchcraft in Agrarian Transition: the Case of Kenyan Horticulture.' *Development and Change*. Vol. 33, No. 4. 2002. pp. 659–681.

[9] Mutongi Kenda, *Worries of the Heart*. University of Chicago Press. Chicago. 2007. Abwunza Judith., *Women's Voices, Women's Power: Dialogues of Resistance from East Africa*. Broadview Press. Peterborough Ontario. 1997. Davison Jean, with the Women of Mutira, *Voices from Mutira: Lives of Rural Gikuyu Women*. Rienner. Boulder. 1989.

differentiation that exists between incomes and opportunities of households with kin support and those without male household heads, finding that female-headed households are consistently poorer than those that are headed by men. Her study leaves aside the cultural reasons for this situation, placing the reasons for the differentiation solely within the confines of market and investment opportunities.[10]

In short, the analysis of the modernisation regimes and structural adjustment programmes of the post independent Kenyan state failed to take into consideration the moral authorities of lineage, spirituality and fertility: symbols that gave power both to cultural mythologies, customary laws and to the purveyors and caretakers of those mythologies and laws. The links between these moral authorities, today's power structures and development policies have important implications for women, their livelihoods and the efficacy of state structures.

Both the political economy and historigraphical perspectives have, however, established and shaped a gender and development canon specfic to Kenya and in conjuction with the broader literature on women and development, have contributed to building some major edifices concerning women in the developing world.[11] Within the Kenyan context, the canon can be viewed as follows: firstly, Kenyan women are constructed as the guardians of cultural experience, histories and as the caretakers of the environment.[12] Secondly, marriage

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[10] Aspaas Helen R., 'Heading Households and Heading Business: Rural Kenyan Women in the Informal Sector.' *Professional Geographer*. Vol. 50, No. 2. 1998. pp. 194–204.

[11] These edifices are alive and well across the globe. See: Agarwal B., 'Gender and Land Rights Re-visited. Exploring New Prospects via the State and Family and Market.' *Journal of Agrarian Change.* Vol. 3, Nos. 1&2. 2003. pp. 184–224. Deere C.D. & Leon M., *Empowering Women: Land and Property Rights in Latin America.* Pittsburgh University Press. Pittsburgh. 2001. Kandiyoti D., 'Women and Rural Development Policies: The Changing Agenda.' I.D.S. (Sussex). *Discussion Paper 244.* 1988. Kabeer Naila, 'Resources, Agency, Achievements: Reflections on the Measurement of Women's Empowerment.' *Development and Change.* Vol. 30, No. 3. 1999. pp. 435–464. Tinker I., *Persistent Inequalities*. Oxford University Press. Oxford. 1990. p. 16.

[12] See in particular, Robertson Claire C. & Berger I. (eds.), *Women and Class in Africa.* Africana Publishing Company. New York. 1986. Mackenzie F., *Land Ecology and Resistance in Kenya, 1880–1952.* International African Library.

and customary law maintain women's subordinate position by working against the rights of women in relation to access to land, inheritance and legal standing.[13] Thirdly, women's production is largely confined to subsistence farming[14] with the co-option of women's labour power onto cash cropping, the proceeds of which are largely the domain of men. Fourthly, women were marginalized by the processes of colonialism and by modernisation: urban employment, technological change, skills and the main driver of capitalism: accumulation.[15]

This chapter overviews and develops a critique of the tenets that occur within the current literature on women in Kenya. It begins with an examination of the literature on women's lives and experiences, which came to be portrayed as the 'politics of the womb'. This is followed by a discussion on the theme of women as rebels and peace breakers who undermine the authority of their menfolk[16] by challenging the actions of the colonial administration and in recent times the authority of marriage, husbands and the state. The chapter then turns to the theme of ownership and identity in an effort to critique issues of moral authority. From these three thematic overviews I argue that the literature is captured within its constructed texts on Kenyan women. Furthermore, that within the literature Kenyan women are continuing to be portrayed as powerless victims of their gender, caught

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Edinburgh. 1998. Kameri-Mbote Patricia, 'Women, Land Rights and the Environment: The Kenyan Experience.' *Development*. Vol. 49, No. 3. 2006. pp. 43–45.

[13] Moore Sally, *Social facts and Fabrications: customary law on Kilimanjaro, 1880–1980.* Cambridge University Press. London. 1986. p. 301. Whitehead A. & Tsikata D., 'Policy Discourses on Women's Land Rights in Sub-Saharan Africa: The Implications of the Re-turn to the Customary.' *Journal of Agrarian Change.* Vol. 3, Nos. 1&2. 2003. p. 74.

[14] In particular see: Heyer J., 'The Origins of Regional Inequalities in Smallholder Agriculture in Kenya, 1920–73.' *East African Journal of Rural Development.* Vol. 8, Nos. 1&2. 1975. pp. 142–181. For an overview of female farming systems see: Guyer J., Intra-household Processes and Farming Systems Research: Perspectives from Anthropology. In: Moock J. L. (ed.), *Understanding Africa's Rural Households and Farming Systems.* Westview. Boulder. 1986. pp. 101–102.

[15] Dwyer D. & Bruce J. (eds.), *A Home Divided.* Stanford University Press. Stanford. 1988. p. 16. Robertson Claire C., *Trouble Showed the Way. Women, Men, and Trade in the Nairobi Area. 1890–1990.* Indiana University Press. Bloomington. 1997. Dolan C., 'The Good Wife: Struggles Over Land and Labour Allocation in the Kenyan Horticultural Sector.' *Journal of Development Studies.* Vol. 23, No. 3. 2001. pp. 39–70.

[16] I use the term 'menfolk' to mean men who have significant influence over women's immediate behaviour. These include: fathers, brothers, fathers and brothers-in-law and in relation to Kenyan age set systems, the men of her father's age set group. Similarly womenfolk means women who are connected to one another via familial relations: mothers, sisters, mothers-in-law and women who have significant influence over women's day to day decisions and social responsibilities. This includes women in positions of power within a community, such as an elder or co-wife.

within a legally enforced mythical past, as trouble makers, or as a group of poor, hapless, landless, subsistence or horticultural farmers now at the beck and call of a global economy.

Politics of the Womb

In the colonial and post independence literatures, men and women's lives are seen through a different lens. Men's lives are seen to revolve around that of production rather than reproduction. They are depicted as warriors, wage labourers, peasants, bread-winners, household heads, headmen, chiefs, Mau Mau sympathisers, accumulators and more recently industrialists. Theirs is the world of high politics. Women's lives however, are portrayed via the lens of sexual politics: discussion referring to premarital sexual practices, circumcision, and morality. They are depicted as disturbers of the moral code, witches, trouble-makers, unruly women, would-be males and victims. This is the vision of women presented by the colonial regime and by their Kenyan menfolk: I argue that it colours part of the canon on women in Kenya. Without doubt this vision is incorporated into analyses of women's lived realities by writers trying to find out what Kenyan women did during the colonial period, how they reacted to the administration and cultural change.[17] The result is a continuing analysis that is underpinned by what Thomas calls the "politics of the womb".[18]

The politics of the womb literature portrays women's lives within the context of gender specific behaviour and relationships, with particular reference to female sexuality. The literature ignores the connections between women's livelihoods and the production of goods, as is the case when analysing men. This literature has its origins as early as 1910 in

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[17] Most writers looking for evidence of women's voices begin with the colonial records. In these records, which I also rely on, women come to the attention of the colonial administrators within this discourse. See Stichter S., 'Women and the Labor Force in Kenya. 1895–1964.' *Rural Africana*Vol. 29. Winter, 1975–6. pp. 45–67.

[18] Thomas Lynn, *Politics of the Womb. Women, Reproduction and the State in Kenya*. University of California. Berkley. 2003.

the colonial record continuing through to present day policy development on family planning and STi/Hiv/AIDS prevention.[19] The literature of the colonial period, particularly during the female circumcision crisis of 1929–31, illustrates the conflicting positions of the church and state with regard to women's bodies and activities.[20] It also points to indigenous male collusion with the administration so as to maintain or gain control over women's labour.[21]

Fertility, its power to bring life, food, labour and lineage, formed the loci of many communities. For Kenyan women the conflict around circumcision did not concern sexual morality or health issues. Rather, circumcision established a transfer of status from childhood to adulthood, from girl to womanhood and importantly the knowledge, responsibility and power that the transformation imposed. It was not simply that after the final act of initiation, which circumcision was, that a woman could marry. Rather such acts — circumcision, marriage and all the other rituals of initiation — were seen to improve fertility. This occurred both in a practical sense, and in a lineage sense. The practical level was of course, the birth of children and the power to produce bountiful harvests. At lineage level, women's fertility enabled young people to take part in the maintenance of social cohesion, organization, and responsibilities to the clan.[22] Initiation marked the start of generational transference. District Commissioners did not consider cultural initiation practices, in particular female circumcision, as anything like this. Rather they viewed it as aiding immorality, posing a threat to the establishment of the rule of English law, and as a consequence the district

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[19] HIV infection rates in 2001 for males aged 15–24 in Kenya is 6% and for females of the same age cohort it is 15.6%. *World Development Indicators. 2003.* World Bank. p. 23. For discussions on AIDS policy and female sexual agency see Arnfred Signe (ed.), *Re-thinking Sexualities in Africa.* Nordiska Afrikainstitutet. Leiden. 2004. Population growth rates in Kenya from 1963–1978 were around 7.0 to 7.9, during the 1990s they dropped from 6.7 to 4.7. From 2005–2010 the rate stood at 2.6%. Thomas L., Op. cit. pp. 180–181. http://data.un.org/CountryProfile.aspx?crName=KENYA.

[20] Robertson Claire, 'Grassroots in Kenya: Women, genital mutilation and collective action.' *Signs.* 1996. Vol. 21, No. 3. pp. 615–642.

[21] Oboler R. S., *Women, Power and Economic Change: The Nandi of Kenya*. Stanford University Press. 1985. p. 174. In 1948, the Local Native Council passed the Lost Women's Ordinance which to restrict the movements of Nandi women to the Nandi District by making it illegal for them to travel without the permission of the chief.

[22] Fadiman J. A., *When We Began There Were Witchmen. An Oral History from Mount Kenya.* University of California. 1993. Passim. pp. 151–156.

commissioners outlawed the practice of female circumcision and punished those who practiced it.[23]

Hetherington's discussion of the circumcision disputes of 1929–31 not only reveals the administration's position on the issue, but draws important conclusions regarding the relationship between the Kikuyu Central Association, (KCA) the administrations need to maintain a disciplined labour force, and women maintaining control over the practice of female circumcision.[24] The KCA had been placing increasing pressure on the colonial government to grant individual land titles, hoping to secure land title for the Kikuyu and to overturn the Crown Lands Ordinance of 1915 which prevented Africans from owning land on the same basis as Europeans. This Ordinance meant that land in the Native Reserves was owned by the entire ethnic group, with individuals considered as tenants at will. The Kikuyu via the KCA linked the ban on female circumcision to the loss of land and therefore viewed it as an act of cultural decimation. It meant in reality that 'Kikuyu men would control nothing: land, women, children, political, religious and moral life'.[25] The arguments between Edward Grigg, then governor of Kenya, the Colonial Office in London, District Commissioners, the Churches and the KCA, were on one level about the act of female circumcision, but on another they were all arguing over the control of women's fertility and labour power and what this might secure. In particular, as men could not marry uncircumcised women, they could not gain access to the assets of land, cattle and children. Thus the banning of female circumcision threatened to tear the country apart.

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[23] Punishment was one month in prison for the operator and a fine of 50 shillings. *KNA*. H. C. Wilkes District Commissioner Embu. *18/June/57 Miscellaneous Correspondence Embu District. EBU/32/44. 1925–1958*. In Embu in 1957, fines and prison sentences were meted out for those found guilty of allowing their daughters to be circumcised and on those who carried out the operations.

[24] Hetherington P., 'The Politics of Female Circumcision in the Central Province of Colonial Kenya, 1920–30.' *Journal of Imperial and Commonwealth History*. Vol. 26, No. 1. January, 1998. pp. 93–126.

[25] Hetherington quotes Kenyatta, who states that 'Clitoridectomy was regarded as the *conditio sine qua non* of the whole teaching of tribal law, religion and morality'. Ibid. p. 94. Kenyatta was of course continuing the tradition of his forebears, in that like those who gave evidence before colonial government inquirers, he was writing what his audience wanted to hear.

Conflicts over female circumcision continue today. Prazak for example, analysed the changing perceptions of boys and girls in Western Kenya, regarding sex, female circumcision and marriage.[26] She found that over the course of six years (the study period), female attitudes towards female circumcision changed from 58 percent in 1988 who believed that circumcision was good for girls to 29 percent in 1993 who believed that now.[27] Correspondingly the age change of boys who thought it was good to circumcise girls decreased from 45 percent to 19 percent over the same time period.[28] Importantly, she also found that the nexus that links sex and reproduction, in terms of kinship and community stability, is still paramount. Sixty percent of boys thought that paying bridewealth was the surest way of ensuring control over the offspring of their wives.[29] In Prazak's study, we see the power of a male myth that became hardened via the processes of and reactions to colonialism reinforcing male control over women's lives for their own advantage. Thus, today women's fertility remains an asset for men's sole use.

The works of Bujra, Strobel, Nelson and White examine the world of female prostitution in Nairobi and Mombassa during the colonial period, showing that women were anything but silent about male control.[30] Their analysis presents a view of how women established themselves as individual agents using the money they made to buy a degree of independence from men. These women bought land and houses in their own right,

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[26] Prazak M., 'Talking About Sex: Contemporary Construction of Sexuality in Rural Kenya.' *Africa Today*. Vol. 47, No. 3/4 2000. pp. 83–97.

[27] Ibid. p. 93.

[28] Ibid. p. 94.

[29] Ibid. p. 94.

[30] Bujra J. M., 'Women "Entrepreneurs" of Early Nairobi.' *Canadian Journal of African Studies*. Vol. IX, No. 2. 1975. pp. 213–234. White Luise, 'Prostitution, Identity, and Class Consciousness in Nairobi during World War II.' *Signs: Journal of Women in Culture and Society*. Vol. 11, No. 2. Winter 1986. pp. 255–273. Nelson N., Selling Her Kiosk: Kikuyu Notions of Sexuality and Sex for Sale in Mathare Valley, Kenya. In: Caplan P. (ed.), *The Cultural Construction of Sexuality*. Travistock. London. 1987. pp. 217–239.

establishing a basis for their own wealth and power.[31] Women who worked as prostitutes set their own rules, some working the streets, others working from their homes and others keeping long-term partners.[32] In the 1930s, rural Kikuyu women, according to Hungwe, viewed prostitution as an acceptable method of earning an income to help families survive.[33] Hungwe emphasises the importance of remaining near one's kinship group as what is significant here, not necessarily the physical sexual act as the income was returned to the familial and clan households. If such women set up independent households in far away Nariobi however, this caused them to be labelled as disreputable and as such be morally condemned.[34] Furthermore, prostitutes in Nairobi were both vilified and praised. They were praised on the one hand, because they provided white men — administrators and settlers, single and married — with sexual services.[35] On the other hand, sexual activities with black men were regarded as debauchery, causing these men to fall back into their lazy, unreliable ways. Hence the government position: 'men living together bred revolt; men living with their wives were satisfied'.[36]

Single women who lived in towns were perceived to be not only defying the moral codes of marriage, and its importance to the continuance of the lineage and tribe, but worse, as its very destroyer, because such women were believed to be the harbourers of disease. As Peristiany observed: 'When they are rich, they return home and introduce into the blood of the tribe the virus of syphilis'.[37] We see here similarities to the situation of urban Asante women

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[31] In Nairobi forty-two of the houses in the suburb of Pangani were owned by women in 1932, and by 1943 forty-one of the Pumwani houses were also owned by women. Bujra J., Op. cit. p. 232.

[32] Nelson N., Selling Her Kiosk. Op. cit. pp. 225–6.

[33] Hungwe C., 'Putting them in their place: "Respectable" and "Unrespectable" Women in Zimbabwean Gender Struggles.' *Feminist Africa*. 6. 2006. www.FeministAfrica.org. No page numbers given.

[34] Ibid. No page numbers given.

[35] British administrators were not allowed to bring their wives to join them until the end of the first two years of service. This was extended to four years after 1934. White L., 'Separating the Men from the Boys.' *International Journal of African Studies*. Vol. 23, No. 1. 1990. p. 4.

[36] Ibid. p. 7.

[37] Bujra J., Op. cit., footnote 38. p. 232. She is quoting Peristiany.

of Ghana, who were rounded up and sent back to their farms on the pretext 'that they were spreading sterility, incurable venereal diseases and prostitution'.[38] Parkin, in his discussion of passion, love, illicit sex, and the contradictory nature of power and its use by the elders, adds another layer to this view of women as the carriers of disease. He notes that elders regarded sex outside of marriage as an excess, giving rise to illness, disease, death and misfortune.[39] Uncontrolled sex — sex with prostitutes, sex with lovers — denied the lineage of future generations, because the children of such liaisons were not under the control of the patrilineage. Thus women's reproduction outside of marriage remained outside of lineage control. Moreover this had a second interpretation. Women's fertility and its power to produce bountiful harvests was threatened. The power of the elders was therefore undermined. It is here that the notion of non-respectability finds its power. This is not the moralising power, or Christian ideology associated with the word prostitution or its associated money-sex nexus. Rather it was believed that if the power of women's fertility was not controlled, then misfortune arose: as 'the fertilities of the land and of women are equally vulnerable to the same abuses of relationship rules'.[40] These are the things that the elders were meant to be able to regulate: 'good rainfalls, bountiful harvests, that women and livestock are fruitful and multiply, taxes are paid, and central government officers kept at bay'.[41] Uncontrolled sexual acts destroyed such moral authorities and community harmony.

The colonial period accentuated the contradictions of patriarchy for women. Sexually available and socially independent women — mostly those who lived in the towns — allowed

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[38] Allman Jean, 'Rounding up Spinsters: Gender Chaos and Unmarried Women in Colonial Asante.' *Journal of African History*. Vol 37, No. 2. 1996. p. 199. For an excellent summary of male and state reactions to women who leave their homes all over Africa see Tabet P., ' "I'm the Meat, I'm the Knife". Sexual Service Migration, and Repression in Some African Societies.' *Feminist Issues.* Vol. 11, No. 1. Spring 1991. pp. 3–21.

[39] Parkin D., Disputing Human Passion: The Negotiation of the meaning of love among the Giriama of Kenya. In: Caplan P. (ed.), *Understanding Disputes: The Politics of Argument*. Berg. Oxford. 1995. p. 174

[40] Ibid. p. 178.

[41] Ibid. p. 178.

men to indulge the demands of their sexuality without losing control of the sexuality of their wives, daughters and sisters. Thus many Kenyan men kept one wife in rural areas to manage the farm and maintain the lineage and one in town to offer domestic and sexual comfort.[42] Wives were not to disturb moral codes or be guilty of excess. Those women who set up households in the towns, however, were able to utilise the rewards for themselves and their children independent of the demands of men.

Currently, the literature on AIDS, family planning and sexual satisfaction continues this discourse of women as sexual beings who are the destroyers of culture and harbourers of disease. Spronk, Anfred, and Silberschmidt all look at women's sexual activities to find if women take control of and gain enjoyment from sexual activity.[43] Anfred examines the conflict that exists between married women and the mistresses of their husbands, finding that this conflict has as much to do with the financial gain and losses incurred by the women involved as it does sex. If a husband has a lover and gives her gifts and money then that money is lost to the household of the wife, thus putting the wife and the lover in conflict with one another.[44] Spronk on the other hand, analyses the sexual behaviour of young professional urban women in Nairobi by examining the relationship between women's sexual agency and identity.[45] She examines the way in which women negotiate sex and relationships with men, in which women walk a tightrope of what is considered appropriate female behaviour: deference, demure attitudes to men, and the lived reality of pursuing a modern/professional, career oriented life in Nairobi. In Spronk's work, sexuality is situated within a realm of

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[42] Nelson N., Selling Her Kiosk. Op. cit. p. 233.

[43] Silberschmidt M. & Rasch Vibeke, 'Adolescent Girls, Illegal Abortions and "sugar-daddies" in Dar es Salaam: vulnerable victims and active social agents.' *Social Science and Medicine.* 52. 2001. pp. 1815–1826.

[44] Anfred Signe (ed.), *Re-thinking Sexualities in Africa.* Nordiska Afrikainstitutet. Leiden. 2004. Similarly, Nelson views this conflict between wife and mistresses and/or prostitutes also as a financial conflict, not a moral/venial conflict. Nelson N., Selling her Kiosk. Op. cit. pp. 234–236.

[45] Spronk Rachel, 'Female Sexuality in Nairobi: flawed or favoured?' *Culture, Health and Sexuality.* Vol. 7, No. 3. May. 2005. pp. 267–277. Haram L., Negotiating sexuality in times of economic want: the young and modern Meru women. In: Klepp Knut-Inge, Biswalo Paul M. & Talle A. (eds.), *Young People at Risk. Fighting AIDS in Northern Tanzania.* pp. 31–49. Scandinavian University Press. Oslo. 1995.

exploration, pleasure and agency set against another realm of restrictive moralising discourses over such life styles being considered 'westernised, un-African', dangerous due to the risk of Hiv/STi infection and contrary to the role of women as the guardians of safe sexual practices.[46] The contemporary moralising discourse is spread via rumour and innuendo.[47] These women, like their predecessors who ran away from home, or were prostitutes, are engaged in the 'excesses of sex', and are considered outside the constraints of the lineage and its norms. In this situation professional urban women are likened to prostitutes. Their income is for themselves, for their own houses. Their lives are culturally shocking to those of their rural relatives and to the men who should be in command of these women's lives. Significantly, these women are defined via a sexual lens, their lives are not examined from within the realities of everyday living, that is, making a living, housing, or wages.

Silberschmidt continues the theme, but looks at men, examining the consequences of disempowerment due to social and political change. She notes:

> Socio-economic change has left men with a patriarchal ideology bereft of its legitimising activities. Unemployment or low incomes prevent men from fulfilling their male roles as heads of households and breadwinners. Multi-partnered sexual relationships and sexually aggressive behaviour seem to strengthen male identity and sense of masculinity.[48]

Here once again, we see the accepted definitions of women and men's lived realities. It is a revoicing of perceived pre-independence "traditions". For men, as was the case during the colonial period, economic change brings a loss of control and as Silberschmidt argues, sexual

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[46] Spronk R., *The Economy of Pleasure. Sexuality, and Contemporary Lifestyles in Nairobi.* Paper presented at AEGIS. European Conference on African Studies. School of Oriental and African Studies and the Institute of Commonwealth Studies. London. 29 June–3 July, 2005. p. 3. Sheryl McCurdy and Dorothy Hodgson report similar attitudes concerning demands on women to maintain a level of sexual demurment and respect in the Congo, noting that when Laurent Kabila took power in 1997, one of his first acts was to use soldiers to enforce a ban on miniskirts, and tight pants by attacking and humiliating women. Similar attitudes were prevalent in Tanzania, in 1972. "Let's have a Law on Obscene Dress". "Miniskirt Addicts Deserve Very Hard Handling". Letters to the editor, *Daily News,* August 1, 1972. Cited in Hodgson D. & McCurdy S., *Wicked Women and the Reconfiguration of Gender in Africa*. James Currey. Oxford. 2001. p. 17.

[47] Ibid. p. 6. See also Ahlberg Beth Maina, Jylkäs Eila & Krantz Ingela, 'Gendered Construction of Sexual Risks: implications for safer sex among young people in Kenya and Sweden.' *Reproductive Health Matters.* Vol. 9, No. 17. 2001. p. 33.

[48] Silberschmidt M., 'Disempowerment of Men in Rural and Urban East Africa: Implications for Male Identity and Sexual Behaviour.' *World Development.* Vol. 29, No. 4. 2001. p. 657.

violence and the control of women brings about a renewed sense of security for men. Thus once more, the ability of men to control women's reproductive and productive labour is central to these disputes. That is the re-establishment of patriarchal norms not the portrayal of a mythical past or cultural heritage, although men refer to this to justify their actions. Questions must be asked about how unemployment, or low incomes or severe economic hardship affect women's perceptions of themselves, their political power and their work. Why are women's perceptions of themselves and their livelihoods expressed only as a discourse of sexual politics? Why examine sexuality as the key explanation of women's identity, as Spronk and others seem to be doing?[49] Why is there little attempt to place women's identities within the wider more complex context of knowledge and power? Are we trapped within this discourse, in that African women are seen firstly and maybe only via their sexuality and what it means? If we examine, for example, modern popular songs in Kenya, sung by Kenyan women we find this articulation between women's knowledge, power and their rejection of male sexuality and control. As the following Gikuyu popular song from the mid-1990s illustrates:

> Girls let me tell you,
> If you are not careful.
> These sugar daddies I tell you,
> Will not let you get education,
> They are ruining the children of poor people,
> When they show you money
> You lose your head,
> You will eventually become a barmaid.
> While his daughters become graduates.
> The reason why your parents took you to school,
> Is so that you can help them in the future,
> They have toiled hard for you to go through school,
> Now you will get pregnant before you complete school,
> From a man of your father's age,
> And he will ruin your life,
> And poverty will remain in your home.[50]

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[49] Nelson N., Op. cit. pp. 217–239.

[50] Mwaura Michael W., Artistic Discourse and Gender Politics in the Kikuyu Popular Song. In: Njogu K. & Maupeu H. (eds.), *Songs and Politics in Eastern Africa*. Mkuki na Nyota. Dar es Salaam. 2007. p. 66. The song is by writer and singer Jane Nyambura, also known as Queen Jane.

The song highlights women's agency and knowledge warning the daughters of poor women who look to 'sugar daddies' for a meal ticket out of poverty, that they will always be poor even or especially, if they find a sugar daddy. The use of popular song to impart the power of women's agency gained via education is salient given that at the time the song was produced, Catholic Bishops in Kenya organised public burnings of condoms and sexual education materials in various parts of the country.[51] However, as Mwaüra's analysis of the popular song concludes: 'men are shown as sabotaging the social dream of advancement and a better quality of life which is significantly shown as being achievable through the education of girls'.[52] Here women's agency rejects the patriarchal bargaining implicit in the politics of the womb, urging daughters to set a vision for themselves independent of the power and wealth of elder men or those in power.

Rebellious and Seditious Women

Within the colonial record, Kenyan women's lives are also constructed around a discourse of resistance, disobedience and strife. Presley's work shows that from 1920 onwards there were women who worked in the coffee plantations who organised strikes and harvesting boycotts in an effort to drive up wages and improve conditions.[53] As coffee harvesting coincided with harvest time for women's own crops, these protests could be seen as a way in which women

[51] Ahlberg Beth Maina, Jylkäs Eila & Krantz Ingela, Op. cit. p. 26. In 1997, religious institutions co-operated with the government to ban sex education in schools.

[52] Ibid. p. 67.

[53] The state intervened and thwarted the workers' efforts. Presley Cora Ann, Labor Unrest Among Kikuyu Women in Colonial Kenya. In: Robertson Claire C. & Berger I. (eds.), *Women and Class in Africa.* Africana Publishing Company. New York. 1986. p. 262. In 1927 women and juveniles at the peak season comprised over 20% of the total labour force. Within the purely agricultural labour force women and children accounted for as much as 35 to 40% of total employees at the peak coffee picking seasons. Wolff Richard D., *The Economics of Colonialism: Britain and Kenya, 1870–1930.* Yale University Press. New Haven. 1974. p. 128.

negotiated a space for their own production rights.[54] The British administration saw Kenyan women in a mostly negative light. They viewed women's 'loose' moral behaviour as the seat of women's control over men, the cause of the colony's political unrest and the source of the unreliable labour supply for European agriculture.[55] Women were indeed, uncontrollable and threatening.

In wider African contexts, women's reactions towards specific localised events which has raised their anger, or earned their disrespect, portrays the use of sexual insult by women as an effective method of resistance.[56] Sexual insult includes verbal sexual insult, and physical insult, which may involve women removing their underclothes, turning their backs toward the offender and lifting their skirts. This action shows that women will have nothing more to do with the offending person, or group, and that they reject the authority of the person or group who have moved them to behave in such a way. It was this action in 1922, during a protest at the arrest of Harry Thuku, Leader of the East African Association, that ignited a riot, resulting in the death of four women leaders.[57] Ardner gives the example of Kom women who have been insulted sexually, calling other women of the village together to encircle the offending culprit, sing abusive songs, accompanied by obscene gestures and to demand recompense. This was usually in the form of a large animal or money.[58] The use of sexual insult is considered to be serious. As Ardner states:

> Such insults concern not only the woman directly abused, but all women. Mandatory militant action follows which overrides allegiance to kin and tribal

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[54] Wipper A., 'Kikuyu Women and the Harry Thuku Disturbances: Some Uniformities of Female Militancy.' *Africa.* 59, No. 3. 1989. p. 313.

[55] KNA 1228 Notes on the Nandi. 1907/8 (no page numbers given). 1254 Nyanza Province Annual Report. 1912/13. p. 3.

[56] Ardener S., 'Sexual Insult and Female Militancy.' *Man.* New Series. Vol. 8, No. 3. Sept. 1973. p. 431. Ardener reviews the use of sexual insults across West Cameron, the Congo, Sierra Leone, and Kenya. See also Astrid Blystad's examination of the use of sexual insult and violence amongst the Barabaig of Tanzania in both the colonial and post-colonial state. Blystad A., Fertile Moral Links: reconsidering Barabaig Violence. In: Broch-Due Vigdis, Violence and Belonging. Op. cit. p. 114.

[57] Wipper A., Kikuyu Women. Op. cit. pp. 313–314.

[58] Ardener S., Op. cit. p. 423.

> groups. Women demonstrate not on behalf of the victim of the abuse but on behalf of themselves as a sexual group.[59]

The use of sexual insult is a statement that an event of major social disruption has occurred. Its use during the arrest of Harry Thuku highlights this fact. The women were disgusted at the cowardliness of their menfolk's attitudes toward the colonial administration. By lifting their skirts, women seriously devalued the men of the group, symbolically stating that their inaction had bought shame on the clan, its heritage and its very survival.[60] More than that these men had lost their right to life. As Turner and Brownhill state:

> Women throw off their clothes in an ultimate protest to say "this is where life comes from. I hereby revoke your life."[61]

Thus, by these actions the women questioned the power of moral authority in all its aspects. From the point of view of the colonial administration, the actions of these women reinforced their opinion that women were subversive, dangerous, 'wanting to maintain the practices of the past and therefore hold back the development of their localities'.[62]

More recently we again see the use of sexual cursing, when in 1992, the mothers of fifty two political prisoners began a hunger strike in Uhuru Park in Nairobi to force their release and draw attention to human rights violations. When the riot police viciously set upon the strikers and supporters, 'some of the women exposed their private parts to the police who

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[59] Ibid. p. 426.

[60] Turner T. & Brownhill L., 'We want our Land Back: Gendered Class Analysis the Second Contradiction of Capitalism and Social Movement Theory' *Capitalism Nature Socialism*. Vol. 15, No. 4, 2004. p. 26.

[61] Ibid. p. 27. For other instances of this form of resistance see also: Judith van Allen in her work on the Igbo women's war in Nigeria. Aba Riots or Igbo War? Ideology, Stratification, and the Invisibility of Women. In: Hafkin N. J. & Bay E. G., (eds), *Women in Africa. Studies in Social and Economic Change.* Stanford University Press. Stanford. California. 1976. pp. 59–86. Jean O'Barr's examination of the tax riots in Tanzania in 1942, O'Barr J., 'Pare Women: a Case of Political Involvement.' *Rural Africana*. Vol. 29. 1976. pp. 121–134. See Beinart and Bundy's analysis of women boycotting prices set by traders in the Transkei in 1922. Beinart D. & Bundy C., Hidden Struggles in Rural South Africa. James Currey. London. 1987.

[62] KNA AR14. Kikuyu District Annual Report. 1915. Letter by Mr Henderson to Mr Tate, No date or page number given.

were deeply dismayed by the action'.[63] The action brought about a national two-day strike which represented serious opposition to the Moi regime.

The construction of women as trouble makers in episodes of blatant public resistance to the colonial regime claimed for these women, at the very least, a presence in the colonial record, and ultimately an image of these women as heroines, fighters for women's rights and in the context of the Mau Mau period, fighters for an independent state.[64] This is a common construction of women in the armies of many independence wars, Zimbabwe, Eritrea, and Sri Lanka for example. Elkins, in her examination of the women who were imprisoned in 'The Pipeline' during the Mau Mau war, not only casts a valuable light on the injustices wrought against these women by the colonial administration, but gives voice to the type of war these women fought.

> Everything was gone, my mother my co wife. I lost our cows. They took my husbands land. I had no shamba. Only two of my children survived. *We had been shamed. I felt like I was no longer Kikuyu.*[65]

For these women war was a battle waged within domestic life as the British incarcerated and or forced into villages more than one million Kikuyu people.[66] The aim of this villagisation was not only to rupture Kikuyu rural society, but to create domesticated women, with a clean, tidy home life, and involvement in women's groups where they would build a new community, based on rearing children and home care.[67] There was to be no re-establishment of the 'pesky, rebellious' women who demanded respect from their menfolk, and protested

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[63] Stamp P., Mothers of Invention: Women's Agency in the Kenyan State. In: Gardiner J. K. (ed.), *Provoking Agents: Gender and Agency in Theory and Practice.* University of Illinois Press. Urbana. 1995. p. 87.

[64] Presley C. A. (ed.), *Mau Mau's Daughter. A life History. Wambui Waiyaki Otieno.* Lynne Rienner. London. 1998. p. 8.

[65] Emphasis mine. Elkins C., Detention, Rehabilitation and the Destruction of Kikuyu Society. In: Odhiambo E.S. Atieno & Lonsdale J., *Mau Mau &Nationhood.* James Currey. London. 2003. p. 218. The Pipeline was a process of detention through to stages of torture/rehabilitation through which 80,000 Kikuyu passed from 1953–1959.

[66] The British had gained military success over the forest fighters by 1954, but maintained the emergency until, January 1960. Between those dates they removed the farming frame-work of the Kikuyu from that of a individual homestead layout to that of centralized villages. White L., Separating the Men from the Boys; Op. cit. pp. 1–25.

[67] Santoru M. E., 'The Colonial Idea Of Women And Direct Intervention: the Mau Mau case.' *African Affairs.* Vol. 95, No. 379. 1996. p. 265. This was also the basis of the Kenyan women's group, Mandeleo wa Wanwake. The domestication of women was pervasive during the Zimbabwean fight for independence, with the slogan for women as "Forward with the cooking stick!" Hungwe C., Op. Cit. No page numbers given.

outside government offices demanding better wages or joining the forest fighters or political groups agitating for political change. Kikuyu women would become small time shamba farmers, no longer controlling the produce they grew or more importantly, enjoying the economic and political power that this farming brought. It was to be the end of women's moral power, knowledge and its link to fertility.

Women's resistance to the colonial regimes that ruled over different parts of the African continent often found its direct outlet within the constructs and responsibilities of marriage. In Kenya, as elsewhere in colonial Africa, when men went away to labour on European farms or were recruited into the army to support the WWI effort, women were left to carry out two sets of responsibilities, their own and those of their husbands. These changing circumstances also provided women with opportunities to move into activities that would see them establish lives that were independent of male control. These experiences brought into sharp relief the issue of what constituted marriage, the expectations that were associated with it and in particular the complexity of women's status in relation to that of men. Men needed their womenfolk to hold households and farms together whilst they dealt with the pressures of the colonial administration. Daughters, widows, and wives became the link between the past world of land entitlements based on marriage alliances, usufruct and patronage, and the accepted understandings of male status, lineage and clan stability. The colonial regime colluded in this process with chiefs, headmen and important indigenous political players in order to keep the peace, and help establish British control and rule of law. Importantly, women, in taking charge of farms, turned this on its head, challenging the moral authority that underpinned constructions of gender and the gender relations that positioned women as the guardians of their husbands' land and assets.

Allman, in examining colonial Asante marriage disputes that appeared before the courts, found that the women had very strong notions of what constituted marriage:

> 'if men where able to provide the basics of maintenance: [women] maintained that a husband's exclusive sexual rights [with] his wife were contingent upon his provision of subsistence support'.[68]

In colonial Kenya, both unmarried and married women took up trading, joined Christian churches, left their homes and were routinely rounded up, or arrested and sentenced to prison, or sent back to their villages because their actions threatened accepted notions of what constituted marriage and women's behaviour. Kenyan men in turn, states Peterson, 'worried that wives maddened with money would sap husbands' virility with sorcery'. Therefore, it made sense to be careful of women who trafficked with cash, as women who traded were known as harlots.[69] Conversely women condemned wage-earning men as impotent because they were unable to fulfil marital duties, and wasted household resources on cigarettes and beer.[70] Churches offered a way out of this impotency, laziness and marital strife by providing discipline, salvation and god. Moreover, women and men who joined Christian churches found a degree of certainty to balance out the moral and social chaos caused by land loss, wage employment and the evils of urban life.

Today, with men working in cities and women involved with trade and other agricultural pursuits, marriage remains a site of contest regarding rebellious wives. Women who spend most of the week working on their farms to bring in the majority of the household

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[68] Allman Jean, 'Rounding up Spinsters: Gender Chaos and Unmarried Women in Colonial Asante.' *Journal of African History*. Vol. 37, No. 2. 1996. pp. 202–204.

[69] Peterson D., 'Wordy Women: Gender Trouble and the Oral Politics of the East African Revival in Northern Gikuyuland.' *Journal of African History*. Vol. 42. 2001. He cites the case of Duncan Thinji who in 1940, complained to the church that his wife, a trader, had caused him to become sexually impotent. He called a witch doctor who determined that his wife was not at fault. p. 476. See also Heyer Amrik, 'The Gender of Wealth: Markets and Power in Central Kenya.' *Review of African Political Economy*. No. 107. 2006. p. 71.

[70] Peterson D., Wordy Women. Op. Cit. p. 483.

income are labelled, according to Abbott, "weekend wives".[71] Or, in the case of the women who work in the horticultural sectors of the Gambian economy, as 'going to their second husbands',[72] as these gardens provide food and an income. Thus, these 'second husbands' were viewed by women as nurturing and providing a degree of protection from physical, financial and social ruin, something that their real husbands failed to do. Lovett, in her work on marriage in Western Tanzania, finds that the husband's views of their wives illustrates the relational tensions that occur:

> Today women are argumentative and fight with their husbands. … a wife will talk back to her husband. She thinks she's like a man.[73]

These women are criticised by the community because they are not respectful of their menfolk, challenge the decisions of their husbands, control and direct labour and other resources, and in particular, wield power and authority within both the household and the community.[74] All of these women are outside the norms of accepted gender behaviour and are seen as causing the social and economic breakdown of their family and lineages. Cornwall's work on gender relations in South West Nigeria has shown that women regard men as 'useless', because their financial support for their wives and families is sporadic.[75] This is a common theme in the experience of women in Kenya, who do the bulk of the farming work without the physical and financial support of their menfolk, but with their increasing interference. Heyer's examination of the failure of coffee crop returns and the decreasing value of wages, which are used by men to pay for large expenditure items such as farming inputs and education, has led to an intensification of the control over household outputs, in particular crops, grown by women as food or saleable crops such as bananas or French beans.

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[71] Abbott Susan, 'Full-Time Farmers and Week-End Wives: An Analysis of Altering Conjugal Roles.' *Journal of Marriage and Family.* Vol. 38, No. 1. 1976. pp. 165–174.

[72] Schroeder R. A., '"Gone to their second husbands": Marital Metaphors and Conjugal Contracts in the Gambia's Female garden sector.' *Canadian Journal of African Studies.* Vol. 30, No. 1. 1996. pp. 69–88.

[73] Lovett Margot, '"She Thinks She's Like a Man': Marriage and (De)Constructing Gender Identity in Colonial Buha, Western Tanzania. 1943–60.' *Canadian Journal of African Studies.* Vol. 30, No. 1. 1996. p. 52.

[74] Ibid. p. 53.

[75] Cornwall Andrea, Wayward Women and Useless Men: Contest and Change in Gender Relations in Ado-Odo, S.W. Nigeria. In: Hodgson D. & McCurdy S., Op. cit. p. 67.

Bananas are regarded as women's crops and have long been grown by them.[76] Men in an effort to regain control over money and women are now moving into the banana markets, trying to claim them as a cash crop to replace the coffee income that was considered as men's alone.

The long held differentiations between men's and women's crops, not only makes such moves difficult, but shifts the relations between gender and wealth within the household, particularly when women become the main bread winner. Dolan highlights this when examining the gender conflicts that have arisen around the growth of the French bean crop industry in Meru Kenya. She has found that today women will make use of witchcraft to maintain access to land in the Meru district, if their menfolk try to take over the women's usufruct rights to grow French beans. Women, Dolan has found, will often use the court system to stop men from utilizing land on which women grow crops, and then, 'at the last minute threaten to bewitch him and he gives in due to fear'.[77] The use of witchcraft is a means of controlling men's individual ambition whilst highlighting the neglect of their household responsibilities. It is also a response to the intensification of women's workloads when they are required to grow French beans on their usufruct plots.[78]

Whilst marriage and its configurations are central to the literature on women as unruly subjects who contest the hegemony of patriarchy, it is also central to the distribution of resources at household, local, rural, urban and national levels. In Kenya, the effect of women generating more income than their menfolk, coupled with declining income-generating

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[76] Heyer Amrik, The Gender of Wealth: Markets and Power in Central Kenya. Op. cit. p. 73. Bananas are considered a major source of nourishment for weaning babies and they are involved in brideweath payments, given to the mother of the bride as an acknowledgement of the bride's virginity.

[77] Dolan Catherine S., Op. cit. p. 670. Dolan describes two types of witchcraft, that which gives an explanation of misfortune and unexplained events and that which acts as a mechanism to control or to have power over social and moral outcomes. See her footnote 7. p. 663.

[78] Ibid. p. 677.

opportunities for men due to a contracting formal economy, and the retreat of state involvement in the agricultural sector, has sharpened the perceptions of appropriate gender behaviour, intensifying the connections between identity, lineage, wealth and livelihoods. Heyer's examination of the position of single mothers reveals some of the complexity:

> Single mothers are referred to as 'housebreakers'. As girlfriends they break up men's marriages, siphoning off men's wealth for their own *nyumbas* (households) rather then those of the men themselves. Furthermore, as sisters they not only fail to bring in bridewealth which their brothers may then use to get married, they are also now in competition with their brothers over the resources of the clan.[79]

Here, conflicts attributed to women who do not marry, deny men the stability of legitimacy and wealth brought to them only via marriage. Unmarried women who are involved in trade and are able to bring an income into the households of their parents assert a new kind of claim for control over that household. Independent single women, or married women who are the main bread-winners with absent husbands, unlike their mothers and grandmothers, are not under the control of the father, husband or clan. Their labour contributes to the wealth of their own households and not necessarily to male lineages or the wider clan. These women then, violate male constructions of the household, defy accepted understandings of behavioural norms and question accepted social constructions of what constitutes a wife, or family, or indeed women-hood itself.[80] For example, in looking at the relationship between the *Matatu* touts who transport women traders, often their own mothers or sisters, from country areas in Kenya to the cities, Heyer finds that 'these young men, who feel betrayed by their expectations of modernity, are said to have lost their route'.[81] They are now dependent upon their mothers and sisters for their livelihoods not their fathers or male elders who previously provided access to cattle or powerful relationships. Yet these touts obstruct women traders by over charging and making them wait, in order, as Heyer suggests, 'to gain

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[79] Heyer Amrik, Nowadays they can even kill you for that which they feel is theirs. In: Broch-Due Vigdis, Violence and Belonging. Op. cit. p. 50.

[80] Ibid. p. 57.

[81] Ibid. p. 57.

some sense of self'.[82] Once again, controlling women is seen as an accepted part of male identity.

White, analysing decision making between husbands and wives of middle class urban and rural households, found that women in rural households where husbands are absent, had a greater control over the decisions made concerning the planting and sale of crops.[83] This supports the proposition put forward by Taylor that resources should be directed towards women rather than men because they are more likely to use these imports to improve agricultural production.[84] O'Laughlin argues:

> As women are the majority of agricultural workers, both on their own plots and on commercial farms, it is thought that if the allocation of productive resources were not skewed against women, rural African households would be able to work more efficiently and thus to produce more.[85]

The concept of providing women with increased access to inputs, to improve production and living standards, has provided some basis of action and policy development for "women only" development projects. These actions have included a push towards individual land title and credit schemes aimed solely at women. O'Laughlin however, questions this concept as a useful basis for arguing that increases in inputs augment efficiency gains and alleviates poverty. She argues that what is missing from this analysis is the contribution of the gender division of labour.[86] The division of labour within households and communities may be variously hierarchical, conflictual or co-operative.[87] Sen makes the point that perception also influences resource allocation: that is, men's or women's perceptions of what each other

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[82] Heyer Amrik, Op. cit. p. 77.

[83] White L., 'Women in the Changing African Family'. In: Hay M. J. & Stichter S., *African Women South of the Sahara*. Longman. London. 1984. p. 63.

[84] It should be noted that in 1985, a paper presented at the world conference to review and appraise the achievement of the UN Decade for Women, stated that: 38% of farms in Kenya were run by women. Those women managed to harvest the same amount per hectare as men, despite men's greater access to loans, advice, fertiliser, hybrid seeds, and insecticide. When women were given the same level of help, they were found to be more efficient than men and produced larger harvests. Taylor D. (ed.), *Women: a World Report.* New Internationalist. Methuen. London. 1985.

[85] O'Laughlin Bridget, 'A Bigger Piece of a Very Small Pie.' *Development and Change.* Vol. 38, No. 1. 2007. p. 21.

[86] Ibid. p. 40.

[87] Ibid. p. 40.

supposedly brings to the household compared to what they *actually* bring to the household. This results in a bargaining process, which may not lead to an equitable division of resources between men and women or children and adults or among siblings.[88] In some cases resource allocation is not based on collective household needs, good cropping returns, efficiency or individual need, as important ceremonial, or bridewealth considerations, or political alignments may take precedence.[89] For example amongst the Luo, the existence of ancestral burial grounds on land may be the prominent issue that decides who does or does not access that land.[90]

Scrutiny of the marriage contract within the literature has revealed its multi-layering and its contradictions. By looking at risk sharing within households, Jackson has challenged the notion that the joint ownership of assets or joint decision-making is necessarily detrimental towards women.[91] She argues that 'disaggregating decisions within households can distort the conjugality of the husband and wife, setting up assumptions that shared outcomes would maintain women's subordination'.[92] Rather, Jackson maintains that women are able to 'manoeuvre resources for their own advantage by using the moral expectations that come from being a wife'.[93] This of course challenges the long held feminist position that marriage is only to male advantage, in that men gain control over women's reproduction and labour power, relegating women to inferior, poorly paid occupations.[94] Guyer, in her work on

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[88] Sen Amartya, Gender and Cooperative Conflicts. In: Tinker I., *Persistent Inequalities*. Oxford. 1990. pp. 148–9. Emphases mine.

[89] O'Laughlin Bridget, Op. cit. passim, pp. 40–42.

[90] Schwartz Nancy, 'Active Dead or Alive: Some Kenyan Views about the Agency of Luo and Luyia Women Pre- and Post-Mortem.' *Journal of Religion in Africa.* Vol. 30, No. 4. Nov. 2000. p. 436. Hoehler-Fatton C., *Women of Fire and Spirit.* Oxford University Press. Oxford. 1996. pp. 36–38.

[91] Jackson Cecile, 'Resolving risk, marriage and creative conjugality.' *Development and Change.* Vol. 38, No. 1. 2007. pp. 107–129.

[92] Ibid. p. 122.

[93] Ibid. p. 124.

[94] Young K., Wolkowitz C. & McCullagh R. (eds.) *Of Marriage and the Market:* women's subordination internationally and its lessons. Second Edition. Routledge and Kegan Paul. London. 1988. Rogers B., *The Domestication of Women*. Kegan Page. London. 1980.

the Beti women, looked at the position of married women in relation to unmarried women and found that generally, unmarried women were not able to utilise kin relationships to help gain access to finances to pay for children's school fees, or other significant expenses, because their status was not as important as that of married women.[95] Here we see the contradictions within marriage: it can sometimes play an important role in maintaining women's social and political security. It can and does give women a base from which to negotiate the entitlements due to them as wives, something that is not available to unmarried daughters or widows. On the other hand, in a world of economic and social severity such as that experienced in Kenya over the last two decades, with declining incomes and government expenditure on social goods, marriage is, as the literature shows, the site for major confrontation over social responsibilities and expectations.[96]

Thus, negotiations that occur between husband and wives, brothers and sons, elders and the other members of the compound are multi-layered and not necessarily transferable across other sections of the wider community. These negotiations and subsequent decisions reflect both a financial economy and a moral economy, which are not always based on values of justice or fairness, but on the relations of power stemming from the ability to accumulate assets and in the case of the moral economy, on an implied power based on perceptions concerning mythologies, symbols of fertility or abundance. Throughout Kenya the gendered nature of resource allocation and dispute resolution practices is multi-layered with origins in

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[95] Guyer J., Dynamic Approaches to Domestic Budgeting: Class and Methods for Africa. In: Dwyer D. & Bruce J. (eds.), A Home Divided. *Women and Income in the Third World*. Stanford University Press. Stanford. 1988. p. 160.

[96] Annual average growth of GDP has gone from 4.2% in 1980–90 to 2.0% in 1990–2001, to 5.8% in 2005 and returned 2.0% in 2008. The age of population who completed primary school has dropped from 87% in 1990 to 63% in 2001. p. 19. Life expectancy dropped from 55 yrs in 1980 to 46 yrs in 2001 and returned to 54.5% for women and 53.7% for men in 2008. In 2009 42.8% of the population was under 14yrs. *World Development Indicators. 2003*. World Bank. p. 185. The 2008 figures are from Summary statistics Region Eastern Africa. http://data.un.org/CountryProfile.aspx?crName=KENYA.

myths and constructed traditions which enable men, via the use of patronage, to maintain positions of power both as individuals and as members of age sets, as elders or politicians.[97]

In the current economic and political climate in Kenya the use of patronage is well documented in particular with male politician's being accused of 'eating' the proceeds associated with political power.[98] As Tripp quotes Schatzbergs's discussion of cultural dispositions:

> … the imagery of the political leader as father and provider for the family/nation, one whose power is transferred to the next generation, … one who eats, but within reason, and respects mothers, wives and daughters. Schatzberg notes that leaders have perverted these images through repression, excessive eating and failure to provide for their citizens, leading to an erosion of legitimacy.[99]

This concept of men eating the cake/wealth of communities is correct in that men during the colonial period did 'eat' the wealth of cattle via bridewealth accumulations. It was, and is, women who provided the crops and security of fertility or as has been stated by a Ugandan woman: 'most of us know … that where a cake is there must be a baker'.[100] Women who challenge male patronage or accepted constructions of gender or marriage entitlements can only be viewed as rebels with causes.[101]

'Hapless Landless Women'

In 1994, Agarwal, in *A Field of One's Own,* argued for the importance of providing women with individual title to land in order to give women financial security, access to credit, and

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[97] Stamp P., Mothers of Invention. Op. cit. p. 90.

[98] See Wrong Michela, *It's Our Turn to Eat*. Fourth Estate. London. 2009. Chonghaile Clar Ni., 'Kenyan Graffiti Artists Target 'Vulture' Politicians.' *The Guardian Weekly*. 30/3/2012. p. 8.

[99] Tripp Aili Mari, 'Women's Movements and Challenges to Neo-patrimonial Rule: Preliminary Observations from Africa.' *Development and Change*. Vol. 332. 2001. p. 35.

[100] Ibid. p. 36.

[101] Witness the treatment of Wangari Maathai, the 2004 Nobel Peace Prize winner for her environmental and human rights work, who in 1992 was beaten up and tear gassed, and received death threats over her views on the deadlock of the December 2007 election results. www.africafiles.org/article.asp?id=17295.

control over crop production and sale.[102] This position became core to arguments put to advance the position of women in the Third World, aiming to give women a greater ability to accumulate assets. More recently, the contradictions that exist on the ground, particularly the fact that women tend to own transportable property: chattels, cooking pots, and smaller animals such as chickens and goats, rather than land, for example, has highlighted concerns about the pursuit of such a policy.[103] Jackson, in discussing the diversity of land access rights and land ownership, types of accumulation that may result from such ownership, and methods of agricultural production, illustrated the complexities involved in using the ownership of land as a means of accumulation or for increasing women's wealth.[104]

In Kenya, women and men are legally entitled to acquire, own and dispose of property although only five percent of women hold legal title to land.[105] Importantly, as Kameri-Mbote points out in relation to Kenyan land law:

> The registering of an individual title of land frees the title holder from the interference of other parties whose interests are not shown on the register. The rights to use which women have been granted via custom, are not registrable and women cannot therefore interfere with acts of the title holder.[106]

Under civil law, if a husband wants to sell land to which his wife has been granted access via the marriage, she is unable to prevent him from doing so. Furthermore, the legal complexity of property ownership in Kenya makes challenging illegal claims difficult for the majority of people. Importantly Article 82 (1) of the Kenyan Constitution prevents discrimination of any kind, including discrimination based on sex. However, Article 82 (4) allows for exemptions

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[102] See: Agarwal B., *A Field of One's Own: Gender and Land Rights in South Asia.* Cambridge University Press. Cambridge. 1994.

[103] Kameri-Mbote Patricia, 'Women, Land Rights and the Environment: The Kenyan Experience.' *Development.* Vol. 49, No. 3. 2006. p. 44.

[104] Jackson Cecile, 'Gender Analysis of Land: Beyond Land Rights for Women?' *Journal of Agrarian Change.* Vol. 3, No. 4. October. 2003. p. 478.

[105] The Registered Land Act. Republic of Kenya 1977, is the act that deals with the legal ownership of land. Wangari E., Thomas-Slayter B. & Rocheleau D., Gendered Visions for Survival: Semi-arid regions in Kenya. In: Rocheleau D., Thomas-Slayter B. & Wangari E. (eds.), *Feminist Political Ecology*. Routledge London. 1996. p. 131.

[106] Kameri-Mbote Patricia, Women, Land Rights and the Environment. Op. cit. p. 45. There is also a trade in title deeds.

from the discrimination provision. These exemptions 'include the areas of adoption of children, marriage, divorce, burial, devolution of property on death and on matters of personal law'.[107] This discrimination is further strengthened by the Law of Succession Act 1981 which addresses the rights of surviving spouses to inherit the personal and household effects of the deceased and retain a life interest in the rest of the estate. However if the surviving spouse is a woman, her interest in the property terminates if she remarries. If the surviving spouse is a man, his interest remains even if he remarries. The Act also exempts regions of Kenya, namely pastoral areas, and in these areas customary law prevails.[108] As Walsh notes 'in areas vital to women's property rights, such as marriage, inheritance and the application of customary law, discrimination is sanctioned'.[109] So marriage is double edged: on one hand it grants land access and on the other it removes it by eliminating inheritance claims by women.

Thus conflict exists within statutory law, which aims to give individuals security of title over land on the one hand and the need to recognize the social importance attached to land access rights on the other. Nowhere is this conflict more evident than in the Kenyan High Court rulings where in some cases the Court has held that customary law claims should be recognised and in others that they are not the overriding interest and should therefore be ignored.[110] Walsh reports a High Court judge stating that:

> The Law of Succession Act can't apply [to rural land] because women are supposed to be married and go away. … another magistrate (of a lower court)

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[107] Karimbux S., Women and Sex Discrimination in Kenya: proposals for reform. In: Kibwana K. & Lawrence M. (eds.), *Law and the Quest for Gender equality in Kenya.* Claripress. Nairobi. 2000. p. 10.

[108] These areas are: West Pokot, Turkana, Samburu, Isiolo, Mandera, Wajir, Garissa, Tana River, Lamu, Kajiado, and Narok. The Law of Succession Act of 1981 was amended, Act No. 21 in 1990, to exempt Muslims, who now distribute property under Islamic laws of succession. Daughters inherit part of their father's estate, but the proportion of their inheritance is considerably less than that of sons. Mweseli T., Women and the Law of Succession. In: Kibwana K. & Lawrence M. (eds.), Op. cit. p. 157. A married Muslim woman can own property in her own right, as she is considered a separate individual despite being married. Her property is not alienable by her family or husband and it is hers to dispose of as she deems fit. Wanjala S., Towards a Uniform Law of Matrimonial Property in Kenya. In: Kibwana K. & Lawrence M. (eds.), Op. cit. p. 109.

[109] Walsh J., Double Standards. Op. cit. p. 32. Footnote 130.

[110] Kameri-Mbote Patricia, Women, Land Rights and the Environment. Op. cit. p. 45.

> stated: The Law of Succession Act is applied only by the educated … if it is in the rural area, we don't want to interfere with the community set-up.[111]

There are further legislative layers to this already complex legal web. Namely, the Transfer of Property Act,[112] the 1882 English Married Women's Property Act and the five legal systems for marriage: civil, Christian, Muslim, Hindu and customary, all of which are governed by their own Marriage and Divorce Acts.[113] For example if a woman is married under the African Christian Marriage and Divorce Act, and divorces, then the children and property are distributed under that Act alone. No customary law applies. Similar situations apply with relation to the other marriage laws.[114]

The granting of land ownership via individual titling to women in Kenya then is not a simple matter of making changes to statutory law, or challenging customary or religious laws of inheritance, or as Kameri-Mbote suggests, 'challenging the capacity of powerful members of society to mould customary and statutory legal thinking to advantage women's position and responsibilities in society'.[115] For women who can negotiate the processes of statutory, religious and customary laws to be able to purchase land, they also have to have both the capital to do so and view such a purchase as important for themselves, their activities and responsibilities. Gaining capital is possibly the greatest obstacle women face when purchasing land. Women who are struggling to supply enough food to support their families have little room to improve their resource base, to gain access to better quality seed, or extra labour, let alone acquire land in their own legal right. In short, subsistence farmers and small holders of land are not accumulators of large amounts of capital. In the event that the capital

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[111] Walsh J., Double Standards. Op. cit. p. 33.

[112] The burial of S. M. Otieno, a well-known criminal lawyer who died without a will, and the subsequent court case brought by his relatives to bury him on Luo Land under customary law principles, is a case in point in Kenya. See: Stamp P., Burying Otieno: gender and ethnicity in Kenya. *Signs*, Vol. 16, No. 4. 1991. p. 815.

[113] Kameri-Mbote P., Gender Dimensions of Law, Colonialism and Inheritance in East Africa. Published in 35/3 Verfassung und Recht in Übersee. 2002. http://www.ielrc.org/content/a0205.pdf pp. 2–4.

[114] If a dispute occurs over the dissolution of property then the 1882 Marriage Act applies. Wanjala S., Towards a Uniform Law of Matrimonial Property in Kenya. In: Kibwana K. & Lawrence M. (eds.), Op. cit. p. 110.

[115] Kameri-Mbote P., Gender Dimensions of Law, Colonialism and Inheritance in East Africa. Op. cit. p. 2.

were available, the issue arises as to the supply of labour to work it, the efficient use of time to crop it and how to deal with conflicting use rights that the land may possess. It must be noted that land does not come unencumbered. Indeed, the western notion that ownership allows one carte-blanche does not necessarily apply to land in Kenya. Schwartz finds in relation to Luo land:

> that where land deeds are not universal, the concern to plant bodies back home is deeply rooted for practical and spiritual reasons. Ancestral spirits and properly buried bodies can support claims to land in ways that pieces of paper and the corruptible legal system cannot. One reason that land registration, land consolidation and land sales have been so controversial among the Luo is the belief that the soil contains a community of spirits. … Being properly planted and returned to the soil where other kin are or will be buried helps provide rights and roots for survivors.[116]

In reality, household position brings responsibility and land brings encumbrances. Whitehead and Tsikata, in discussing land allocation systems in Kenya, found that despite the existence of registered titles, access to the majority of plots was through inheritance, which overwhelmingly favoured sons over daughters, or through non-registered sales, that is, lending and gifts.[117] Walker has found in South Africa, that even when women had individual land title, they still had to negotiate access to this land through their position within the household.[118] This situation both forces and allows women to use socially accepted norms and various positions within a household, to negotiate land access. For women with no property, little cash income, minimal political power, and a family to maintain, involvement in land markets to gain title to land is not only out of their reach but may still not enable unfettered access.[119] Gaining the title deed to a piece of land may not be the most pressing need or want of women farmers in Kenya. It may well be, for example, that given the discriminatory

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[116] Schwartz Nancy, 'Active Dead or Alive: Some Kenyan Views about the Agency of Luo and Luyia Women Pre & Post-Mortem.' *Journal of Religion in Africa*. Vol. 30. Fasc. 4. Nov. 2000. p. 436.

[117] Whitehead A. & Tsikata D., 'Policy Discourses on Women's Land Rights in Sub-Saharan Africa: The Implications of the Return to the Customary.' *Journal of Agrarian Change*. Vol. 3, Nos. 1&2. 2003. p. 73.

[118] Walker Cheryl, 'Piety in the Sky? Gender Policy and Land Reform in South Africa.' *Journal of Agrarian Change*. Vol. 3, Nos. 1 and 2. October. 2003. p. 143.

[119] Razavi Shahra, 'Liberalisation and the Debates on Women's Access to Land.' *Third World Quarterly*. Vol. 28, No. 8. 2007. p. 1486.

marriage, inheritance and succession laws, women are more interested in mechanisms that would consolidate access to household resources during and after a marriage, or better access to markets for the goods they produce.[120]

Thus issues of social position, the responsibilities constituted within it and the cultural importance of land, raise serious questions concerning the individual titling of land holdings as a method of enhancement for women's financial security and well being. Agarwal's dismissal of community title as not allowing women enough control over the proceeds of crops, or to control inheritance decisions may be valid, but in relation to those issues, it may be that land allocation via women's groups is a way forward.[121] In certain parts of Kenya this would draw on a long tradition of women organising around their own 'traditional' councils.[122] It would also be a repeat of the use made by men of co-operatives which enabled them to buy land during the implementation of the Swynerton plan in the 1960s. This may highlight the use of customary institutions to enhance women's wellbeing, and it should not be dismissed outright.

However, the insecurity of tenure that women face in relation to land seems incongruous when women subsistence farmers are the providers of most of Kenya's internal food supply. The view of subsistence as being 'just for the family,' belies the importance of this type of production. The work of 70 percent of women in Kenya involves the provision of their families' dietary needs as well as providing a large percentage of the total Kenyan food supply.[123] Through the process of farming, certain groups of Kenyan women have always

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[120] Ibid. p. 1496.

[121] Ibid. p. 1496.

[122] Ominde. S. H., *The Luo Girl. From Infancy to Marriage.* Macmillan. London 1952. p. 53.

[123] MacWilliam S., Desaubin F & Timms W., *Domestic Food Production and Political Conflict in Kenya.* Indian Ocean Centre for Peace Studies. Monograph No. 10. Perth. 1995. p. 31. In terms of maize production, which is a dietary staple in Kenya, approximately 90% of it is produced on small holdings of less then 5 hectares. Most of it is consumed within

been at the forefront of land management.[124] During the pre-colonial period a woman gained status by the variety of crops she was able to harvest and store, because this contributed to the status of her husband, family and community. Women were responsible for the introduction of new seed varieties, different types of food crops and agricultural practices such as inter-planting of short season vegetable crops, with long season grain crops.[125] This agricultural practice was underpinned by a gender division of labour that was utilized by the colonial administration to undertake what become known as communal work. Women were rounded up and used by the District Commissioners to dig erosion banks, and plant stabilizing grasses and trees. Today they still undertake this land management work via membership of women's groups.[126]

Wangari et al, in examining women's groups in the Katheka sub-location (akamba), questioned why women's groups end up volunteering to shovel dirt on a road to repair it, when men are paid a minimal wage to shovel sand needed for construction purposes but not for road repairs.[127] For Wangari part of the answer lies in the fact that:

> … positions of authority within the community are held by men. In Katheka, for example the assistant chief, the KANU chairman and secretary, the head of the KANU Youth Wingers, church leaders and school principals are all male. … Finally, women's groups are an organised workforce, they turn up to do work on each others farms, they have a structure: a secretary or president, a person who is accountable. So they are a reliable organization to contact if the local elder wants something done.[128]

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the household, with some being sold in local markets. It does not appear in marketed output figures as a consequence. It is the production of maize that occupies women's labour time.

[124] This included Kikuyu, Luo, and Kamba women. Massai women, were pastoralists keeping smaller animals – goats and sheep.

[125] Hay M., Luo Women and Economic Change During the Colonial Period. In: Hafkin Nancy J. & Bay Edna G., *Women in Africa. Studies in Social and Economic Change.* Stanford University Press. California 1976. p. 95.

[126] Thomas-Slayter B., 'Politics, Class and Gender in African Resource Management: The Case of Rural Kenya.' *Economic Development and Cultural Change.* Vol. 40, No. 2. 1992. pp. 814–815, and footnote 15. p. 228.

[127] Wangari E., Thomas-Slayter B. & Rocheleau D., Gendered Visions for Survival: Semi-arid regions in Kenya. In: Rocheleau D. Thomas-Slayter B. & Wangari E. (eds.), *Feminist Political Ecology*. Routledge London. 1996. p. 143. A sub-location is a settlement or small village.

[128] Ibid. p. 143.

There is however a history underlying this and it is the use of women by the colonial regime as forced labourers to repair roads, and fix erosion problems.[129] This set in train a supposed 'tradition' whereby roadwork came to be viewed as women's work. Couple this control of women by one authority, the colonial regime, with the accepted indigenous male patriarchal views of women as the labour force for men's wealth and status creation, and it becomes clear that what is being expressed here, is a view of women as the upholders of cultural norms. Men being able to control women's labour reinforces the long held moral view that unruly women, those who did not obey their menfolk, brought about the decline of the household, clan and tribe. As Lonsdale, in relation to the Kikuyu, states, 'Delinquent women brought shame upon their men, and within Kikuyu society this reduced men to *acenji:* savages/heathens'.[130] For the Katheka sub-location, the people who hold the reins of power are men, if they fail to get the women's groups to do the work, they fail to maintain not only the roads, but also community cohesion, status and any moral authority. Thus women are co-opted into upholding a customary institution, so that shame is not brought upon their menfolk or their lineage and this action reinforces male power structures. This factor is, for men, and may well be for women, far more important than wage justice. The difference for women however, is that the lack of a wage helps to marginalize them from the formal economy and contributes to their precarious economic position. It does not make them hapless, landless women. Rather, these women are farmers at the forefront of providing Kenya's food security within highly constraining circumstances, who make use of women's groups to provide effective means of social and economic support.[131]

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[129] CO533/748. Compulsory Labour Ordinance. Circular No.33. Native Affairs Department. Nairobi. September 4. 1924. See in this file: "Notes on Forced Labour of Women", dated 15/11/1924. It outlines the fact that women who worked on the roads were not paid or fed.

[130] Lonsdale J., The Moral Economy of Mau Mau: Wealth, Poverty and Civic Virtue in Kikuyu Political Thought. In: Berman B. & Lonsdale J., *Unhappy Valley. Conflict in Kenya and Africa. Book Two: Violence & Ethnicity.* James Currey. London. 1992. p. 386.

[131] Abwunza. J M., Op. cit. pp. 157–161.

Changing Paradigms

This chapter demonstrates how Kenyan women have been seen, heard and, I have argued, constructed during the colonial and post-colonial periods. It has shown that the sexual behaviour of Kenyan women is viewed as the primary determinant of their self-preservation and identity in both the colonial and post-colonial periods, with this construction of women in the former being carried over into modern day constructions of women. This image and identity has trapped women in a 'politics of the womb', whereby their fertility and sexual behaviour are integral to the very stability of the clan and the State and therefore must be controlled. This construction, is clearly evidenced today in the discourse on AIDS, family planning, and in areas of Civil law concerning land and inheritance, leading to an entrapment and narrowing in policy development that places women's interests outside those of production, industry, and politics.

If women, in the colonial period, asserted their economic interests and rights by protesting or using other methods of civil disobedience they were labelled as wicked, dangerous, subversive women who brought shame on their families and homes. However, these women used protest and rebellion not only as a means of resisting colonial authority, but as a statement concerning the failure of husbands, elders and warriors to uphold cultural identities and moral authority. Women's use of sexual insult in particular, shamed men into action or challenged their position as husbands who could demand women's respect. Currently, this portrayal of women as subversive continues when women employ witchcraft in order to gain access to their rights and entitlements as well as demanding respect from their kinfolk. By virtue of the fact that accusations of witchcraft are conducted in the public realm,

women risk being punished and ostracised from their communities.[132] This not only indicates the insidious position that these women find themselves in, but shows that Kenyan women affirm their identities via their work and utilize protests to maintain their self defined identity.[133] This takes us far away from women being defined via the realm of sexuality and reproduction.

The concept of ownership, of both land and women, is linked to that of identity. Land ownership is central to the maintenance of moral communities and male constructions of women's identities. Women make use of positions held within marriage to gain entitlements and access to resources such as land, as well as using these entitlements to gain an independence from male constructions of marriage, lineage and identity. Men, in turn, make use of ownership, not only of land, but also of women's labour power to maintain lineage and identity as well. Farming practices, marriage, children, divorce and inheritance processes become the sites where these conflicting interests and notions of what constitutes identity and moral authority are played out.

From this standpoint, the research presented in this thesis explores women's farming systems under colonial rule in Kenya, as a site of struggle over moral authority and constructions of women's identity. It examines the conflict between the colonial state controlled relationships and resources and the use made by women of crops, markets, witchcraft, gender relations, marriage and rebellion in an effort to diminish the modernist discourse of colonial rule over their livelihoods, behaviour and identity.

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[132] Rohatynskyj Marta, 'Women's Virtue and the Structure of the Mossi Zaka.' *Canadian Journal of Africa Studies*. Vol. 22, No. 3. 1988. p. 551.

[133] Robertson C., Trouble Showed the Way. Op. cit. p. 24.

In the context of the gender division of labour, women and men's production systems, though autonomous, were inter-related. The thesis will show that although this pattern of production was progressively eroded by the colonial state, it intensified the gender relations that underpinned it. The colonial prohibition of cattle raiding combined with colonial policies on taxation, a waged African labour force, and the development of African agriculture, (originally for internal consumption needs but increasingly for export) resulted in changes in the economic activities of men that facilitated their increased involvement in agricultural production. This clearly affected women's economic and political positions: reduced their independence from men and co-opted their labour onto the cash cropping ventures of their husbands or of settler farmers. These changes in the gender division of labour challenged not only accepted notions of gender relations and behaviour, but also brought into sharp relief questions of what constituted identity and the associated power of moral authority.

CHAPTER THREE

WOMEN'S LABOUR AND MORAL AUTHORITY IN PRE-COLONIAL KENYA

Introduction

The pre-colonial cultural and agrarian diversity of Eastern Africa resulted in farming systems which divided labour along the lines of gender. This created cultivated farming systems in which women and men were, for the most part, independent of each other. However, these modes of production were seemingly complimentary and necessary for the survival of the group. Women were autonomous producers of the family food supply, household heads, farm managers and traders. As producers of the family food, women controlled supply in that they were responsible for the major part of its cultivation, processing, storage and distribution.[1] They monopolized cultivated production and its trade.

The literature suggests that men respected these positions and generally made sure that their wives were provided with the land necessary to perform the task because it was through this provisioning that a man gained status within the community.[2] They became a 'Big Man'.[3] How women organised themselves and the production of crops seems to have been their affair, just as the men organised the production of cattle to ensure the maintenance of family status. The independence of women's and men's productive systems can be seen in that the loss of a husband or the absence of men would not leave women's production impoverished,

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[1] KNA MC/363 DC/FH 3/1 Fisher J., Report on the Kikuyu, 1950–1951. p. 91.

[2] Driberg views the relationship between men and women as one of respect with their spheres of production and influence being independent of the other. Driberg J. H., 'The Status of Women Among the Nilotics and Nilo-Hamitics.' *Africa.* Vol. 5, No. 2. April 1932. p. 405.

[3] von Bülow Dorthe, 'Bigger Than Men? Gender Relations and their Changing Meaning in Society, Kenya.' *Africa.* Vol. 62, No. 4. 1992. p. 539.

because women would draw on kin relationships or age mates to undertake collective work.[4] Women's status as independent producers formed a base for negotiating with men on issues concerning the household, marriage, inheritance and the timing of important ceremonies to coincide with abundant food supplies and when there were fewer demands on their labour. Women utilized their female kin relationships, age-grade groups and women's councils to impose a degree of solidarity, acceptable types of behaviour in relation to their menfolk, and most importantly, to assert women's control over the fruits of their labour.[5]

These systems of agrarian production and gender relations were undoubtedly patriarchal. Women's access to land, for example, was predicated on marriage and subject to the domination of their menfolk, in particular their husband's father. The practice of polygamy was universal amongst all the ethnic groups of Kenya. In the four groups examined here, polygamy influenced the relations between women and between men and women. In particular, polygamy imposed a hierarchy amongst co-wives which determined inheritance practices and gave status and patriarchal authority to men. Further, the position of a wife, that is if she were a first or second wife, and the kin relations that existed between families, influenced women's work. Thus, women's work and affluence changed depending on her position within the family and the status associated with it: that is, if she was initiated, a daughter, a first or second wife, divorced, or widowed. This patriarchal structure also divided the ownership of possessions and the ability to dispose of 'assets', in particular labour, cattle and land, with respect to gender and familial position.[6]

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[4] Orchardson I. Q., *The Kipsigis*. Kenya Literature Bureau. Nairobi. Reprinted 1978. pp. 92 and 102. See also Ocholla-Ayayo A. B. C., *Traditional Ideology and Ethics Among the Southern Luo.* Africana Publishing. Uppsala*. 1976.*

[5] Eisenstadt S. N., 'African Age Groups'. *Africa*. Vol. XXIV, No. 1. 1954. pp. 110–113.

[6] Kershaw Greet, 'The Changing Roles of Women and Men in the Kikuyu Family by Socio-economic Strata'. *Rural Africana.* Vol. 29. 1975. pp. 173–194. See also Middleton J. & Kershaw G., *The Kikuyu and Kamba of Kenya*. International African Institute. London. 1972.

In the four ethnic groups that are examined here, these independent farming systems and the distribution of assets — particularly changes in land ownership and pastoralism — were intensified by the colonial state. This resulted in the once generally autonomous and self sufficient women's production systems being alienated and placed at the margins of Kenyan society. The movement of men into the waged economy and cash cropping led to a stark differentiation between those who could distribute assets and those who had usufruct or access rights to those same assets. The impact of the colonial state not only deepened the divisions of power and wealth among kin and the sexes but, importantly, reorganised notions of moral authority and identity.

This chapter examines the farming practices and social structures of Luo, Kipsigis, Nandi and Kikuyu societies at the time of pre-colonial occupation. I have chosen these four groups because they were and remain the major agriculturalists in Kenya. Collectively they bore the major impact of the colonial occupation, in that they lost vital sections of their land to European control. In turn they provided the majority of the labour requirements of a settler community and colonial administration. Further, the Kikuyu in particular formed the core of the resistance to the colonial occupation, engaging in a political process that was to bring about independence. Importantly, the four groups examined illustrate the diversity of social structures such as marriage arrangements, rituals, public expressions of identity and accepted forms of behaviour, and economic production that existed within what became Kenya. Further, the women of these groups were responsible for the production of the family food supply, a role they continue to carry out today. In aiming to highlight the interconnectedness between social relations and farming practices, this chapter describes ownership and access rights to assets, such as land, cattle and crops, paying particular attention to the gender division of labour within each group. Within this context the chapter outlines primacy of age -grades, marriage rites, social organization and the links between familial position, cultural

knowledge and power that existed between women and between men and women. From these discussions I intend to show how identity and moral authority was manifest before the advent of British occupation, setting the scene for the moral disruption that was to occur.

The Kipsigis

The Kipsigis are an agricultural and semi-pastoral people inhabiting the land in the fertile highlands west of the Mau forest leading down towards Lake Victoria. The Kipsigis' dealings with the British began in 1899 when the British tried to force them to work on the Sotik-Uganda road. In 1902–3 the British had established a headquarters in the midst of Kipsigis land, at Kericho. The telegraph and railway lines, erected through both Kipsigis and Nandi territory, provided a supply of iron bolts for weapons and wire for jewellery.[7] The Kipsigis appropriation of these materials led to punitive expeditions in 1900 and 1903 by the British, resulting in cattle losses and fines.[8] By 1905 a peace was made between the two groups. During the next thirty years tea plantations were established and large areas of Kipsigis land was appropriated by European settlement.[9] The area is characterised by high and well distributed rainfall and rich soils which today produces maize for local consumption

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[7] *KNA 1239*. Special Report. pp. 3–5.

[8] Eliot C., *The East African Protectorate.* Edward Arnold. London. 1905. p. 147. Peristiany J. G., *The Social Institutions of the Kipsigis.* Routledge and Kegan Paul. London. 1964.p. 4. Orchardson I. Q., The Kipsigis. Op. cit. See also Orchardson I. Q., 'Some Traits of the Kipsigis in Relation to their Contact with Europeans.' *Africa.* Vol. 4, No. 4. Oct. 1931. pp. 466–474. Huntingford G. W. B., *The Southern Nilo-Hamites.* International African Institute. London. 1969. For a critique of the early anthropological literature, and in particular Peristiany's accounts of political structure, see Evans-Pritchard E. E., 'The Political Structure of the Nandi-speaking Peoples of Kenya.' *Africa.* Vol. 30, No. 3. July. 1940. pp. 250–267. Peristiany undertook fieldwork on the Kipsigis in the late 1930s. Orchardson is considered the more reliable source however, as he lived with the Kipsigis from 1910 till 1929, married two Kipsigis women, spoke fluent Kipsigis and wrote a grammar of the language. Manners R., The Kipsigis of Kenya: Culture Change in a "Model" East African Tribe. In: Steward Julian H. (ed.), *Contemporary Change in Traditional Societies.* Vol I. Introduction and African Tribes. University of Illinois Press Urbana. pp. 227–8.

[9] Tea was introduced in 1925. Fearn H., *An African Economy*: A Study of the Economic Development of the Nyanza Province of Kenya, 1903–1953. p. 101. Huntingford G. W. B., Op. cit. p. 40. See also Manners R., Op. cit. pp. 223–4. For accounts of African resistance to British control see Mwanzi H. A., 'African Initiatives and Resistance in East Africa, 1880–1914.' pp. 149–168. In: Boahen A. Adu (ed.), *General History of Africa. VII: Africa Under Colonial Domination 1889–1835*. University of California Press. Berkley. 1985. See also Ranger T. O., *African Resistance in East and Central Africa.* In: Boahen A. Adu (ed.), *General History of Africa. VII: Africa under Colonial Domination 1880–1935.* pp. 45–62.

and sale, dairy farming and tea grown for export.[10] The Kipsigis now make up 85 percent of the population of the Kericho District in the Nyanza Province.[11]

In pre-colonial Kipsigis society, the *Kokwet* or neighbourhood was the basic economic unit from which all other forms of social organization originated: that is, the allocation of land, labour organisation for cultivation, herding, the administration of law by the male elders and organization of the *Puriet* (army).[12] Although land within the *Kokwet* was communally owned, both men and women had their own plots of land.[13] A woman worked two types of fields, her own *Kabungut* and the household field, the *Imbaret a' mossop.*[14] The *Kabungut* was worked by a woman and her daughter(s). It was essentially a vegetable plot. The *Imbaret a' mossop* was worked mainly by women and female relatives with reciprocal labour obligations. The produce, usually *peek/wimbi,* a type of finger millet, from the *Imbaret a' mossop* was under women's control and was predominantly used to feed the household and to meet ceremonial responsibilities.[15] Women traded surpluses of grain from these plots with which they purchased goats to form part of their own household herd. Women relied on their daughters, co-wives and other women of the *Kokwet* to help them in times of harvest, with ceremonial responsibilities, at childbirth and in times of crisis. Although some of the agricultural work was carried out by both men and women, women were considered an authority on the cultivation and storage of grains. Land was allocated to women via their husbands but the grain produced from this land belonged to women and as such men could

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[10] Sørensen A., 'Women's Organisations Among the Kipsigis: Change, Variety and Different Participation.' *Africa*. Vol. 62, No. 4. 1992. p. 550. Although the region has two rainy seasons, one short and one long, rainfall ranging from 40 to 75 inches per year, temperature variations limit cropping to one crop per year.

[11] von Bülow Dorth, Op. cit. p. 524.

[12] Orchardson I. Q., The Kipsigis. Op. cit. pp. 16–17. Huntingford G. W. B., Op. cit. p. 49. Peristiany J. G., Op. cit. pp. 126–213. Moore Henrietta L., *Space, Text and Gender: An Anthropological Study of the Marakwet of Kenya. 1986.* Cambridge University Press. Cambridge. pp. 16–20.

[13] Peristiany J. G., Op. cit. pp. 129–131. A plot of land was about an acre in size.

[14] Ibid. p. 130.

[15] Ibid. p. 130. Peek was resistant to weevils and borers. It would also keep for a number of years and was therefore very useful in times of shortage. Maize on the other hand would only keep for up to six months. Orchardson I. Q., The Kipsigis. Op. cit. p. 92.

only access it via their wives. If a man was to reward the members of the *Kokwet* with beer or be known as an hospitable person within the *Kokwet*, he relied on his wife to cook and make beer as both these activities were women's responsibility.[16] A man's plot *Imbaret ab soi,* was cultivated solely by him, and he chose what to do with its produce.[17] Often this produce was used to meet his ceremonial responsibilities.

Sheep and goats came under the care of women and young children, who remained around the homestead, whilst cattle were herded by boys and the men of the warrior group, often miles from the homestead.[18] Women milked cattle and had access to their skins. Various prohibitions on a woman's interactions with livestock occurred at various times of her life, such as pregnancy and childbirth. If a woman had twins for example, she was not allowed to walk in the cattle or goat enclosures or the vegetable gardens until certain cleansing rituals were observed. The cleansing rituals were concerned with connecting new life and mothers to their communities.[19] Pregnancy and birth placed women in the realms of the spirit world, as it was through birth that a grand parent's spirits returned to the community. Cleansing rituals facilitated this. Women could not kill animals, and did not eat chickens or their eggs.[20] These prohibitions may have reflected the need to protect women's fertility yet at the same time, control its feared destructive power. Women had very little say in the distribution, through gift or sale, of cattle for their own purposes.[21] Women could not use cattle for example, as payment to others for officiating at ceremonies but instead used

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[16] Orchardson I. Q., The Kipsigis. Op. cit. pp. 92 and 102. Peristiany J. G., Op. cit. p. 140. For a summary by ethnic grouping of what work women and men did in the fields see Baumann Hermann, 'The Division of Work According to Sex in African Hoe Culture.' *Africa.* Vol. 1, No. 3. July 1928. pp. 289–319. Beer is an important part of life as it is bound up with ceremonies and is used as payment for a communal days work.

[17] Peristiany J. G., Op. cit. p. 130. Orchardson is not clear on the existence of men only plots of land, only stating that they owned the land. Orchardson I. Q., The Kipsigis. Op. cit. p. 92.

[18] Manners R., Op. cit. pp. 227–8.

[19] Orchardson I. Q., The Kipsigis. Op. cit. pp. 29.

[20] Ibid. pp. 96–98.

[21] Peristiany J. G., Op. cit. p. 151. See also Manners R., Op. cit. pp. 226–233.

sheep or goats or millet. Orchardson acknowledges the distinctions between how property is owned, used and how it is distributed. He claims that 'women do not inherit property, since all inheritance must remain in the male line so that ownership is retained by the family'.[22] However, he states 'that a woman is regarded as joint owner with her husband of all the family property. Neither can dispose of any property without consulting each other'.[23] Furthermore as Orchardson noted, women owned special property of their own:

> 'women who acquired property from the manufacture of ornaments, baskets or pots (which he claims were women only industries) or by officiating at ceremonies, for which they received a goat or sheep, could use this property or income however they saw fit'.[24]

These distinctions between use rights, ownership rights, distribution rights and inheritance processes, reflected the interdependence of Kipsigis women and men's production systems and their inter-connectedness to conjugal relationships and to lineage.

Cattle, sheep and goats were not only an important source of meat, milk and hide but also a sign of wealth/status.[25] Orchardson divides livestock into three categories, which are dependent on the source from which the livestock is derived:

> that belonging to the whole family because it was inherited by the father, that which was acquired by the father's own prowess and industry [ie., raiding], and that which belongs to the house, that is the children of one mother. In this last category are stock inherited from the father when the children were minors, and presentation cattle received on the marriage of the daughters of the house.[26]

As with most ethnic groups in Kenya livestock were *a* way of consolidating relationships between clans via marriage.[27] A man could obtain cattle through raiding, inheritance on his

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[22] Orchardson I. Q., The Kipsigis. Op. cit. pp. 96–98.

[23] Ibid. pp. 96–98.

[24] Ibid. pp. 111–112.

[25] Cattle were not slaughtered for meat, their blood however, was used as a spice in cooking. Orchardson I. Q., Some Traits of the Kipsigis in Relation to their Contact with Europeans. Op. cit. p. 468.

[26] Orchardson I. Q., The Kipsigis. Op. cit. p. 109.

[27] Manners R., Op. cit. p. 233. Bridewealth was not just restricted to cattle, Manners states that it was also paid in grain, honey, goats and sheep. This seems to have occurred in times of drought and in cases of poverty but was not limited to these circumstances. Marriage occurred around 20–24 years of age for women and later for men. No person married unless they were initiated.

father's death, or by using his sister's bridewealth cattle. If he was married and had daughters, he could not use their bridewealth cattle to obtain another wife for himself.[28] His daughter's bridewealth cattle belonged to the household. Men could only dispose of cattle after family obligations were met.[29] According to Orchardson these obligations meant that not only must he consult his wife or wives concerning the disposal of cattle, but he could not 'kill, sell or give them away. Cattle are entailed to his heirs'.[30] In short cattle gave sons the right to marry. This explains Kipsigis inheritance practices. According to Huntingford, when the husband died, cattle were divided equally among his wives irrespective of the number of children they had. However, they could then be re-distributed by the eldest son of the first wife according to the needs of the wives' sons but only after the interests of his mother's household were looked after.[31] Daughters of the deceased man were excluded from any inheritance of cattle.[32]

Women passed through three or four age-sets, moving from girlhood, to motherhood and on to elder womanhood. When married, a woman became part of her husband's age set.[33] Age-sets provided a means of knowing in which year a group, both male and female, was circumcised. Men passed through seven age-grades, encompassing boyhood, warrior-hood and elder-hood. Each stage was marked by a ceremony of which initiation was the most important.[34] The age-set system conferred on a person their social status and membership of the community. It admitted a person into an educational process through which both

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[28] Orchardson I. Q., The Kipsigis. Op. cit. p. 110. von Bülow Dorthe, Op. cit. p. 527.

[29] Peristiany J. G., Op. cit. pp. 149–154.

[30] Orchardson I. Q., Some Traits of the Kipsigis in Relation to their Contact with Europeans. Op. cit. p. 468.

[31] Huntingford G. W. B., Op. cit. 43. Orchardson argues that the main aim of inheritance was to provide for the wife and her children and sons had to respect that need. He also makes a distinction between family property and house property. Orchardson I. Q., The Kipsigis. Op. cit. p. 110. Peristiany states that each wife is given a heifer known as *chemnjesiret* on the death of her husband and it is hers exclusively.

[32] Peristiany J. G., Op. cit. pp. 210–211.

[33] Ibid. p. 42. Age sets provide a chronology of generations. Orchardson gives a list of age-sets which date from 1775 to 1929. Each age-set averages twenty-one years — a generation. Orchardson I. Q. The Kipsigis. Op. cit. p. 125.

[34] Orchardson I. Q., The Kipsigis. Op. cit. p. 58. Initiation ceremonies and instruction took any where between four to eight months.

technical knowledge and the symbolic lore of the group were taught. The age-set system was regulated by initiation, marriage, warrior-hood and delineated by seniority.[35] Overall the age set system helped forge bonds between members so that in times of hardship, warfare, or ceremony the members of the same age-set would support each other.[36] Only men who had passed through warriorhood could marry.[37] Women's initiation occurred at the age of twenty or twenty five, after which women were immediately married.[38] For men the interval between initiation and marriage depended upon their ability to arrange the necessary bridewealth.[39] This sometimes resulted in large age differences between the married couple. Sexual relations between girls and warriors before initiation were encouraged. If a pregnancy resulted the child was killed at birth and the lovers had to undertake numerous cleansing ceremonies and pay fines to the parents and elders, after which they were readmitted into normal family life.[40] Marriage was considered binding for life. Divorce was rare because bridewealth had to be returned.[41] Widows could not remarry and lived either with married sons or were taken in levirate marriage by their husband's brothers.[42]

Within Kipsisgis society then we see that being married was pivotal to farming. Moreover, marriage and children enhanced communal fertility and this enhancement was further expressed in rituals associated with production and the gender divisions of labour.

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[35] Eisenstadt S. N., 'African Age Groups.' *Africa*. Vol. XXIV, No. 1. 1954. pp. 107–110.

[36] Manners R., Op. cit. p. 259.

[37] Orchardson I. Q., The Kipsigis. Op. cit. p. 69.

[38] Peristiany J. G., Op. cit. p. 5. The campaigns of the missionaries to ban clitoridectomy and the pre-initiation free sexual relations resulted in the marriage age dropping for women to around 14 years.

[39] Orchardson I. Q., The Kipsigis. Op. cit. p. 69.

[40] Ibid. p. 31. Peristiany J. G., Op. cit. pp. 52–55. Her lover had to slaughter a goat or a ram as punishment. She had to be anointed with the fat from the slaughtered animal. Missionary efforts to reduce incidences of infanticide by pressuring pre-initiated pregnant women into taking the new born child to the mission resulted in these women being considered as unclean and therefore not eligible to marry.

[41] Peristiany J. G., Op. cit. p. 92.

[42] Ibid. p. 83. KNA 1239. pp. 47–49. For further discussion on widow and widow inheritance see Potash B. (ed.), *Widows in African Societies*: *Choices and Constraints.* Stanford University Press. Stanford. 1986. In levirate marriage, also known as widow inheritance, the responsibility for the widow, her children and the possessions of their household are shared by the deceased husband's immediate relatives. In particular the widow is re-married to a brother or near relation of her husband.

The Luo

The Luo are the second largest ethnic grouping in Kenya inhabiting the area around Lake Nyanza in western Kenya. The area ranges from swamp land around Yalla to semi arid land that is prone to drought. The Luo practised a mixed farming system involving grain production, fishing and the grazing of cattle, goats and sheep.[43] The Luo traded in salt, spears and pottery in return for grain with their near neighbours the Gusii in the south and the Luhya in the north.[44] In 1899 the British lead a punitive expedition against the Luo in Kowe and along the shore of the Kavirondo Gulf. This expedition resulted in the death of 100 Luo men and the capture of nearly 600 cattle and 8000 sheep and goats.[45] By 1900 a system of chiefs was imposed,[46] taxes were levied and Luo men were first brought into contact with the labour market, working on the building of the railway to Kisumu.[47] Cotton was first introduced in Nyanza around 1907, sugar cane being introduced later.[48] Now the Luo are linked into the global economy via the production of cut flowers around Lake Victoria.[49]

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[43] Berg-Schlosser Dirk, *Tradition and Change in Kenya.* Ferdinand Schöningh. Paderborn. 1984. p. 116. The area currently consists of three districts, Siaya in the north, Kisumu in the east and South Nyanza in the south. Pre-1967 Siaya and Kisumu Districts together formed the District of Central Nyanza. This in turn was known as Central Kavirondo under the British. For a general history of Nyanza and its peoples see: Ochieng` William R., *An Outline History of Nyanza up to 1914.* East Africa Literature Bureau. Nairobi. 1974.

[44] Ochieng` William R., Op. cit. p. 67. Also see LeVine Robert, Wealth and Power in Gusiiland. In: Bohannan Paul & Dalton George (eds.), *Markets in Africa.* North Western University Press. 1965. p. 525.

[45] Hay M. J., Luo Women and Economic Change During the Colonial Period. In: Hafkin Nancy J. & Bay Edna G., *Women in Africa. Studies in Social and Economic Change.* Stanford University Press. California 1976. p. 89.

[46] Mss Afr. s. 1380/4. p. 6. They were also paid a wage by the colonial administration. See also Tignor R. L., 'Colonial Chiefs in Chiefless Societies.' *Journal of Modern African Studies.* Vol.9, No. 3. 1971. pp. 339–359.

[47] Fearn H., Op. cit. p. 51. The British administration utilised the existent male hierarchy of elders to help establish their authority within communities. Overtime, these men were paid and some become the object of ridicule and were mistrusted by the very communities they were meant to be administering over.

[48] Ibid. p. 68.

[49] See Anon. *Lake Naivasha, Withering Under the Assault of International Flower Venders.* Food and Water Watch with the. Council of Canadians. 2008. www.canadians.org/water/documents/NaivashaReport08.pdf

As individuals, neither women nor men owned land, rather land belonged to the lineage *libamba*.[50] Certain types of land held more value for the Luo than others. For example, land that was fought for or had the graves of relatives or ancestors on it was considered the most valuable, was non transferable and could not be 'sold' outside of the group.[51] Luo men however, were the arbiters of land distribution and acquisition.[52] Men acquired access to land through the clearing of new land, by gift, loan, inheritance and swap or by the gradual encroachment on to a neighbour's fields.[53] Luo women could not inherit land from their husbands, or sell the land to which they had right of access when they married. A woman's access rights were dependent upon her position within the family. As a daughter, she worked the land under her mother's care. As a first wife she was allocated land by her husband and was subject to responsibilities owed to her mother in law. Although allocated land by her husband if she was a second wife, she was bound by reciprocal labour obligations owed to the first wife.[54] Women could also swap fields between homesteads, no doubt as a method of extending the variety of crops cultivated.[55] Men on the other hand, had their own fields known as *Mondo* which were worked by his wives. The produce generated from the *Mondo* fields was for men's use.[56] A man could sell the grain from it if he wished or use it to make up any shortfall from his wives' harvests. If the husband died, then his brother was responsible for land distribution and cattle allocation until the marriage of the eldest son.[57] The produce from the Mondo was given to his junior wife and hence to her sons.[58]

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[50] Lineage had a number of definitions in Luo culture. For example, the *Libamba* was the maximal lineage group, the *Dhoot*, was an invariably exogamous lineage group. Mss. Afr. s. 1672/4 *Luo Customary Law.* Wilson G., see his glossary of terms.

[51] Ocholla-Ayayo Andrew B. C., Traditional Ideology and Ethics Among the Southern Luo. Op. cit. p. 37. KNA PRB 22/EN/10. Wilson G., Luo Laws and Custom Regarding Land. 1953. p. 18.

[52] Mss. Afr. s. 1672/4 Luo Customary Law. Wilson G., Op. cit. pp. 21–23.

[53] Shipton P., 'Debts and Trespasses: Land, Mortgages and the Ancestors in Western Kenya.' *Africa*. 62. 3. 1992. p. 362.

[54] Hay M. J., Luo Women and Economic Change During the Colonial Period. Op. cit. p. 95.

[55] Shipton P. Op. cit. p. 362.

[56] Francis E., 'Migration and Changing Divisions of Labour: Gender Relations and Economic Change in Koguta, Western Kenya.' *Africa* Vol. 65, No. 2. 1995. p. 200.

[57] Ocholla-Ayayo Andrew B. C., Traditional Ideology and Ethics Among the Southern Luo. Op. cit. p. 35.

[58] Mss. Afr. s. 1672/4 Luo Customary Law. Wilson G., Op. cit. p. 32.

> The primary means of allocating land rights was through transmission from father to son. A man would apportion plots of his own land to his sons as they married and established households of their own, and the remaining land would be distributed among the sons at his death.[59]

A woman's economic security then, rested with her sons and not with her husband, as her sons determined what she inherited.[60] The Luo lived in family compounds, with strict dwelling arrangements that delineated seniority amongst wives and their children. On marriage, the house of the senior son, for example, is built to the right of his father's house so that he may guard the approaches to the paternal homestead.[61]

Women had Councils that according to Ominde, existed among certain related families and were used to settle disputes and misconduct among women.[62] More often girls and young unmarried women learnt about the types of behaviour demanded of them, the relations that occur between husband and wife, the mythical and 'customary' lore of the community, when they stayed in the communal house or *siwindhe* and were under the instruction of a female elder known as a *pim*.[63] The elder boys moved into their own communal house or *simba hut* with the unmarried men around puberty and also received instruction from numerous male elders.[64]

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[59] Hay M. J., *Economic Change in Luoland Kowe 1980–1945.* Unpublished PhD Dissertation. Microfilm. University of Wisconsin. 1972. p. 100.

[60] Hay M. J., Luo Women and Economic Change During the Colonial period. Op. cit. p. 95. Potash B., *Widows in African Societies*. Stanford University Press. Stanford. 1996. See pp. 43–46 in particular.

[61] Mss. Afr. s. 1672/4 Luo Customary Law. Wilson G. Op. cit. pp. 21–24.

[62] Ominde S. H., *The Luo Girl. From Infancy to Marriage.* Macmillan. London 1952. p. 53. Ominde argues that this communal organisation was weakened by Christianity and by the concepts of the family portrayed by 'modern conditions'.

[63]. Whisson M., *Change and Challenge.* Christian Council of Kenya. Nairobi. 1964. p. 56. The *siwindhe* is a communal house which accommodates both female and male children. A *pim* is a woman who is past menopause. Customary law was specific to each individual ethnic group. There is also debate on what constitutes customary law: was it something that was invented by community elders in trying to negotiate political advantage with the British administrators? Was its application fluid, in that what occurred at one place did not at another? Were there in fact many customary laws governing similar situations? See: Hobsbawn E. & Ranger T. (eds.), The Invention of Tradition. Cambridge University Press. Cambridge. 1983.

[64] Cohen D. M. & Odhiambo Atieno E. S., *Siaya.* James Currey. London. 1989. p. 92.

Agriculture was carried out on plots of land that were separated from each other. This was not only a precaution against losing all the family's crops due to pest invasion or storm or other localised natural disaster but allowed women to make use of numerous soil varieties enabling them to plant many different food crops. Cultivation was undertaken with a wooden digging stick.[65] Land used for grazing was communal. Communal crops consisted of firewood, trees for building houses, salt licks, thatching grasses.[66] Grazing lands were also communal. Luo women appear to have owned goats and sheep but not cattle. Goats and sheep have a higher turnover rate than cattle, and can be used for milk, hides and meat. Women were forbidden to milk cows because it was believed that if they did their husbands could become impotent.[67] Cattle were men's responsibility although women received them as gifts in marriage ceremonies. As a food cattle were used mainly for blood and milk, and rarely for meat.[68] Rather cattle in Luo society were viewed as part of the community: a cultural and social asset. Cattle were taken along when a man went to war, they were exchanged or occasionally slaughtered in every social event of importance, initiation, marriage, legal disputes, and to sue for peace in times of war.[69]

> Cattle were compensation for loss of life or limb ... Female cattle were more valued since they will produce more cattle. Oxen were the means of communicating with the ancestors.[70]

Cattle were gained via raiding, breeding and warfare, but most commonly through bridewealth transactions. Hence:

> The marriage ceremonies involved a complex system of individual transfers of cattle and goats between the two families carried out over a number of years. Technically the father of the bride would retain only a few of the cattle for his

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[65] Asian traders first introduced iron hoes to the Luo in the early 1900s. Hay M. J., Economic Change in Luoland: Kowe. Op. cit. p. 95.

[66] Mss. Afr. s. 1672/4 Luo Customary Law. Wilson G., Op. cit. p. 17.

[67] Pala Achola O., *African Women in Rural Development: Research Trends and Priorities.* Overseas Liaison Committee. American Council of Education. OLC Paper No. 12. December 1976. p. 19.

[68] This is no doubt due to the inability to store fresh meat. Kitching G., *Class and Economic Change in Kenya:* The Making of an African Petite Bourgeoisie 1905–1970. 1980. p. 213. Kitching notes that the slaughter of livestock for exchange was itself unknown in the pre-colonial period.

[69] Ocholla-Ayayo Andrew B. C., Op. cit. pp. 34–36.

[70] Ibid. p. 35.

> own use. Some would be allocated to his different wives to be held for eventual use as their son's bridewealth. The rest would be distributed amongst the father's brothers and other kin with one special cow going to the bride's mother.[71]

Women in Luo society were the farmers and were responsible for the bulk of agricultural work, growing sorghum, millet, barley, sesame, sweet potatoes, pumpkins, beans and many other food stuffs.[72] They planted, weeded, harvested, stored and distributed these crops. At fourteen a girl was given her own garden. Her crops were stored in her own granary, which was opened when she was married.[73] Young men were concerned with the art of warfare, hunting, and to a lesser degree fishing. Men, on marriage, would become involved with land clearance and granary construction, the maintenance of customary rights, land acquisition and cattle raiding.[74] This gender division of labour is also reflected in food taboos placed on men and women, with the meat of game, sheep, goats and cattle being eaten only by men.[75] Similar to the Kipsigis, food prohibitions appear to be related to beliefs concerning the maintenance of fertility.

Luo women also traded surpluses produced from their plots. From these sales they purchased, amongst other items, goats which they used as bridewealth for their sons.[76] Women's trade in grains and vegetables tended to be seasonal, whereas men's trade in cattle and iron products was wide ranging in both distance and time.[77] The transformation of trade practices that took place from the 1920s to the mid 1930s radically changed the gender division of labour that occurred within trade itself.[78] Thus any surplus of maize that women

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[71] Hay M. J., Economic Change in Luoland: Kowe. Op. cit. p. 104.

[72] Maize was introduced in the 1890s. Ibid. p. 97.

[73] Pala Achola O., Op. cit. p. 13.

[74] Fearn H., Op. cit. pp. 37–39.

[75] Fishing was only carried out by clans with fishing rights. Hay M. J., Luo Women and Economic Change During the Colonial period. Op. cit. p. 91.

[76] Ibid. p. 95.

[77] Fearn H., Op. cit. pp. 31–33.

[78] Ominde S. H., Op. cit. States that the type of goods traded by Luo women changed with the introduction of durable modern household goods. p. 55.

grew, had to be sold to Asian buyers who in turn sold it elsewhere.[79] The ban on Africans trading or owning shops, and the establishment of set market places by the British, often at considerable distance from Luo farms, also reduced Luo involvement in trade. In Kowe the advent of gold mining in 1934 however, gave women the opportunity to trade relatively close at hand in the mining areas. It was here that Luo women began to trade in meals, beer and sexual services.[80] This trade was to become a major, reliable source of independent income for these women.

The Kikuyu

The Kikuyu are the dominant ethnic group in Kenya making up 70 percent of the total population.[81] They occupy the fertile central highlands of Kenya in close proximity to Nairobi. Before the arrival of the British, the Kikuyu practiced both settled agriculture and, in the arid regions, pastoralism. The Kikuyu traded cattle, ivory and food stuffs principally with the Athi to the north, the Maasai to the south-west and the Kamba to the east.[82] This trade was undertaken by both men and women.[83] First contact with Europeans occurred in 1848 when the missionary Krapf crossed the Tana River.[84] Numerous Swahili traders then crossed Kikuyu land paving the way for the Imperial British East Africa Company (IBEA Co), and

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[79] Maize produced by Africans had to be sold to Asian store owners, this was a requirement set up by the British as a method of controlling the export of maize out of Kenya. Only maize grown by the settler population was exported.

[80] Hay M. J., Luo Women and Economic Change During the Colonial period. Op. cit. p. 101.

[81] House-Midamba Bessie, Kikuyu Market Women Traders and the Struggle for Economic Empowerment in Kenya. In: House-Midamba Bessie & Ekechi Felix K. (eds.), *African Market Women and Economic Power: The Role of Women in African Economic Development*. Greenwood Press. Westport. 1995. p. 84.

[82] Ciancanelli P., 'Exchange, Reproduction and Sex Subordination Among the Kikuyu of East Africa.' *Review of Radical Political Economics*. Vol. 12, No. 2. Summer 1980. p. 26. The Kamba co-operation with the British can in part be explained by their role as middle operators in the ivory trade between the Kikuyu, the Maasai and Swahili. As the British gained control over the interior of Kenya the Kamba lost control of their trade routes and this trade. Stichter S., *Migrant Labour in Kenya: Capitalism and African Response, 1895–1975*. Longman. Essex. 1982. p. 5. See also Eliot C., Op. cit. pp. 243–247.

[83] Muriuki Godfrey, *A History of the Kikuyu 1500–1900*. Oxford University Press. London. 1974. pp. 108. See also Lamphear John, The Kamba and the Northern Mrima Coast. In: Gray Richard & Birmingham David (eds.), *Pre-Colonial African Trade. Essays on Trade in Central and Eastern Africa Before 1900*. Oxford University Press. London. 1970. pp. 75–101.

[84] Middleton J. & Kershaw G., Op. cit. pp. 15–16.

the British themselves. This contact was not a peaceful one, setting the tone for the subsequent British occupation of Kikuyu land from 1895 onward.[85] The settler community used Kikuyu land to grow coffee as early as 1902 and by 1914 it had become the major export crop of Kenya.[86] Coffee remains a major export crop of this area but has been overtaken by horticulture.[87]

Land in Kikuyu society was owned by the *m'bara (clan)*.[88] Its sale, subdivision and right of use, was decided by the *m'bara*. As Ciancanelli states:

> ... all land belonged to the *m'bara* (clan) as a whole, any member of the *m'bara* had the right to use part of the clan lands so long as no prior claim existed and provided that the heads of the *m'bara* were informed: land could be conveyed to outsiders provided such a sale were approved by the *m'bara* as a whole and all such sales were redeemable. No purchaser of land could sell it to a third person without the consent of the *m'bara.*[89]

It appears that land ownership and its distribution differed between the north and south regions of the area occupied by the Kikuyu.[90] The Kikuyu had a system of tenancy upon which landless groups or men (*ahoi, muhoi singular*) (tenants at will) could cultivate land that

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[85] Muriuki Godfrey, Kikuyu Reaction to Traders and British Administration 1850–1904. In: *Hadith 1*. Proceedings of the 1967 Conference of the Historical Association of Kenya. 1968. Passim. Muriuki argues that British conquest was completed by 1904 and all that remained was the building of forts, establishment of an administration and a settler population in tracts of very fertile Kikuyu land. For a longer history of the Kikuyu, see Muriuki Godfrey, A History of the Kikuyu 1500–1900. Op. cit. pp. 168–179, and Munro J. F., *Colonial Rule and the Kamba:* Social Change in the Kenya Highlands 1889–1939. Clarendon Press. Oxford. 1975. pp. 7–31.

[86] Presley Cora Ann, Labor Unrest Among Kikuyu Women in Colonial Kenya. In: Robertson Claire C. & Berger I. (eds.), *Women and Class in Africa.* Africana Publishing Company. New York. 1986. p. 256.

[87] *Africa Research Bulletin.* Vol. 44. Issue. 6. Aug. 2007. p. 17454A.

[88] M'bara is sometimes translated as lineage, or clan or sub clan. Mair Lucy, 'Native Land Tenure in East Africa.' *Africa.* Vol. IV, No. 3. 1931. pp. 326–329. For further discussions of land distribution amongst the pre-colonial Kikuyu, see Muriuki Godfrey, A History of the Kikuyu 1500–1900. Op. cit. pp. 74–82. See also Kershaw Greet, 'The Changing Roles of Women and Men in the Kikuyu Family by Socio-economic Strata.' *Rural Africana.* Vol. 29. 1975. She claims that the powerful and wealthy clans used more land than others. Kenyatta claims that land did not belong to the community as a whole, but to some individual founders of various families who had the full rights of ownership and the control of the land. Kenyatta Jomo, *Facing Mount Kenya: The Tribal Life of the Gikuyu.* Secker and Warburg. London 1959. pp. 26–32.

[89] Ciancanelli P., Op. cit. p. 26.

[90] For discussions of land distribution amongst the pre-colonial Kikuyu, see Muriuki Godfrey, A History of the Kikuyu 1500–1900. Op. cit. pp. 74–82.

belonged to the *M'bara*.[91] This tenancy took two forms: a contractual form and a status tie form. The contractual tenancy included:

> a tenant who was given the use of land against a loan of stock: a tenant who was given temporary cultivation rights on the basis of friendship and without payment other than an annual 'tribute' of beer and first fruits: and a tenant who was similar to a *muhoi* except that he had the additional right to erect buildings. These various rights of cultivation conveyed no rights of ownership as distinct from the use of land. The tenants could be turned off the land on the redemption of the stock, ... the reaping of the crop ... and the removal of the hut.[92]

The status tie form of tenancy involved familial relationships and is reflected in the different names used to describe the types of relationships. The following provide examples of the complexity of these relationships. A *Muthoni* was a landless son-in-law given the use of the land by his father-in-law; or a *Mwendia ruhui* was the father of a widow's children and was given permission to occupy land belonging to *her M'bari*; *Muguri* is a man given the use of land against a loan of stock. A *Muciarwa* was an outsider, adopted by a landowner, given land and a wife. Land granted via status ties was by occupancy only, no inheritance rights were given, except to the children resulting from marriage to women from the *M'bara*.[93] These two types of tenancy agreements, contractual or status tie, enabled a distinction to be made between landless strangers migrating into already settled areas and landless family members in need of settlement. Both types of tenancies enabled the *M'bara* to make use of a tenant's labour and loyalty in times of need, such as harvest time, or for defence or raiding purposes.

The authority of the *M'bara* rested with the *Muramati*, defined as the eldest son of the eldest branch or founder of the *Mbara*.[94] The *Muramati* was responsible for the settling of

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[91] Berg-Schlosser Dirk, Op. cit. p. 14. For a discussion on the types of tenancy practiced see Middleton J. & Kershaw G., Op. cit. pp. 50–51. Also see: Tignor R. L. *The Colonial Transformation of Kenya.* Princeton University Press. New Jersey. 1976. p. 29.

[92] Sorrenson M. P. K., *Land Reform in the Kikuyu Country*. Oxford University Press. Nairobi. p. 11.

[93] Ibid. p. 11.

[94] Mair Lucy, Op. cit. p. 326. There were ten founding clans. See also Pedraza G. J. W., 'Land Consolidation in Kikuyu areas of Kenya.' *Journal of African Administration.* Vol. 8, No. 2. April 1956. p. 82. Pedraza was from 1928–1933 the District

disputes, re-allocation of land and had final veto on the admission of tenants and alienation of land to strangers.[95] The existence and power of the *Muramati* differed between different Kikuyu groupings. In Embu and Meru there were no *Muramati* and the elders controlled any subdivision or disputes. In areas where the clan lands were scattered, the arbitrators of disputes were those elders of the clan who habitually came together for sacrificial or ceremonial purposes.[96]

Among the Kikuyu, women generally had use rights to land once they married. These rights were granted by her husband's family and they were considered paramount.[97] The Kikuyu lived in dispersed households. A household consisted of the houses of wives and their children, her granaries and her husband's hut.[98] Her plots of land known as *mogonda wakwa* (my garden) were scattered throughout the *githaka* or family land.[99] The amount of land that she had was dependent on her ability to cultivate it but it ranged in size from two to four acres.[100] From this land she cultivated the family food, which included supplying food not just for her immediate offspring but for the fulfilment of her social obligations and some of those of her husband.[101] Women kept any income from sales of any surplus produced, often using it to buy goats which acted as part of her son's inheritance, as sons only inherit property associated with their mother and her house.[102] The land that she cultivates is not hers, as her first born son has the right of redistribution when her husband dies. If she has no sons then

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Commissioner for a number of Provinces: West Suk 1928, Kilifi 1930, Mombasa 1932, Embu 1933 and Mombasa, 1933.

[95] Sorrenson M. P. K., Op. cit. p. 10.

[96] Mair Lucy, Op. cit. p. 320.

[97] Kershaw Greet, 'The Changing Roles of Women and Men in the Kikuyu Family by Socioeconomic Strata.' *Rural Africana.* Vol. 29. 1975. p. 179.

[98] Middleton J. & Kershaw G., Op. cit. p. 28. Sorrenson M. P. K., Op. cit. p. 4.

[99] KNA MC/363 DC/FH 3/1 Fisher J., Report on the Kikuyu. 1950–1951. Fisher describes the numerous land uses and crops grown in the various zones in Kikuyu country. See her Table 31. p. 226.

[100] Kershaw Greet, Op. cit. p. 179.

[101] KNA MC/363 DC/FH 3/1 Fisher J. Op. cit. p. 91.

[102] Middleton J. & Kershaw G., Op. cit. pp. 46–8.

her husband's brothers claim the land, if she is the second wife then the first wife's son inherits this land also.[103] Pedraza gives an example of an inheritance process of the Kikuyu:

> A man may have a right to cultivate twelve acres of land ... He has three wives, to each of the women he allots four acres to cultivate on his behalf ... under customary law the area cultivated by each wife is divided between her sons on the death of the father. The son of the first wife, [if] an only son, would receive the full four acres cultivated by his mother. [if the second wife had three sons] they would receive one and one third acres each.[104]

Daughters worked on their mother's land until they were married. Sons were not expected to work on their mother's land but were given herding tasks because men were responsible for the tending and sale of cattle and goats.[105]

Women and men had different tasks in relation to the land. According to Middleton and Kershaw women planted, weeded, harvested and stored food crops. Fisher states that women did not hoe, but followed their menfolk, breaking up the turned over clods with a panga.[106] They ground grain, traded in grains and vegetables and pounded sugar cane for beer.[107] Kikuyu women were known to supply the caravan traders that passed through from Mombasa to Mt Kenya with grain and beans.[108] Women's gardens were planted with the dietary staples of sorghum, millet, maize, beans, peas and some root vegetables such as sweet potatoes and cassava. Taro was considered exclusive to women in that it was considered a women's food crop.[109] Beans, in particular those called *njahe*, lablab bean, (a black bean with a white cap), were associated with women's fertility. They were consumed by women at

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[103] Ibid. pp. 46–8.

[104] Pedraza G. J. W., Op. cit. p. 83.

[105] Kenyatta Jomo, Op. cit. pp. 102–3.

[106] KNA MC/363 DC/FH 3/1 Fisher J., Op. cit. p. 195. She also notes that hoeing for women is a recent activity, no doubt brought about by the impact of male emigration.

[107] Middleton J. & Kershaw G., Op. cit. p. 21.

[108] Robertson Claire C, Comparative Advantage: Women in Trade in Accra, Ghana, and Nairobi, Kenya. In: House-Midamba Bessie & Ekechi Felix K. Op. cit. p. 100.

[109] Kershaw Greet, Op. cit. p. 180.

important events associated with fertility; circumcision, pregnancy, birth, and menopause.[110] As a consequence of this association with the power of fertility, *njahe* were considered a sacred food.[111] Fisher noted that the particular way of preparing some types of grain and fruits was also linked to whom they were going to be given. In-laws for example were not served maize, (*mboco)* or tubers (*ngwaci)*, but rather pulses of *njuju* and *njahe* were served.[112] Women were responsible for the thatching and plastering of huts, collecting of iron ore, the making of pots and ritual duties involving women's ceremonies and those associated with the status of her husband.[113] Men could also cultivate their own plots on which they would grow 'what was termed 'male crops' — sugar cane, bananas, yams and tobacco'.[114] Kershaw states that there were two crops, 'sugar cane and bananas, that only men were supposed to harvest and were stored in the husband's granary'.[115] Men involved themselves in pastoralism, looking after the herds of cattle, which sometimes involved leaving home for some period of time.[116] It appears from this that men's agricultural responsibilities were geared mainly towards their political and ritual responsibilities. As:

> Male crops were important in entertaining guests on social and ritual occasions, ... Beer made from sugar cane was used on most social and almost all ritual occasions. Sugar cane was cut to symbolise each birth. Yams and bananas were foods regarded as especially appropriate for newly circumcised males.[117]

Kikuyu women and men were bound by obligations defined by age set, *riika* and descent group. Age sets and associated political structures or grades afforded both men and women duties which governed social relationships. The social structures — *mariika* — held jurisdiction across districts and bound together the wider community.[118] Initiation *irua*,

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[110] KNA. DC/FH/31. Fisher J. M., Op. cit. p. 83.
[111] Ibid. p. 83. As such she found that these foods were known as; 'foods of respect'.
[112] Ibid. p. 83.
[113] Middleton J. & Kershaw G., Op. cit. pp. 18–21.
[114] Kershaw Greet, Op. cit. p. 180.
[115] Ibid. p. 180.
[116] Robertson Claire C., Comparative Advantage. Op. cit. p. 106.
[117] Kershaw Greet, Op. cit. p. 180.
[118] Muriuki Godfrey, A History of the Kikuyu. Op. cit. p. 133.

marked the movement, for both men and women, into the affairs and responsibilities of the community.[119] For women, the grades consisted of unmarried girls, young married women *nkatha,* and for very aged women the 'committee of elders': the *Kagiri ka ntichio* or *kiama kia aka.*[120] Girls were grouped into senior and junior girls, which corresponded to the divisions among the warriors.[121] According to Muriuki, junior girls paid a fee in order to be permitted into the ranks of the senior girls.[122] A girl was sponsored by a female elder a *motiiri,* when she went to initiation.[123] This sponsorship took the form of providing lasting friendship and mutual help. In return the girl was devoted to her sponsor.[124] Not every elder women was admitted to the *Kagiri ka ntichio* or *kiama kia aka*. The composition of these councils varied according to regions. In the Mutira area for example, women did not have their own separate council but took an active part in the men's councils.[125]

The purpose of the *kiama kia aka* was to ensure that adequate instruction was given on the proper behaviour required so as not to bring disgrace upon women, how to perform tasks specifically entrusted to this age group and sex education.[126] A similar situation existed for married women. The *Kagiri ka ntichio* was quite powerful and was comparable to the men's council. It is not known if the women's councils took an active part in keeping secret the myths associated with the powers of the spirit world as the men's councils did.[127] According to Lambert it was responsible for settling disputes concerning agriculture, the regulation of

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[119] Ibid. pp. 118–120.

[120] Mackenzie F., Land Ecology and Resistance. Op. cit. p. 46. See also: Lambert H. E., *Kikuyu Social and Political Institutions.* Oxford University Press. London. 1965. p. 97. Muriuki Godfrey, A History of the Kikuyu. Op. cit. p. 122.

[121] Mss. Afr, r. 117. Education of a Bantu Tribe. p. 32.

[122] Mss Afr. r. 117 Holding Papers. p. 32. See also Lambert H. E., Op. cit. pp. 56 and 84. ff.

[123] Mss Afr. r. 117 Holding Papers. p. 32.

[124] Ibid. p.32. Holding states that this fee consisted of providing a feast for the senior girls.

[125] Davison Jean, with the Women of Mutira, *Voices from Mutira: Lives of Rural Gikuyu Women.* Rienner. Boulder. 1989. p. 17.

[126] Mss. Afr, r. 117. Education of a Bantu Tribe. Op. cit. p. 32.

[127] See Fadiman Jeffrey A., *When We Began There Were Witchmen. An Oral History from Mount Kenya.* University of California Press. Berkeley. 1993. pp. 277–301.

women's social life — initiation, marriage, childbirth, and for collective actions against problems which seriously affected women's work.[128]

> [The *Kagiri ka ntichio*] has the power to inflict fines on women for various faults ... If a man offends a woman in any way he may have to pay a fine. Pressure is brought to bear on him through his wives, who may be forbidden to shave his head or cook for him until he mends his ways and pays a fine [to the women's council].[129]

Women used various forms of punishment and insult. Of the latter the most feared was the use of sexual insults or curses placed by the women exposing their private parts towards the person who has caused problems.[130]

A comparable age-grade system existed for men and the movement from one grade to another often required payment of goats or cattle to the members of the ruling grade.[131] For men important events marked the movement from one grade to another: initiation which led to becoming a warrior, or marriage, or the circumcision of the first child.[132] Like the women who belonged to the *nkatha,* men who belonged to the lower order grades had responsibilities associated with certain ceremonies. It was not until a man reached the higher grades that he took part in the adjudication of civil problems.[133] The issue of seniority was to become important, because when the British arrived they made use of men who were not in the eyes of the elders ready for political responsibility.[134] These young men sent out to work on the railways or on plantations, gained experience of European ways and became over time better able to deal with European culture than their elders. It was to these men that the British

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[128] Lambert H. E., Op. cit. pp. 95–100.

[129] Ibid. p. 98. Square brackets mine.

[130] Ibid. p. 99.

[131] Middleton J. & Kershaw G., Op. cit. p. 37.

[132] Davison J., et al. Op. cit. Davison cites men's age-grades as: *kahii* (boy), *mwanake* (circumcised young man), *muthuri* (married man with children regardless of age) and *andu akuru* for an old man. pp. 259–263.

[133] Lambert H. E., Op. cit. pp. 84–90. See also Middleton J. & Kershaw G., Op. cit. pp. 33–38. Muriuki Godfrey, *A History of the Kikuyu 1500–1900.* Op. cit. pp. 120–129.

[134] Fadiman J. A., Op. cit. p. 268.

administration turned when it wanted to enforce its authority.[135] This experience allowed these younger men to gain influence over their own age set, their elders and their communities and was to become a source of friction.

Thus for Kikuyu women and men activities were bound by obligations defined by gender, age-grade, marriage and seniority. The production systems were independent of each other with married women calling on their co wives and other female relatives to help and the men calling on fellow men from their age set and kin to help in times when labour requirements were high.

The Nandi

Nandi land is to the north of the Kipsigis land unit. The land ranges from the forest of the Elgeyo escarpment in the east, to open woodland, and to the grass plains of the extreme southwest corner of Uasin Gishu plateau in the north.[136] The area has rich soils and abundant rainfall. According to Huntingford, the Nandi were a predominantly pastoral people, for whom cattle were the dominating factor of their lives. Herd sizes ranged from 12–20 head of cattle plus goats and sheep.[137] The Nandi encountered the British in the mid 1890s and war was declared between the two from 1885–1905 resulting in major losses for the Nandi.[138] Parts of Nandi land, not included in the Nandi Reserve, was taken up by Settlers after this

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[135] Ibid. p. 268

[136] Berg-Schlosser Dirk, Op. cit. pp. 132–133.

[137] Huntingford G. W. B., Op. cit. p. 20.

[138] Over 2% of the Nandi population was killed, 4956 huts and granaries were burned, half of the cattle population, and 36,205 sheep and goats were seized. KNA 1236. Notes on the Nandi. Hemstead C. S. pp. 1–6. KNA 1103. F.W. Gaar to Sub-Commissioner Kisumu 27/9/05. pp. 1–2. For a discussion on the Nandi resistance to the British see: Ng'eny Samuel K., Nandi Resistance to the Establishment of British Administration, 1883–1906. In: Ogot B., *Haddith* 2. Proceedings of the 1968 Conference of the Historical Association of Kenya. East African Publishing House. Nairobi. pp. 104–126.

period of war. Further areas of land were excised in 1919–1920.[139] The area now produces tea, some sugar cane, maize, dairy products and meat.[140]

Land was controlled by the clan, and similarly to the Luo, land with links to ancestors was the most valued.[141] Hollis stated that the Nandi were able to settle anywhere with the permission of the nearest neighbour or the elders.[142] Land could not be alienated but strangers may be given land on which to squat and may therefore be given squatters rights. Land could not be sold, although standing crops on it could.[143] Rights to land were contingent upon cultivation. According to Oboler,

> Any community member could clear land and this belonged to him or her as long as he or she continued to cultivate it. When land was allowed to lie fallow and return to bush, rights to it lapsed. ... cultivated land was inherited by the sons of the women who cultivated it and their wives. No other land was inherited. ... Women owned three things: a vegetable garden, chickens and the milk from either the morning or the evenings milking.[144]

In Nandi society a son inherited his father's or his brother's property. The division of the inheritance was not equal among sons, with the eldest son of the senior wife getting the most and the youngest son the least.[145] Women had what is termed 'house property rights' which means that they held rights to certain animals from the house after the herd had been divided amongst sons as their inheritance.[146] Daughters inherited their mother's ornaments and household utensils. Both unmarried sons and daughters inherited her plantations and retained

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[139] Langley Myrtle S., *The Nandi of Kenya. Life Crisis Rituals in a Period of Change*. St Martins Press. New York. 1979. p. 9. This excised land was considered the by the Nandi as their best pastoral land. Huntingford G. W. B., Op. cit. p. 19.

[140] Oboler R. S., *Women, Power, and Economic Change. The Nandi of Kenya*. Stanford University Press. Stanford. 1985. pp. 19–20 & 26.

[141] Huntingford G. W. B., Op. cit. p. 22.

[142] Hollis does not define what these rights were. Hollis A. C., *The Nandi.* Their Language and Folk-lore. Oxford University Press. London. 2nd Edition. 1969. p. 86

[143] Ibid. p. 22.

[144] Oboler R. S., Women, Power, and Economic Change. Op. cit. pp. 251 & 255. See also KNA 1238 Special Report. September 1909. pp. 53–55.

[145] Huntingford G. W. B., Op. cit. p. 23.

[146] Oboler R. S, 'The House-property Complex and African Social Organisation.' *Africa.* Vol. 64, No. 3. 1994. p. 349. Huntingford states that one cow is given to wives for their support after the death of their husband. Huntingford G. W. B., Op. cit. p. 24.

an interest in them until they became warriors or were married, when the land is taken up by one of the son's wives or is handed over by the father to one of his other wives.[147]

Both women and men produced the staple food crop, finger millet (later replaced by maize) and both were involved in planting, weeding and harvesting. Other important crops consisted of sorghum, beans and sweet potatoes.[148] The harvest was divided between husband and wives, with the husband's share being used for ceremonial events and the brewing of beer.[149] Women's share of the harvest and any other crops she produced, supported family subsistence. The ground was prepared from December to March, planted between February and May and harvested around September. Most cultivation was done with an iron hoe, or a wooden digging stick. Both sexes were responsible for the milking of cows with men having sole access to the morning's milk with the evening's milk being used by women and children.[150]

Oboler divides access to the household cattle by use and responsibility rights. She argues that cattle were divided into four types, 'the father's cattle, cattle given at the wedding ceremony to the bride as gifts, cattle paid as bridewealth, and cattle for killing, the latter predominantly bullocks'.[151] Of the cattle given to the bride as gifts, she had to give one to her husband.[152] Hollis claims that cattle were distributed amongst wives, each one being given a certain number to look after, and that fathers gave their sons cows to mark important events in

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[147] Langley Myrtle S., Op. cit. pp. 70–74.

[148] KNA 1235. 1907/8 p. xxxii

[149] Berg-Schlosser Dirk, Op. cit. p. 138. Oboler R. S., Women, Power, and Economic Change. Op. cit. p. 9. Hollis A. C., Op. cit. p. 19.

[150] Oboler argues that this division remains today with the morning milk being sold to the Kenya Creameries Co-operative and the evening milk being consumed by the family. Any milk remaining after this is sold and the proceeds belong to the women. Oboler R. S., Women, Power, and Economic Change. Op. cit. p. 255.

[151] Oboler R. S, The House-property Complex and African Social Organisation. Op. cit. p. 349.

[152] Oboler R. S., Women, Power, and Economic Change. Op. cit. p. 114. The implication being that if she did not then the husband would refuse to eat her food and therefore consummate the marriage. Huntingford G. W. B., Op. cit. p. 28.

their lives.[153] Married women, it seems, had an inferred stewardship over cattle in that they could not inherit cattle in their own right.[154] Yet the cattle that came under their care, that is the wedding cattle, and one of the cattle given as bridewealth on the marriage of a daughter, were considered to be women's cattle. This meant that these cattle could not be sold by the husband without the wife's consent. Even then it was not considered his right to sell them.[155]

The rituals that were associated with marriage and its validation occurred over a number of years with the final marriage ceremony often being carried out when the woman was quite old. In Nandi society a son could not marry if his mother's marriage ceremonies were not completed.[156] Divorce was rare — this was no doubt due to the fact that bridewealth had to be repaid. Widows did not remarry because they were looked after by their husband's brother or could marry a woman.[157] The exception to this was that of a childless couple who had become totally incompatible. Even so in cases of incompatibility men could take another wife.[158] Women could not initiate a divorce by going to the elders and requesting one as her husband could do. She could however, go to her kin or age group and have her husband shamed if he was guilty of neglecting her or of using excessive violence towards her.[159] The

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[153] Hollis A. C., Op. cit. p. 72.

[154] Oboler R. S., Women, Power, and Economic Change. Op. cit. p. 9.

[155] Ibid. p. 247.

[156] Langley Myrtle S., Op. cit. pp. 89–90.

[157] Women to women marriage occurred in all of the ethnic groups being discussed here. Women to women marriage was treated as any other marriage with the same ceremonies being carried out. Amongst the Kipsigis barren wives may, with their husband's consent, marry a girl in order to get children by them. These children are then considered to be the children of the husband. Huntingford G. W. B., Op. cit. p. 47, and Peristiany J. G., Op. cit. pp. 81–83. Amongst the Nandi a similar situation existed with the "Husband" having full legal rights. That is she pays the bridewealth and any child the wife may bear are counted as hers. The genitor of the children may be any man approved by the female husband. This man would most likely be a younger clan-mate of the female husband's husband — possibly his younger brother, his brother's son, or the son of one of his wives. Huntingford G. W. B., Op. cit. p. 29. See also Oboler R. S., 'Is the Female Husband a Man?' *Ethnology.* Vol. 19, No. 1. 1980. p. 78.

[158] Langley Myrtle S., Op. cit. pp. 95–98. Hollis A. C., Op. cit. p. 69.

[159] Male violence towards women in pre-colonial Kenya seems to have been controlled by social action. Women's councils would inflict punishments and shame on husbands who beat their wives. I am unable to find how or if violence towards unmarried women was dealt with by any of the ethnic groups analysed here. In Kikuyu society punishment for wife beating was the slaughter of one bull. Lambert H. H., *Kikuyu Social and Political Institutions*. Op. cit. p. 113. If a woman was accused of witchcraft then she could be ostracised, beaten and or murdered. (The same applied to men). Waller Richard D., 'Witchcraft and Colonial Law in Kenya.' *Past and Present.* No. 180. August 2003. pp. 241–275. There is

powers of fertility for Nandi women were enhanced by beliefs concerning tattoos placed from the navel as far up as the breasts.[160] A further belt of markings was carried right round the waist. These tattoos were carried out when a women becomes pregnant, and are done to ensure that she will have a successful pregnancy and continue to produce many children.[161] Men are not tattooed, as according to Hobley, 'it [was] a matter of choice for them'.[162]

Once again there is a similarity between the Nandi and the three other groups concerning male inheritance practices, the dominance of the male controlled cattle economy and divisions of labour being split along lines of gender. Women in Nandi societies gained access to resources via marriage and like the Luo, Kipsigis and Kikuyu lost this access with the death of their husband.

Familial Position, Cultural Knowledge and Moral Authority

The preceding discussion outlined the basic structure of the gendered divisions of labour and the resultant constructions of social and political life amongst these four ethnic groups.[163] The systems of farming although interdependent, divided resources according to gender and

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also the vexed question of what constitutes 'excessive' violence as distinct from 'violence' and its tolerance or non-acceptability.

[160] Hobley C. W. 'Anthropological Studies in Kavirondo and Nandi.' *Journal of the Anthropological Institute.* Vol XXXIII. 1903. p. 353.

[161] Ibid. p. 353.

[162] Ibid. p. 353.

[163] Similar divisions of labour existed amongst the Maasai. According to White, Maasai women milked livestock, raised children, cooked, traded certain goods and were responsible for building the family's dwelling. They held cattle in trust to pass on to their eldest son. Men in the meantime were responsible for the maintenance of herd size and quality via raiding and trading particularly with the Somalis, and after the British had cut off the northern pastures, the settlers. Women in Maasai society were also traders, trading cattle (barren cows or older animals), goats, donkeys, and hides. This trade was carried out during times of war as women had special status allowing them to travel unharmed from tribe to tribe. Huntingford notes that the burden of work in Maasai society fell on older women as the boys were needed to herd cattle, girls spent most time with their warrior sweethearts, older men were occupied with political affairs. White L., Women in Changing African Family. In: Hay M. J. & Stichter S., African Women South of the Sahara. Op. cit. p. 56. Huntingford G. W. B., Op. cit. p. 110. Fearn relates that trading by women during war was also prevalent amongst the Kikuyu and Luo. Fearn H., Op. cit. p. 30. See also Llewelyn-Davies M., Two Concepts of Solidarity Among Pastoral Maasai Women. In: Caplan P. & Bujra J. M. (eds.), *Women United, Women Divided:* Cross-Cultural Perspective's on Female Solidarity. Tavistock. London. 1978. pp. 210–112. Heyer J., Agricultural Development Policy in Kenya. In: Heyer J., Roberts P. & Williams G. (eds.), *Rural Development in Tropical Africa.* Macmillan. London 1986. p. 97.

access to those resources was further influenced by one's position within the immediate family, one's compound, *Kokwet*, *Ngundu, Gweng* or one's membership of Councils or age groups. Conjugal relationships, lineages, clans and local and wider kinship groups formed the basis of all political, economic and social relations and collectively controlled the means of production. Women were affiliated with their husband's patrilineage though the payment of bridewealth on marriage.[164] This secured a woman's land use rights and, importantly, established lineage membership for her children.[165]

Similarities existed across all groups, in particular in relation to land access and inheritance procedures. The processes of land acquisition for men were primarily situated within the fraternal lineage. For women, land usage was based on conjugal relationships and was patriarchal in its structure. That is, in all four ethnic groups a woman's access to land was contingent upon marriage, then on her husband's position within his family, (first-born son etc) and his relationships with his age set and his father. It is perhaps these latter relationships and connections with other important men of the *Kokwet*, or *Mbari* etc, that is the most significant in relation to the power of land ownership. Land ownership ensured spiritual connection and group longevity. Women's actions, like those of their menfolk formed part of group loyalty and moral stability. Women recognised that as farmers, via the growing of food, they enforced their communities connections with the land and the spiritual world. Without it, kin-based loyalty to the *Mbari, Gweng, Ngundu*, or *Kokwet*, fell apart,

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[164] For a discussion on access to resources being dependent on lineage verses residency see O' Laughlin B., Myth of the African Family, in: Bryceson D.F. (ed.), *Women Wielding the Hoe.* Berg Publishers. Oxford. 1995. pp. 71–73. She cites Colson's observation that in African family groups the primary or nuclear domestic group is the women and her independent children, with men acting as intercalary elements linking women to wider kin groups. It is the conjugal tie that is important not the lineage.

[165] Stamp P., Mothers of Invention: women's agency in the Kenyan state. In: Gardiner J. K. (ed.), *Provoking Agents* : Gender and Agency in Theory and Practice. University of Illinois Press. Urbana. 1995. p. 74.

generational renewal via age set rites and initiation (Kikuyu *ituika*), became meaningless and moral bankruptcy ensued.[166]

In all four groups, polygamy and women to women marriage, whereby a wife with the consent of her husband could marry a woman,, added another layer to inheritance practices and the maintenance of patriarchal authority by ensuring wealth and assets remained within the male lineage.[167] Multiple marriages created a moral authority between wives, brothers, fathers and sons, and strengthened community cohesion. The need to hold together the household unit, family and the wider community meant that divorce was rare for all four ethnic groups, not only because it divided loyalties between families, but also because it questioned identities. A divorced woman no longer contributed to the status of her husband's *Mbari* or *kokwet* because she had no land to cultivate. A divorced woman was left with few connections to either her paternal home or that of her husband. Divorce questioned a man's authority in that he could not control his wife's sexuality and labour power.[168] He could not move into the ranks of the elders and participate in political decision making.[169] He could not therefore maintain relationships that empowered his family wealth, identity or importance.

The Kipsigis, Luo, Nandi, and Kikuyu women and men's agricultural production was dependent on the principle of co-operation within the community. That is, women's agricultural work was dependent on other women from the same age-set and kin and was independent of men. In other words if, as was often the case, men were absent, herding cattle and or pursuing raiding excursions, women continued to produce their crops. Grain and

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[166] Lonsdale J., Authority, Gender and Violence. In: Odhiambo E.S. Atieno & Lonsdale J., *Mau Mau & Nationhood.* James Currey. London. 2003. p. 58.

[167] Oboler, in her work on prostitutes in towns, found that women who took a female wife, performed all the normal marriage rituals, so as to secure the inheritance rights of her children and links with their mothers' family. Oboler R. S., 'Is the Female Husband a Man?' *Ethnology.* Vol. 19, No. 1. 1980. p. 80.

[168] KNA AR DCNN1/12. Annual Report North Kavirondo, 1931. p. 23.

[169] Lambert H. E., Op. cit. pp. 86–88

horticultural production formed the foundation of women's status within the community. From it a woman not only provided food for her immediate family, but she used it as a 'currency' with which to trade, to engage in ceremonial duties, to brew beer and to negotiate with the menfolk the timing of marriages, initiation, and inheritance to coincide with abundant food supplies.[170] In all four groups women's agricultural production gave women an economic independence from men. The crops they grew, or the goods they received for carrying out services, such as helping a woman during child birth or at harvest or circumcision, they kept for their own use.[171] Men had no right to question women's agricultural practice, look in her granaries, or sell any grain that she grew.[172]

Men and women's ownership or use of cattle, goats, and other animals were tied to the responsibilities a person had within the family unit, age set, or Council and importantly to perceptions of gender and fertility. In all four ethnic groups, cattle were not viewed as a commodity to be sold for meat as now occurs. Cattle were needed by men to enable them to undertake marriage, to be seen as a gracious host, to settle serious disputes and to buy land.[173] For the Nandi, Kipsigis, Luo and Kikuyu men, cattle gave them status within their communities. The more cattle a man could obtain the more patronage he would attract. This patronage and status was enhanced by the ability of his wives to grow many crop varieties, and produce them in abundance. To maintain men's ritual connections and monopoly over cattle, women of all ethnic groups were prohibited from certain actions in relation to cattle.[174] Luo women were not allowed to milk cows, or eat beef, due to fears that it would reduce

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[170] Orchardson I. Q., The Kipsigis. Op. cit. p. 97.

[171] KNA. MC. 363. DC/FH. 3/1/ Fisher J., Op. cit. pp. 245–6.

[172] Ibid. p. 91.

[173] Usually four head of cattle are required for marriage. Compensation for loss of life was 9–10 cattle. Orchardson I. Q., The Kipsigis. Op. cit. pp. 81 & 113. Women used the cattle given to her on her marriage to add to any future son's bride wealth. For both women and men cattle provided a source of food, milk for the women and milk and blood for the men.

[174] Driberg J. H., Op. cit. p. 421.

men's fertility.[175] The power of men's authority was also expressed via the restrictions on women owning cattle in their own right. Cattle for all four groups were men's gateway to wealth in that cattle enabled them to accumulate and allocate land and to recruit the labour to farm it via marriage or patronage.

Women were powerful in that they were responsible for the major part of the food production for each of these groups. Kikuyu women, however faced prohibitions on some fruits and vegetables as did Kipsigis men.[176] These taboos were linked to beliefs concerning the power of fertility: women's, men's and the community's.[177] Food linked the present into the ritual world and facilitated the power of moral authority. Certain types of vegetables, plants or parts of animals were used as offerings to the spirit world during rituals. In the ritual involved with problems of infertility for example, the vines of fig trees, (*bwombwe)* considered a sacred plant associated with fertility, were part of the ceremony.[178] For the Nandi, Kipsigis, Luo and Kikuyu women's authority was bound with their role as guardians of the biological order. A woman's task was to 'bring forth children and to maintain life by providing food'.[179]

Thus the livelihoods of both the men and women of all four groups were dictated not only by the cycles of weather and the variety of crops produced, but by stages of cultural importance: initiation, marriage, giving birth, or by the number of children that one had, by political patronage or by membership of the various councils of elders.[180] All were

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[175] Pala Achola O., African Women in Rural Development. Op. cit. p. 19.

[176] KNA. MC. 363. DC/FH. 3/1/ Fisher. J. Op. cit. pp. 82–84.

[177] Ibid. p. 82.

[178] Mss. Afr. s. 1792 45/7/15. Whisson M. G., *The Will of God and the Wiles of Men.* East African Institute of Social Research. Makerere University College. Limuru. Kenya. January 1962. p. 13.

[179] Kershaw Greet, 'The Changing Roles of Women and Men in the Kikuyu Family by Socio-economic Strata.' Op. cit. p. 179.

[180] Muriuki Godfrey, Op. Cit. p. 133.

interconnected, and crucial to communal stability and moral authority. Cattle for men produced connections, or the right relationships and these relationships produced links between men and the social and ritual orders.[181] Exclusive male control of land allocation reinforced connections with the ancestors and therefore perpetuity.

Marriage for both men and women, secured not just physical security, food, shelter, but most importantly respect. It enabled women to be protected from social stigma, accusations of witchcraft, and moral devaluation that could threaten relationships with men, the ancestors and spiritual harmony. Yet at the same time, married women could use the power that marriage delivered to them, to rein in the excesses of men's behaviour, assert control over co-wives and establish a degree of autonomy.[182]

Changes under colonisation, such as male labour migration, cash cropping production, and the urbanisation of communities, run away women, unmarried single mothers, women who joined churches, highlighted the inadequacies of their menfolk and in so doing risked the loss of moral authority and respect. In particular, those women who spoke out, brought to the surface underlying tensions concerning inequality, the lack of access to decision making processes and questioned the power and decisions of elders within their communities thus threatening ideas about identity. Questions of what constituted identity, its authority and its perpetuity, were central to all four ethnic groups' sense of moral order. The arrival of the British East India Company and subsequent British rule was to aggravate political, generational and gender tensions around this very issue.

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[181] Fadiman J. A. Op. cit. p. 270.
[182] Peristiany J. G., Op. cit. p. 84.

As we shall see in the next chapter, with the advent of the British occupation, from 1900–1920, its imposition of a taxation system, the establishment of a labour migration system which predominately utilized male labour, and land acquisition, changed the concepts of use rights and access rights to land. The chapter analyses this within the context of Settler domination of the colonial administration and their demand for unfettered labour, land and agricultural support. The changes that resulted were not only to change the productive responsibilities of men and women of all four ethnic groups, but importantly removed the fluidity of the systems that underlay ritual stability, social connections and ultimately ideas of identity and its authority.

CHAPTER FOUR

WOMEN'S FARMING, LABOUR AND USURPING MEN

Introduction

Cattle, labour and land created the economic power of Luo, Kipsigis, Nandi and Kikuyu societies. For both women and men this economic base constituted the front line of conflict when the British administration and settlers began to exploit both the natural resources and the labour of indigenous Kenyans. The subsequent struggles over labour, land ownership and the transformation of local agriculture were to engulf the existing gender division of labour, pitting women and men against one another. Intertwined with these everyday struggles of the 1900–1920s, to cope with colonial rule, was a sense of rising panic as rituals lost effectiveness and appeals to the spirit world for protection against disease, guns and the breakdown of accepted conventions of law and order failed.[1]

The colonial state eroded women's farming not only by moving men into the waged labour force but more importantly, by deliberately encouraging men to take up the cultivation of crops, men began to appropriate control over what had hitherto been a predominantly female production system. Women, whilst still trying to maintain their roles in society as farmers, mothers, wives, and managers of independent houses, were also co-opted as labourers on the cropping ventures of their husbands and the settler farmers.

This chapter examines the transformation of women's production systems as the impact of colonial occupation intensified. Changes included the labour out migration of men, squatter occupancy and regulation, changes to the types of crops cultivated and the loss of

[1] Fadiman J. A., *When We Began There Were Witchmen*. University of California Press. Berkley. 1993. p. 257.

land for women's own crop production. It aims to show how women reacted to these changes and argues that they were not passive victims of the appropriation of their production systems or labour time. Women's production often bore the brunt of community attempts at minimising the impact of British Colonial rule. In particular the social dislocation caused by male out migration meant that women's agricultural regimes were now under pressure. Thus women also had to incorporate the responsibility for looking after men's livestock and grow the wide variety of staple crops needed for food as well as work on the newly introduced crops of maize, beans and vegetables. In an effort to compensate for this, women took advantage of British technology, in particular the long-handled English hoe and flour grinding mills, which made some of their work easier and less time consuming. Certain women and men, such as uninitiated women and warriors, were better placed within community social structures and production systems to take advantage of contact with Europeans. Warriors were chosen, for example, to head the Local Native Councils and used this for both their own personal gain as well as a way to counteract the social and political dislocations occurring within their communities.[2] Some Nandi, Kikuyu and Luo women chose to abandon hoe cultivation and engaged in prostitution in order to deal with the establishment of a market economy.

Women made economic decisions based on the often conflicting needs to deal with the impacts of colonial rule and to maintain normal farming responsibilities and cultural practices. Economic opportunities arose, not only in the usual forms of mutual aid: barter and communal support, but also in, some wage labour in the coffee and tea plantations, petty commodity production, and sexual services. All of which allowed women to take advantage of niche markets on the fringes of a newly emerging capitalist economy.

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[2] Fadiman J.A., Op. cit. p. 103.

However, the straddling of two economic systems was inextricably linked to changes in both perception and the reality of what constituted identity and authority. If men became tillers of the soil, then they were perceived as women. If women took up cattle husbandry then were they not 'becoming like men'? In the immediate context, burning questions arose such as: whose authority was valid and could be relied upon to settle disputes? How to keep at bay the powers of displeased ancestors and spirits, and deal with the demands of laws instigated by the colonial regime? The loss of respect for elders who sent husbands away to work for Europeans, breaking both conjugal bonds and the bonds of lineage patronage, further undermined local institutions and conventions. Labouring on European farms rode 'rough shod' over the conventions of acceptable behaviour that governed relations between women and men, placing unmarried girls and newly married women outside of the moral protection afforded by families and clans. Moreover, as wages began to replace cattle as the measure of wealth, class differentiation became more pronounced. These changes to the gender divisions of labour, wage earning, and the deteriorating economic stability of cattle, labour and land, initiated a debate about identity, ethnicity and moral authority that was to continue for the next seven decades.

The Colonial Economy: Land Alienation and Regulation

The total landmass of Kenya is 224,961 sq miles of which 4% is arable and a further 7% is useful as grazing land. The 1897 East Africa Order in Council was the first piece of legislation that impacted on African use and ownership of land. This ordinance allowed for British occupancy (not ownership or lease) of land for 21 years, with renewal. By 1902, a new ordinance was passed that granted 99-year leases and freehold for land up to 1,000 acres

in area.[3] The Crown Lands Ordinance allowed for all unoccupied land to come under the control of the Crown and prohibited any annexation of land that was regularly cultivated by Africans.[4] The ordinance also allowed for compensation for loss of land. Settlers had to pay 2s 8d per acre for cultivated land, and 2s 8d per hut.[5] This entitled the settler to the title deeds and a right to exclude all occupants.[6]

By 1915, 5.275 million acres, or 3.66% of Kenya's total land area, had been alienated on behalf of 1,000 settlers.[7] The process of land appropriation was to continue until 1963, when it reached its height with 7.5 million acres alienated for European occupation. The distribution of alienated land was, however, very uneven, with 20% of all alienated land being held by five individuals or groups among the settler and plantation community, with the remainder representing a population of between 400 and 14,000 persons.[8] As a statistic, the number of farms in the hands of Europeans is not significant, reaching a peak of 3,600 holdings by the end of the 1950s. What is significant is that Europeans controlled 20% of arable agricultural land with a rainfall of over 30 inches a year.[9] The remaining 80% of

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[3] In 1915 the Crown Lands Ordinance changed and allowed for European ownership of land for 999 years. Manners R., The Kipsigis of Kenya: Culture Change in a "Model" East African Tribe.' In: Steward J. (ed.), *Contemporary Change in Traditional Societies. Volume I Introduction and African Tribes.* University of Illinois Press. Urbana. p. 275. Kiamba M., 'The Introduction and Evolution of Private Landed Property in Kenya.' *Development and Change.* Vol. 20, No. 1. January 1989. p. 127. See also Wa-Githumo M., *Land and Nationalism in East Africa.* PhD Thesis. Ann Arbor. Michigan. 1974. For discussions on the overall impacts of these pieces of legislation. pp. 204–277.

[4] It is unclear if pastoral land was considered 'not used'. Sorrenson M. P. K., Appendix I. Land Policy in Kenya. 1895–1945. In: Harlow V., Chilver E. M. & Smith A. (eds.), *History of East Africa.* Vol. II. Clarendon Press. Oxford 1965. p. 685.

[5] Sorrenson M. P. K., *Land Reform in the Kikuyu Country.* Oxford University Press. Nairobi. 1968. p. 17.

[6] Ibid. p. 17. Sorrenson argues that approximately one third of the Kikuyu did not receive any compensation for the loss of land and livelihoods.

[7] Collier P. & Lal D., *Labour and Poverty in Kenya 1900–1980.* Clarendon. Oxford. 1986. pp. 27. Kitching states that 5 million acres of land were formally in European hands by 1915. Kitching G., *Class and Economic Change in Kenya: The Making of an African Petite Bourgeoisie 1905–1970.* Yale University Press. New Haven. 1980. p. 213.

[8] van Zwanenberg R. M. A. with King Anne, *An Economic History of Kenya and Uganda 1800–1970.* Macmillan. London 1975. p. 30 and p. 37.

[9] Heyer J., Agricultural Development Policy in Kenya. In: Heyer J., Roberts P. & Williams G. (eds.), *Rural Development in Tropical Africa.* Macmillan. London. 1986. p. 93. The population of Europeans living in Kenya was small: 1911 only 3,175. 1926, 12,529 and in 1931, 16,812. Of the latter figure, the adult males between the ages of 20 and 49, 31% were employed in agriculture and 23% in administration and defence. Tignor R. L., *The Colonial Transformation of Kenya: The Kamba, Kikuyu, and Maasai from 1900 to 1939.* Princeton University Press. Princeton. 1976. p. 25

Kenya's most marginal land supported a population of 2 million people by 1940 and 10 million by 1969.[10]

Between 1901 and the First World War, little was formally done to preserve, as a whole, indigenous land units. In 1911 the British administration was demarcating African areas and by 1915 the Crown Lands Ordinance empowered the Governor to proclaim Reserves, but only two reserves were established. These were exclusively for the Maasai with whom the British had established treaties. The Governor could, under this legislation, sell land in the reserves, ostensibly if it was not being used.[11] It was not until 1926 however, when legislation was enacted, that twenty-four Reserves were proclaimed, with the indigenous population being restricted to them.[12] The Native Lands Trust Ordinance of 1930 further enforced by legislation the demarcation of the Reserves and set up a Central Trust Board and Local Land Boards as the administration units. The aim of this legislation was to provide some degree of security of land tenure by placing more stringent controls on any further alienation of land from the reserves.[13] By 1939, under the Crown Lands (Amendment) Ordinance of 1938, there were three categories of land in Kenya: the Native Reserves, the Highlands set aside for the exclusive use of the Europeans and the Northern Frontier and Turkana districts.

Despite the length of time it took to enact legislation concerning the Reserves, the settler community, as early as 1905, argued for restricting Reserve boundaries so that indigenous labour would be forced onto the settler farms. In the case of the Kikuyu, Nandi

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[10] van Zwanenberg R. M. A. with King A., Op. cit. p. 30. That is, land that had poor rainfall and was subject to frequent drought.

[11] This in fact did happen. For example in the Nandi reserve in 1919, some of it was sold off for an ex-soldiers settlement scheme. Sorrenson M. P. K. Appendix I. Land Policy in Kenya. 1895–1945. Op. cit. p. 685.

[12] Reserves meant, 'land that was reserved for the use of the native tribes in the Crown'. Restricted here means that ethnic groups could not move onto new land outside the Reserves. van Zwanenberg R. M. A. with King Anne. Op. cit. p. 34.

[13] Sorrenson M. P. K., Appendix I. Land Policy in Kenya. 1895–1945. Op. cit. pp. 686–7.

and Luo Reserves, the allocated land was unable to cope with increasing population pressure which forced people to make a living outside of the reserve.[14] Furthermore, land within the reserves was circumscribed with zones set aside for townships, forest reserves, game reserves, unallocated government lands and allocations to the missionary societies. Whilst the settlers wanted labour from the reserves, the missionaries wanted converts to their cause and the renunciation of cultural practices such as initiation rites and polygamy. For the missionaries to attain these goals, they needed land on which to lead by example, teaching new farming techniques and demonstrating new seed varieties. Within the Kikuyu reserve for example, missionary societies by 1932 had around 16,000 acres of land under their control with varying settlement densities. The Holy Ghost Fathers for example had a 5,000 acre station near Thika with 224 huts housing the local Kikuyu population.[15]

The Settler community aimed to establish an agricultural economy, which gave them a large economic and export trading advantage over African producers. The first four decades of colonial governance established this dominance by dispossessing many Africans of their land (in particular the Kikuyu), taxing African producers, banning African production of coffee, tea and dairy cattle, and limiting the market and price for African produced crops. The settlers' agricultural economy was boosted by a system of migrant labour that drew predominately on male labour of numerous tribes, in particular Maasai, Luo, Kikuyu and the Luhya.[16] To facilitate the supply of labour, the administration instituted a system of Chiefs and headmen from within indigenous communities, on whom they relied to provide the necessary labour for roads and railways and as labourers on Settler farms. Chiefs were required to obtain certain numbers of labourers per month, and received some financial

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[14] Berman B., *Control and Crisis in Colonial Kenya*. James Currey. London. 1990. p. 150.
[15] Tignor R. L., Op. cit. p. 128.
[16] Stichter S., *Migrant Labour in Kenya: Capitalism and African Response, 1895–1975*. Longman. Essex. 1982. p. 5.

incentive if the numbers demanded were met.[17] Some recruiters obtained 1,400 men in two months via this method of financial gain.[18] Both women and men formed this pool of labour.

Various forms of legislation were passed to support the labour system, notably the *kipande* registration system. The registration card, or *kipande*, showed each man's name, age, father's name, clan, tribe, circumcision age, finger prints of all ten fingers, the district, location and sub-location from which he came, and the date of commencement and termination of his last employment. Women were exempt from this legislation. It was an offence for an African male to be away from his home without the *kipande* in his possession, and an offence to be found out of employment with a *kipande* that was not signed off. It was also an offence for any employer employing more than five Africans not to maintain and return his registration sheets to the district administration office.[19] Labour was further obtained by the imposition of taxation, and the lack of a living wage, which required increasing ages of time to be spent in paid employment so as to pay taxes and living expenses.[20] These measures were compounded by the settlers' lack of solvency and their domination of colonial government policy.[21] Van Zwanenberg divides the settler community into four groups: A group of wealthy farmers who had considerable private incomes from outside Kenya. Secondly, the company farms, such as the tea company Brooke Bonds, which ran large plantations. Thirdly, small farmers who were always short of the financial resources to be able to buy farm supplies and pay for wages. Finally, the administration which itself

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[17] Clayton Anthony & Savage Donald C., *Government and Labour in Kenya 1895–1963.* Frank Cass. London.1974. See fn: 101. p. 76.

[18] Ibid. p. 76.

[19] Fearn H., *An African Economy: A Study of the Economic Development of the Nyanza Province of Kenya, 1903–1953*. Oxford University Press. 1961. p. 52.

[20] In 1903 a poll tax was levied on all males over the age of sixteen of Ks 7. van Zwanenberg R. M. A. with King Anne, Op. cit. pp. 7–8.

[21] Clayton Anthony & Savage Donald C., Op. cit. pp. 148–150 passim. See also van Zwanenberg R. M. A., *Colonial Capitalism and Labour in Kenya 1919–1939.* East African Literature Bureau. Nairobi. 1975. pp. 1–2 & pp. 18–19. Wrigley C. C., 'Kenya: the Patterns of Economic Life 1902–1945.' In: Harlow V. Chilver E. M. & Smith A. (eds.), *History of East Africa.* Vol. II. Clarendon Press. Oxford. 1965. In particular pp. 216–227.

was dependent on taxes and loans for revenue. The period of the 1920s was noted for its high commodity prices, which helped the small farmer cope with lack of access to finance. The 1930s saw a reversal of the fortunes of the 1920s with an increase in the rate of insolvency amongst the settler community.

Despite the quality and quantity of land appropriated by the settlers, they cultivated little of it. In 1922 for example, of the 5.27 million acres allocated, only 234,055 acres were cultivated.[22] By 1934 there was approximately half a million acres under cultivation to coffee, sisal, maize, tea, and wheat.[23] More was being used for cattle production. Due to the lack of settler occupancy, the indigenous population often remained on appropriated land as squatters. Those settlers in residence who were in need of labour, offered squatters the right to remain on the land in return for a number of days labour, and/or produce per year. In reality this was often a matter of the squatters remaining on land that had belonged to them before the settlers had arrived. This arrangement had some benefits to both parties. The squatters were able to grow not only food crops but also some cash crops (maize, ground nuts), from which the hut and poll taxes could be paid.[24] The settler, on the other hand, had access to cheap, local labour, rather than having to recruit labour from outside of the district, via an agent.[25] The settler also gained free cattle via the practice of granting squatters grazing rights, which enabled crossbreeding of their stock with African cattle.[26] These arrangements however, were contingent on what the settler produced:

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[22] Tignor R. L., Op. cit. p. 25.

[23] Ibid. p. 25.

[24] Ibid. p. 99. The hut tax was introduced in 1901. It was levied on the number of huts a man had. The hut tax hit the most vulnerable amongst the African population the hardest, elderly widows, and young propertyless men as they were not part of a structure enabling them access to production of crops for sale. The hut tax took a month's wages to pay it: around 7 Ks. Similarly the Poll tax. Wolff estimates that in the mid 1920s Africans had to work two to four months a year simply to meet their direct taxes. Wolff Richard D., *The Economics of Colonialism: Britain and Kenya, 1870–1930*. Yale University Press. New Haven. 1974. p. 126.

[25] Clayton Anthony & Savage Donald C., Op. cit. p. 52.

[26] Wolff Richard D., Op. cit. p. 104.

> ... ranch owners needed herders, ostrich farmers did not require labour but were happy to surround their estates with African kraals so that the cows would be a first line of defence against marauding lions. Sisal farmers ... permitted squatters to cultivate crops between the sisal plants as well as keep one acre shambas, but they did not want livestock because of the damage they might inflict on the sisal plants.[27]

Initially this change of land ownership had very little impact on the division of labour between women and men, on the structures of households and on production levels. Little African labour time was required and a lot of the land alienated was left vacant by the settlers so that there was no real closure of the land frontier. This is particularly evident in the case of "Kaffir" farming (wherein a land owner allowed a family to occupy the estate and took part of their crops as payment for use of the land), where only minimal change occurred in local agricultural production systems. The relationship between squatters and land owners changed dramatically however, after the Resident Native Labor Ordinance of 1918 was introduced, which banned Kaffir farming by requiring that the squatter pay the rent with *labour* only.[28] The Ordinance required 180 days of labour on the settler's farm in return for squatting and cultivation rights. In 1926 this was increased to 270 days, and the Act incorporated the Masters and Servants Ordinance so that fines and imprisonment could be invoked if the requisite amount of labour inputs was not forthcoming, with the squatter's family being sent back to the reserve.[29] The law further tightened the labouring rules, requiring labour to be given by all adult males over the age of 16. The changes instigated in 1926 made clear that the position of squatter was now that of a labourer and not that of a farmer or even a share-farmer. In return for wages, young men for example, lost the benefits of warrior-hood: prestige, feasting and sleeping with their sweethearts.[30]

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[27] Tignor R. L. Op. cit. p. 107.

[28] Clayton Anthony & Savage D. C., Op. cit. p. 95.

[29] Tignor R. L., Op. cit. p. 163.

[30] Muriuki Godfrey, *A History of the Kikuyu 1500–1900.* Oxford University Press. London. 1974. pp. 120–121 & pp. 168–177. According to Muriuki, the activities of the warrior group were often viewed [by the British] as superficial, in that they did nothing but sleep with their sweethearts, eat lots of meat and food. Warriors were in fact responsible for maintaining law and order, patrolling local markets, and carrying out the demands of the elders.

Responses to Changes in Land Ownership

It appears that the initial slow movement of African women and men into the labour force in Kenya was influenced by a number of significant local factors. Firstly, the ability of existing social structures and production systems to incorporate some changes which would cushion the effects of land restriction, out migration, and trade loss. The most immediate of these was to remain on alienated land as a "squatter". Secondly, to take part in the wage labour force as an 'itinerant labourer' on either short term contracts of a few months duration to longer contracts lasting for a few years or more. Thirdly, to move to growing cash crops or more accurately "tax crops" on what remained of clan land or an individual's plots of land within the Reserves. As we shall see all of these strategies were to lead to women's loss of control over cultivated agriculture, and its importance for maintaining women's status in the community and their moral authority.

For the Nandi, Kipsigis, Luo and Kikuyu peoples, squatting was contingent upon the acreage and type of land appropriated by the settler community. The Nandi, for example, began moving to European farms as squatters in 1913 with the number of people involved greatly increasing from 1916 onwards, so that, by 1933, Nandi squatters amounted to about one quarter of the entire Nandi tribe.[31] Due to the close proximity of coffee and tea plantations to the Kipsigis land unit, the number of Kipsigis squatters remained low, estimated to be around 4,000 people by 1933.[32] This meant that the Kipsigis could pay their taxes and other expenses with the use of seasonal labour. The Kikuyu, on the other hand, who had lost substantial acreage to European settlement, chose to either squat on what was their own land,

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[31] Oboler R. S., *Women, Power, and Economic Change: The Nandi of Kenya*. Stanford University Press. Stanford. p. 157.

[32] Middleton John, Kenya: Administration and Changes in African Life 1912–45. In: Harlow V., Chilver E. M. & Smith A. (eds.), *History of East Africa* Vol. II. Clarendon Press. Oxford. 1965. p. 346. See also Berman B. & Lonsdale J., *Unhappy Valley. State and Class in Kenya*. Vol. 1. James Currey. London. 1992. p. 109.

or to migrate. For the Kikuyu, between 1903 and 1905, 60,000 acres of their land in the Kiambu–Limaru area alone, was given to the settlers for coffee plantations. Approximately 11,000 Kikuyu occupied this land.[33] Some Kikuyu emigrated out of Kiambu into the Rift Valley and viewed this move as a means of expanding the interests of the whole *Mbari* and, as such, attempted to maintain a degree of continuity within Kikuyu production systems and cultural structures. However, for the Kikuyu in the Central Province, squatting remained an important part of resisting the impact of the colonial occupation of their land so that, by 1923, the squatter population was estimated to be somewhere between 60–70,000 people.[34] By 1934 Zwanenberg, estimates that the number of squatters in the White Highlands consisted of 28,939 males and 75,434 women.[35] There were a further 41,000 Kikuyu labourers outside the Kikuyu Reserve at this time.[36] These figures indicate that economic conditions in the Kikuyu Reserve were pressured, forcing people into the waged economy in an effort to meet the growing costs of taxation, education, and other living expenses.

Heyer notes that, 'in 1931 it was estimated that squatters were using one million acres of land in the "European" highlands, or about two thirds as much as was being used by European farmers at that time'.[37] We know that the average acreage that each woman commonly cultivated was approximately three to five acres.[38] If Zwanenberg's population figures are correct then it appears that of those one million acres of land, women had

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[33] Sorrenson M. P. K., Land Reform in the Kikuyu Country. Op. cit. pp. 11 & 18. See also van Zwanenberg R. M. A. with King Anne, Op. cit. p. 94. Middleton J. & Kershaw G., Op. cit. p. 50.

[34] Kitching G., Op. cit. p. 17. However these figures must be considered as estimates only as British colonial estimates were based upon the assumption that adult men made up 49 of the adult population and that the number of children under the age of fifteen years was 37 of the total adult population. This was the method used for estimating the populations in East Africa up to 1948 when the first census was undertaken. See van Zwanenberg R. M. A. with King Anne. Op. cit. pp. 7–8. For discussions on the accuracy of early Kenyan population data see Kitching G., pp. 241–255, and Mosley P., *The Settler Economies: Studies in the Economic History of Kenya and Southern Rhodesia 1900–1963.* Cambridge University Press. Cambridge. 1983. pp. 109–113.

[35] The number of squatters 1934 was 23,939 males and 75,434 women = 3.15 females to every male. Total 1934: 104,373. van Zwanenberg R. M. A., Op. cit. p. 218.

[36] Middleton John, Op. cit. Footnote 2. p. 346.

[37] Heyer J., Op. cit. p. 95.

[38] Kershaw G., 'The Changing Roles of Men and Women in the Kikuyu Family by Socioeconomic Strata.' *Rural Africana*. Vol. 29. 1975. p. 179.

somewhere between 225,000 to 380,000 acres in 1934 under cultivation.[39] Squatting therefore was an effective way for women to continue their traditional productive systems, growing grains, pulses and vegetables for food, for surplus to sell, and for the meeting of social responsibilities. No doubt this ability to maintain the traditional gender divisions of labour and cultural practices, combined with the increasing population pressure, and declining economic opportunities occurring in the reserves, could explain why, even after the introduction of the repressive 1924 Resident Native Ordinances, we see such a strong growth in squatter occupancy. So that by:

> ... 1944 it was estimated that squatters' stock was occupying two to three million of the seven million acres alienated to Europeans. In 1945 there were about 200,000 squatters, of whom about 122,000 were Kikuyu from Central Province.[40]

For men, squatting allowed for the continued pasturing of cattle and other herds. As such it enabled the practice of grazing herds over distances and in different localities, thus protecting them from possible theft from raiding, from localised disease, and helped maintain family and *Mbari* connections. More importantly, it maintained men's status within their communities enabling them to raise the brideweath with which to marry and to pay the fees required to advance through the political hierarchy of their age sets. However, by 1946, the problem of indigenous pastoralism was to lead the settler community to pressurise the government to move the squatters off alienated land. It was argued that the over-stocking of squatters' cattle caused major environmental problems, and therefore stock numbers should be reduced and squatters should return to the reserves.[41] There was no corresponding attempt to reduce the numbers of stock owned by the Settler population. This move to reduce squatter stock was more of a cover to force the squatters back into the reserves so that the settler community could maintain their agricultural advantage, particularly in the areas of cash crops,

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[39] These figures are reached by multiplying the total numbers of women by three and five acres respectively.

[40] Alila O. P., Kinyanjui K. & Wanjohi G., 'Rural Landlessness in Kenya'. *Occasional Paper.* No. 57. IDS University of Nairobi and FAO. 1985. p. 2. Heyer J., Op. cit. p. 95.

[41] KNA 1292. Nyanza Province Annual Report, 1946.

maize, coffee, and tea. This process was made possible as squatters had no legal rights to the land on which they lived, and was coupled with the growing mechanization of production which reduced the need for large quantities of labour.[42] Squatters by the mid-1940s had become the victims of economic progress being reduced to an effectively homeless reserve pool of labour.

The Impact of Labour Migration

The second internal mechanism employed by the indigenous population to absorb the impact of the British was the use of selective out-migration. Over the first decades of colonial rule, 1890–1910, the number of African women and men entering the labour force was small and intermittent, driven by the need to meet taxation demands.[43] Yet the alienation of land and the colonial regime's demand for manual labour to work on the railways, in the mines, as porters on safari or on communal works such as dam building, over time, led to a decrease in the amount of male labour available for traditional production.[44] The demand for labour on infrastructure works also affected women's labour time in that women and children were also used in communal labour activities, such as road building, thus taking time away from their own production activities. As the colony grew, the effect of expanding cash crops, in particular coffee, tea, maize and sisal, and the development of roads and railways, meant that out-migration from the Reserves increased. It was estimated that by 1918 the Government employed some 3,000–5,000 labourers in the Public Works Department, 7,000 on the railway and 110,000 in the private sector, mostly farming at peak season.[45] The British also

[42] van Zwanenberg R. M. A. with King Anne, Op. cit. p. 30.
[43] Kitching G., Op. cit. p. 18.
[44] Clayton Anthony & Savage Donald C., Op. cit. pp. 44–52.
[45] Ibid. p. 65.

conscripted 350,000 Kenyans into the First World War.[46] The result was that women and men's interdependent production systems began to change.

Within the social structures in pre-colonial Kenya, the movement of the economically active population between neighbourhoods and tribal lands for short periods of time had been reasonably common. In all of the ethnic groups examined here men were absent from time to time for trading, hunting, guarding the boundary of their lands, and ceremonial purposes.[47] Newly married couples may have migrated away from their immediate neighbourhoods to settle on new land.[48] Depending on the size of harvests, women were also away, trading produce with surrounding tribes. Distance also separated the homesteads of married women, enabling then to take advantage of different soils and climates in order to maintain a reliable food supply. Similarly, cattle, sheep and goat herding made use of kin relationships to enable stock to be looked after over large tracts of land. This not only mitigated against the loss of stock by natural disasters such as drought, but also served as a defence against raiding and maintained familial ties.[49] It appears then, that migration within the African population was shaped by both climatic events and the development cycles of household production. Thus, migration was more pronounced during 'quiet times' and decreased during periods of peak agricultural activity such as harvest or planting seasons. Migration was further influenced by homestead relations, such as the need to establish new homesteads or to open up new land so that it was independent of a father's distribution.[50] As the Nandi were a predominately pastoral tribe, migration was influenced by the need to access greater areas of grazing land.

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[46] Ibid. p. 65. Of whom 87,263 were recorded as either missing in action or dead at the close of the war. See: van Zwanenberg R. M. A. with King Anne, Op. cit. p. 10.

[47] Kitching G., Op. cit. p. 48.

[48] In the Kikuyu case when the elders of the *Mbara* decided that new land was needed then sections of the *Mbara* would leave and settle a new area. Middleton J. & Kershaw G., Op. cit. p. 26.

[49] Fearn H., Op. cit. p. 36.

[50] Although sons inherited land from their fathers on death, the abundance of land meant that newly married sons left the parental homestead to acquire new land via being the first to clear it or in some cases to purchase it. See Kitching G., Op. cit. p. 48. See also. Moore Henrietta L. & Vaughan Megan, *Cutting Down Trees: Gender, Nutrition, and Agricultural Change in the Northern Province of Zambia, 1890–1990.* Heinemann. London. 1994. pp. 141–148.

This migration to new land for both cultivation and grazing would have, of course, been dependent on the group's ability to protect it from other tribes.

The period of the 1890 to 1910 was, for all four ethnic groups, a time of social disquiet due to natural disasters such as drought, a Rinderpest epidemic and then famine in 1898–9. These events reduced the collective wealth of each tribe and saw emigrations across tribal boundaries.[51] Furthermore, there wars with the British from 1904–9, and smallpox outbreaks and another famine added to the disasters of 1898–9. As a result, the Nandi and Kipsigis in particular, were hesitant to send people out to work on the railway labour camps or as porters, and instead attempted to concentrate on rebuilding their economic base.[52] However, the cessation of hostilities between the different ethnic groups, brought about by British pacification and occupation, meant that the need to defend territory lessened. This eased some labour pressures, and encouraged elders to send the least productive or those of lesser importance within the community out to work for Europeans.[53] Hay claims that initially this was the case for the Luo around Kowe.[54] Manners also notes the same phenomenon in relation to the Kipsigis:

> ... In practice the job of "chiefing" in the different parts of the Reserve fell largely to men who had exercised no leadership function in the past. In effect, these lesser men were chosen by the Kipsigis themselves, for they made it a policy in those earliest days to steer the British away from their own most competent people ... [whom] were held in unencumbered reserve so that the Kipsigis might have them to turn to for advice, help, and leadership in times of need.[55]

The Kikuyu, with a large proportion of their tribal lands appropriated by European settlers, were forced by circumstances to go out to work.

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[51] The Maasai in particular moved into Kikuyu lands.

[52] KNA 1105. Nandi District Quarterly Reports. p. 6. KNA 1237 Lumbwa Annual Report 1908/09. pp. 1–4.

[53] Muriuki Godfrey, Op. cit. pp. 120–121 & pp. 168–177.

[54] Hay M. J., *Economic Change in Luoland: Kowe. 1890–1945.* Unpublished PhD Thesis. Microfilm. University of Wisconsin. 1972. p. 181.

[55] Manners R., Op. cit. p. 321. Chiefs and headmen received commission for providing labourers for estates and government projects.

> By the mid 1920s more than half the able bodied men in the two largest agricultural tribes, (the Kikuyu and the Luo), were estimated to be working for Europeans. Within the space of a generation they had effectively been converted from independent peasants producing cash crops for the new markets into peasants dependent on agricultural wage labour.[56]

In an effort to maintain food production levels and some degree of political cohesion, two groups of people were first sent out to become wage labourers: uninitiated women and newly married women, who worked as prostitutes and traders of processed food, and men from the warrior age-set, as well as older unmarried men. Men in these two groups were not central to their local economies, being herders, and raider for cattle.[57] The development of the railway from Mombasa to Uganda, with its labour camps, and the establishment of administrative settlements, led to a demand for the goods and services that women provided. Women soon took advantage of the associated fluid social and political circumstances, and chose to either leave their homes and migrate to the towns or to establish for themselves a degree of independence from their husbands or familial homesteads. Stichter has argued that the women's earliest participation in wage earning was through prostitution.[58] As early as the 1890s the Nandi and Maasai women worked in Mombasa and along the railway camps. This movement of women into Mombasa coincided with the economic difficulties that both groups were experiencing at the time — drought and Rinderpest epidemics among cattle.

As the out-migration of males from the interior of Kenya to settlers' farms, estates and the towns increased, women earned money by providing food or informally acting as concubines for the migrants. In Nairobi in 1911 for example, men outnumbered women by six to one.[59] Nairobi was a ready market for both of these services and women came from

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[56] Brett E. A., *Colonialism and Underdevelopment in East Africa. The Politics of Economic Change 1919–1939*. Heinemann. London. 1973. p. 31.

[57] Hay M. J., Op. cit. p. 173.

[58] Stichter S., 'Women and the Labor Force in Kenya. 1895–1964.' *Rural Africana.* Vol. 29. Winter, 1975–6. p. 50.

[59] Bujra J. M., 'Women "Entrepreneurs" of Early Nairobi.' *Canadian Journal of African Studies.* Vol. IX, No. 2. 1975. p. 217.

both the nearby Kikuyu area, and from further afield, from the Nandi and Kipsigis land units, some 150 miles away.[60]

As Strobel states:

> Prostitutes played a key role in the system of migrant labour where families often did not accompany a man to the city. As providers of sexual pleasure, meals and other domestic services they helped reproduce the labour force by performing the support work necessary to keep waged labourers alive and working.[61]

Women supplemented their incomes through prostitution, midwifery, selling handicrafts, preparing food, and beer brewing.[62] Beer brewing (tembo) and midwifery were both regulated by legislation and licensing over 1910–1914. Brewing, in particular in Mombasa, saw licence restrictions decrease the number of legal brewers from seventy-four to ten or twelve in the first quarter of 1912.[63] By 1920 a Native Liquor Ordinance forbade women to make or sell tembo.[64] Limitations on beer brewing in towns meant a loss of income for women and forced them to become more reliant on prostitution and/or the production of foodstuffs for sale. Sales of fruit and vegetables were not as lucrative as beer sales. The income from prostitution and beer brewing helped cushion the rural household from the pressures of out-migration and taxation. Women's labour and engagement with the market lessened their menfolk's need to seek waged labour or sell stock to pay taxes.

Men also faced major changes to their economic activities and social responsibilities. The colonial administration, in an effort to convert the warrior group into waged labourers, imposed large fines on those who undertook livestock raiding. In 1913 for example, "a

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[60] Ibid. p. 217.

[61] Strobel M., *Muslim Women in Mombasa 1890–1975*. Yale University Press. New Haven 1979. p. 139.

[62] Schmidt E., *Peasants, Traders, and Wives: Shona Women in the History of Zimbabwe, 1870–1939*. Heinemann. Portsmouth. 1992. p. 87. Schmidt cites a case wherein beer brewing by women was limited by a mining company so that the profits of the company run beer halls could be ploughed back into the welfare programme set up by the company to ostensively deal with alcohol problems. Restrictions on beer brewing in Zimbabwe occurred at a similar time to those in Kenya: from 1909–1915. See also Parpart J., Class and Gender on the Copperbelt. In: Robertson Claire C. & Berger I. (eds.), *Women and Class in Africa.* Africana Publishing Company. New York. 1986. pp. 145–146.

[63] Strobel M., Op. cit. p. 138.

[64] Ibid. p. 138

Maasai raid against the Kipsigis, the Kavirondo, and Africans in German East Africa resulted in a fine of 500 head of cattle on four villages. The next year a communal fine of 250 head of cattle was imposed for a further raid".[65] Moreover, the Stock Theft Ordinance of 1913 empowered the State to fine stock raiders ten times the value of stolen livestock and, in certain circumstances, the family, the village and even part of the tribe were obliged to pay these heavy fines.[66] This did not lead to the cessation of the raiding of neighbouring cattle stocks. To the contrary, District reports for both Maasai and Kipsigis territory often comment on continued raiding. One district commissioner squarely placed the blame for this on the goading of the warriors by their "sweethearts".

> ... In the past the sweethearts have gone out in a body on strike and renounced communal bliss until [their warriors have proved their courage]. The consequence has been that a raid has been determined.[67]

The loss of raiding opportunities would have had very serious consequences for men's social and economic status. Without cattle, men of all four ethnic groups could not marry or enter the political hierarchy of their respective societies. Hay notes that in Kowe, Luo men were long stay migrants, staying away for 15–20 years, taking up wages to improve their economic position. In this way there were able to acquire bridewealth or purchase consumer goods, which would have been beyond their means if they had stayed within the Reserves.[68] Clearly, decreasing men's pastoral production did not take away male responsibilities for maintaining their family status by obtaining bridewealth for his sons, solving social problems or taking part in cultural rituals. The demise of pastoralism combined with the need to pay taxes and the experience as a waged labourer, acted as catalysts that led men to become more involved in cultivated agricultural production. This had a direct impact upon women. If

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[65] Tignor R. L., Op. cit. p. 77.

[66] Ibid. p. 75.

[67] KNA 1228 Notes on the Nandi. 1907/8 (no page numbers given). 1254 Nyanza Province Annual Report. 1912/13. p. 3. 1275. The Nyanza Province Annual Report. 1932. p. 13 still complains about the fact that 'young men will not work regularly and an endeavour will be made to increase agriculture in the Reserve so as to take the minds of the young men off their traditional pastime — stock thieving'! See also Matson A. T., Nandi Traditions on Raiding. In: Ogot Bethwell A. (ed.), *Hadith 2*. Proceedings of the 1968 Conference of the Historical Association of Kenya. 1970. pp. 61–78.

[68] Hay M. J., Op. cit. p. 173.

women remained unmarried, they could not access land and thus their traditional avenues of wealth and power: food production. Further, the respect and authority gained from marriage and its associated power would be lost.

The colonial regime's need for male labour increased with the outbreak of the First World War. Warriors were drafted off to the carrier corps, at first feeling that this was their duty, and as Fadiman reports:

> Initially … enthusiasm for the project was quite genuine, as warriors scrambled to recover long hidden weapons and spoke with satisfaction of the restoration of raiding. … Then … rumours spread … that only whites could fight. … Those already sent off to the whites' war had been stripped of the shields and spears, then told to carry head loads, the function that tradition still reserved for women.[69]

This reversal of a gender division of labour deeply disturbed both elders and the men made to carry such loads. It reduced the supremacy of male strength, prowess and its associated fertility, changing it to an unknown, and therefore uncontrollable power over which no male in a position of command could hope to restrain.[70] Men carrying head loads, men tilling the soil, who were they and what underlying threat did they present to their communities?

The constraints of colonization meant that men had to obtain their wealth via cropping or wages, activities that either crossed over into women's production or demanded the co-option of women's labour. The chief registrar of Natives recorded the percentages of adult males at work in January 1927 as 72% Kipsigis, 72.28% Kikuyu from Kiambu, 64.45% Nandi, 50.30% Kikuyu from Fort Hall, 48.53% North Nyanza (Luo), 44.91% North and South Nyeri (Kikuyu).[71] Only the Maasai, 25.28%, and the Machakos Kamba, 20%, remained at percentages comparable to those of 1914.[72] By 1929, 160,435 men were at work, with

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[69] Fadiman J. A., Op. cit. p. 256.
[70] Ibid. p. 256.
[71] Clayton Anthony & Savage Donald C., Op. cit. pp. 150–151.
[72] Ibid. pp. 150–151.

30,000 women and children employed seasonally.[73] Thus, over these few decades, men usurped women's roles as the prominent tillers of the soil, controlling the processes of production, in particular harvests, and seriously exacerbating tensions between women and men and understandings of identity.

Cultivation Changes

The impact of the colonial regime's policies, legislation and attitudes towards women's cultivation, as we will see, is both contradictory, economically uneven and in some situations beneficial. It involves seed distribution, the spread of technology, and increasing male power. Under the rubric of improving the food supply of the colony, the administration introduced new farming techniques and seed varieties solely to men. This was undertaken via the targeting of the elders, Chiefs and headmen and the use of demonstration plots. In Nyzana Province in 1907–1909 Luo Chiefs and headmen were paid a commission involving a combination of seeds and cash.[74] The commission was in payment for tax collecting, and other administration work undertaken by them in the districts. The commission paid was 10 percent of the tax collected.[75] Demonstration plots of cotton and linseed were established at Maseno and Kisii.[76] Ainsworth the District Commissioner for Kisumu Province reports in 1909 that:

> ... I have through the medium of getting the chiefs, etc to pay for the [seed] out of their hut tax concessions, been able to introduce several tons of seed of sim-sim [sesame] and ground nuts: cotton seed has been distributed free.[77]

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[73] Ibid. pp. 150–151 and see also his footnote 117. p. 163.

[74] KNA 1239 Special Report 1909 Kisumu Province. p. 89.

[75] KNA 1239 Special Report 1909 Kisumu Province. p. 89. This was changed to all cash in 1909.

[76] Ochieng W. R., *An Outline History of Nyanza up to 1914*. East African Literature Bureau. Nairobi. 1974. p. 85.

[77] KNA 1238 Kisumu Province Annual Report 1908/09. p. 22. See also KNA 1235 Kisumu Province AR 1907/8. p. XXXI. KNA 7 Nairobi District AR. 1909. p. 18.

In the Kikuyu areas it was white Maize, and different varieties of beans, wheat and potatoes introduced by the administration, that enabled District Commissioners to exclaim with delight over their success in getting these new seeds and technologies accepted.[78]

> Turning to Native Agriculture the most pleasing feature is the enthusiasm now displayed by Nthiwa wa Tama and Ndeketha over their ploughs and oxen. Each have 10 oxen trained and have ploughed considerable areas. Nthiwa tells me that his 21 vibaba of beans have produced 2 large gunny bag loads. Ndeketha reports that wheat having done well and his intention to plant up a larger area this season. Nthiwa, Mohindo and Ndeti are going in for English Potatoes and the latter is buying a plough. Mohindo and Kikupi have already purchased ploughs.[79]

A similar story is evident in the Nandi and Lumbwa districts, as Ainsworth reports in 1907:

> Nandi and Lumbwa Districts are, more generally speaking, grazing areas. At the same time however the Nandi are opening considerable tracks to cultivation. Their main crops are millet, sorghum, beans and sweet potatoes. Lately owing to the encouragement of the District Commissioner (Mr C. S. Hemstead) they have commenced to grow white haricot beans and maize with considerable success. They are also taking up the planting of wheat.[80]

This process of seed distribution by the administration continued into the 1920s. For example, in the Kikuyu Reserve in the Kiambu district in 1923 large quantities of flat white maize seed, white Congo seed and Canadian wonder beans were distributed. All of these crops were promoted by the administration, under the rubric of feeding the ever increasing urban and plantation workforces.[81] These new seed varieties were grown on demonstration farms throughout the colony and on gardens set up near regular native markets.[82] In 1924 the Department of Agriculture distributed a total of 81,124 pounds of flat white maize seed in the Kikuyu, Nyanza and Akamba Provinces. Table 1 shows the distribution of all seeds for 1925 in these three provinces, at schools and at missionary society farms. By 1925, for example, the Kiambu district had 28 demonstration farms on which the Department grew these high quality seeds, demonstrated new farming techniques using manure for fertilizer, and promoted

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[78] KNA 1. PC/CP/4/2/1. Ukamba Province AR 1906. p. 3. Machakos District AR 1909. p. 3 and Ukamba Province QR. to June 1910. p. 2.

[79] KNA AR/7 Nairobi District Annual Report. 1909/10. p. 18.

[80] KNA AR/7 Nairobi District Annual Report. 1909/10. p. 18.

[81] KNA AR/1235 Kisumu Province. Annual Report 1907/8. p. XXXII.

[82] DOA AR 1925. p. 170.

mono cropping.[83] The aim of these demonstration farms was twofold: to promote higher yielding crops and to show only men and boys how to farm them.[84]

Table 1. Seed Distribution To Native Reserves 1925.

STATION	MAIZE	BEANS	WHEAT	COT-TON	GROUND NUTS	SIM-SIM	RICE	CHIL LI	ONION	POTA-TOES	BUCK-WHEAT
KIKUYU PROVINCE totals	**32000**	**3200**	**1000**	**150**	**72**	**100**	**200**	**43**	**10**		**1 000**
Fort Hall			1000	150		100	200	38	5		
Nyeri	7000	1200			72			5			
Kikuyu	12000										
Kyambu	4000										
Dagoretti	9000										
Embu		2000							5		1000
NYANZA PROVINCE totals	**46000**	**2000**	**4400**		**500**	**8000**	**8000**		**17**	**540**	
Kapsabet	4000								12	540	
Kericho			2400						5		
Central Kavirondo	2000	2000									
South Kavirondo			2000		500						
North Kavirondo	40000					8000	8000				
UKAMBA PROVINCE totals	**1200**	**1500**		**400**	**400**		**500**	**18**	**20**		
Voi	1200	1500		400	400		500	18	20		
SCHOOLS totals	**1924**	**1150**	**200**	**448**	**718**	**523**		**1**			
Ogada Kisumu	200	80		8	25	30					
A.I.M. Nyakach Kisumu	200	40			25	15					
Bunyore Kisumu	1000	480			400	200					
A.I.M. Litein Kericho	60	60						1			
CMS Mutira Fort Hall	14	10			6	4					
Catholic Mission Nyeri	15	20			12	4					
Embu				360		120					
Native School Machakos	150	400		80	250	150					
Narok School Narok	225		200								
CSM[85] Tumutumu	60	60									
TOTAL SEED ISSUED (lbs)	**81124**	**7850**	**5600**	**998**	**1690**	**8623**	**8700**	**62**	**47**	**540**	**1000**

Source: Department of Agriculture Annual Report 1925. p. 21.

The introduction of new seeds to the chiefs and headmen was only one method used to induct men into intensive cropping and grain production. Migrant men engaged in wage

[83] KNA AR/18 Kiambu District. Annual Report 1925. p. 170.

[84] DOA AR 1925. p. 32.

[85] CSM. Church of Scotland Mission was an evangelical Protestant group, not to be confused with the liberal Protestant Christian Missionary Society, (CMS). Berman B., Control and Crisis in Colonial Kenya. Op. cit. p. 252, fn: 92.

labour, either as conscripted labourers on plantations or contract labourers on settler farms, worked with new crops, in particular cotton, maize, cassava, ground nuts and sugar. They took seeds back to their communities and began to cultivate them on their own plots.[86]

The use of wages and cash commissions enabled men, in particular the chiefs and headmen, to buy iron bladed hoes and ploughs. Some 'seventy ploughs were ordered for certain chiefs who are getting their men instructed and who intend to plough their land,' wrote a delighted District Commissioner in Nyanza Province in 1911.[87] This allowed men to cultivate larger areas of land, so that either they, but mostly their wives, could plant the new varieties of crops, in particular maize and vegetables. The produce from these crops was in high demand by the administration, to feed workers on the railway lines, in the tea and sugar plantations and for general consumption.[88] A person with a plough could hire it out, most often to those who had been in waged labour because they had the cash to pay for it.[89] More importantly, for Kipsigis, Luo and Kikuyu men, owning a plough or hiring it out meant that one's fields were ploughed, thus meeting some of the traditional male responsibilities of the first clearing and digging of the fields. Money also enabled a man to pay for hired labour and beer parties, further meeting his communal responsibilities.

Once the plough was introduced, in 1911, to the sons of chiefs and others at the government demonstration farm at Kibos its effect over time was to increase the area under cultivation.[90] The plough was not introduced amongst the Nandi until 1927 when four

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[86] Hay M. J., Op. cit. p. 181.

[87] KNA 1113. Nyanza Province 1911/12. p. 35.

[88] Oboler R. S., Op. cit. p. 145.

[89] Munro J. F., *Colonial Rule and the Kamba: Social Change in the Kenya Highlands 1889–1939.* Clarendon Press. Oxford. 1975. p. 93. Amongst the Kamba some of the enterprising chiefs purchased ploughs, trained teams of oxen and planted beans, maize and even wheat for sale.

[90] Fearn H., Op. cit. pp. 83–84. The Kibos farm was set up to promote cotton to the Luo near Kisumu on the gulf of Kavirondo. The Government intended to open up instruction centres at Mumias, Kisii, and Kericho.

ploughs were brought in. Twelve years later there were 250 of them.[91] Amongst the Kipsigis the plough was introduced in 1921 and was used by men on their own land. It was hired out to other men for use on their plots of maize.[92] By 1931 the number of ploughs in the Kipsigis land unit had risen to 400 and production more than tripled between 1925–1930.[93] Peristiany notes that amongst the Kipsigis, the men's fields, *imbaret ab soi* were renamed *kipande* as these plots were given over solely to maize production which was often sold to pay the hut and poll taxes. He states that 'by the mid 1930s, maize production had become commercialized and the fields were ploughed by an ox plough with no reciprocal labour arrangements made'.[94] In these circumstances, it must be inferred that there were Kipsigis men who had been able to accumulate considerable funds to afford these labour arrangements. This of course implies that some Kipsigis men had made a choice of either selling the maize crop for cash in order to pay taxes, or hire labour on *the imbaret ab soi* rather than engage in the migration labour system.[95] Whilst these commercial arrangements were no doubt satisfying to some individuals, it may also be that the uptake of the plough by men relieved them of the physical act of digging, which was considered by husbands, male elders and men generally as a 'woman's work'. As Howes, the president of the Local Native Council in Machakos noted:

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[91] Huntingford G. W. B., *The Southern Nilo-Hamites.* International African Institute. London. 1969. p. 22.

[92] Peristiany J. G., *The Social Institutions of the Kipsigis.* Routledge and Kegan Paul. London. 1964. p. 147. He states hire fees as: plough and six oxen for three or four days use, Sh/-12. Or Sh/-8 for only 3 bullocks, or Sh/-5 for the plough alone.

[93] Manners R., Land Use, Trade and the Growth of the Market Economy in Kipsigis Country. In: Bohannan Paul & Dalton George (eds.), *Markets in Africa.* Northwestern University Press. Evanston, Illinois. 1962. p. 504. Heyer counters this position, arguing that the distribution of ploughs was limited (in Nyanza to Kericho and Bungoma), and that these numbers were low in comparison to the area involved. Heyer J., 'The Origins of Regional Inequalities in Smallholder Agriculture in Kenya, 1920–73.' *East African Journal of Rural Development.* Vol. 8, No. 1&2, 1975. p. 148.

[94] Peristiany J. G., Op. cit. p. 130. Maize was introduced as early as 1906 to men to cultivate so as to feed the British administration in the Lumbwa area. Mair in studying the Ganda of Uganda, argues that initially cotton was grown solely by women as it was viewed as part of their responsibilities as they grew all crops needed by the household. However, she claims that as most of the traditional occupations of men had fallen into disuse, men then became 'earners of money' and began growing coffee and cotton. As quoted in Powesland P. G., History of Migration in Uganda. In: Richards A. I. (ed.), *Economic Development and Tribal Change: A Study of Immigrant Labour in Buganda.* Oxford University Press. Nairobi. 1973. p. 22.

[95] Fearn H., Op. cit. p. 115.

> So long as the Wakamba feel that any work required on the land would be done by women folk, they were ready to agree to anything, but directly if became apparent that men too would have to take part, they at once started asking for graders and other mechanical aides.[96]

The use of ploughs and graders stopped men being seen as women, reasserting an understanding of masculinity, its power and authority.

The promotion of white maize by the administration within the indigenous community was primarily aimed at those who held positions of importance, either via the administration's appointment or by the community itself. Over time, this was to lead to the perception of maize as a crop that gave an individual status. Its production was synonymous with progress despite the fact that the crop was of less nutritional value than finger millet or sorghum.[97] Compared to indigenous coloured varieties, the introduced white varieties of maize were low in calcium, and carotene, with the lack of the latter leading to deficiencies in Vitamin A. It was also known that fermenting grain enhanced its nutritional quality. Thus grain was soaked for 5 or 6 days, prior to being ground into flour.[98] Peek or finger millet could be ground between two stones to make flour. Maize required a mill. This latter fact was not lost on women. Indeed, Kipsigis women, initially resisted the cultivation of Flat White maize not only because the grain was not part of their staple diet, or due to its inability to resist pests, such as weevils, but also and not least because it could not be ground easily into flour.[99] There were three different types of mills used for maize hulling. A hand powered gristing mill for use on the farm, and flour mills powered by either water or diesel engines. Water or

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[96] Mss. Perham. Territories. 443/2/1. Local Native Council Minutes. Machakos. Local Native Council. July 8–12, 1947. Minute No: 98/47. p. 10.

[97] Cohen D. W. & Odhiambo E. S., *Siaya*. The historical anthropology of an African landscape. James Currey. 1989. London p. 65.

[98] Mackenzie A. F., *Land Ecology and Resistance in Kenya. 1880–1952*. Edinburgh University Press. Edinburgh. 1998. p. 110.

[99] Maize, wheat and white beans, all introduced crops, could not be kept for longer than six months. Peek could be kept for five or so years and was often used in the manufacture of beer. Orchardson I. Q., *The Kipsigis.* Kenya Literature Bureau. Nairobi. 1978. pp. 91–2.

diesel flour mills were owned men who charged for the service.[100] Some 22 water-driven grinding mills were in South Lumbwa Province in 1926, by 1930 there were 73 of them.[101] By 1929, in the Central Province, there were just 40 water powered flour mills and only 18 hand mills.[102] In the Kikuyu Reserve in the Fort Hall district, as elsewhere, women had to have the cash to pay for the milling of maize flour if they did not have hand mills.

In an effort to control the quality of maize, the administration initially allowed what they termed "native produced maize" to be sold to only Asian shopkeepers who traded at set market places, often long distances from home.[103] As the internal demand for maize grew the market was then further regulated by the introduction of the Marketing of Native Produce Ordinance, which aimed at controlling the quality of maize produced by setting prices paid for it.[104] Women simply could not afford the time to get to the set markets of Asian traders and the process of taking maize to the set marketing places of the Maize Marketing Boards became men's responsibility. Women disliked maize as it did not produce malt, which was integral to the beer making process. As beer was used as payment for community labour, other social goods, or sold as a way of earning cash, this anomaly seriously interfered with women's ability to carry out their social responsibilities.[105] The promotion of maize by the administration, the regulations placed on its sale, the difficulty in getting it milled into flour, effectively removed what was to become a major crop in Kenya away from women. These factors, combined with the controls placed on beer production, greatly eroded the control women had on the end products of agriculture. The production of maize, it could be argued, changed the gendered dynamics of production. These dynamics went deeper than questions

[100] Kitching G., Op. cit. p. 162. In the Nandi area of North Kavirondo, there were apparently, 209 hand powered mills and 102 water or diesel powered mills.

[101] KNA AR 1268 Annual Report Lumbwa. 1926. p. 24 & p. 72. See also KNA 1272. Annual Report Lumbwa 1929. p. 67.

[102] Kitching G., Op. cit. p. 160.

[103] Mackenzie A. F., Op. cit. p. 191.

[104] Fearn H., Op. cit. p. 156.

[105] Orchardson I. Q., Op. cit. pp. 91–2.

concerning on whose land crops were cultivated, who planted and harvested them. Rather maize production questioned who controlled the storage, manufacture, and sale of crops. It blurred the lines of gender segregation that existed between what were men and women's crops and the wealth that was generated by them.

The colonial regime's agricultural policies were clearly aimed at undermining women's productive control, in particular via the three pronged approach of targeting chiefs for promoting new agricultural crops and cultivation methods, paying them high wages, and finally educating them and their sons.[106] Ainsworth again writes:

> The sons of all the more important chiefs and those of some of the less important and of the headmen are being sent to Mission schools in different parts of the country. The Government encourages the Chiefs and headmen to send their sons and particularly the son selected to succeed them to be taught ... The benefits of having the future Chiefs and headmen educated are too obvious to require any remarks here on the subject.[107]

The targeted education policy was to create what was known as the *athomi*, meaning, literally 'the readers'.[108] It was a group of mission educated boys who became junior government officials, clerks, teachers and artisans and who, from 1910 onward, were paid salaries three to four times the average unskilled agricultural worker's wage and therefore possessed the revenue to invest in agriculture and small scale business.[109] It was hoped that the combination of introducing new seed varieties and educating the sons of important people, would encourage the African male population to move into cash crop production and the large scale production of food crops for sale to the internal market.[110] The discriminatory policy of promoting European-introduced crops such as the white maize varieties, white Congo beans, to men only, no doubt increased male importance. The discrimination went further for

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[106] KNA 1239. Special Report. 1909. p. 76.

[107] KNA 1239. Special Report. 1909. p. 76. See also KNA 113 Nyanza Province. Annual Report. 1911/12. p. 48.

[108] Berman B., Control and Crisis in Colonial Kenya. Op. cit. p. 222.

[109] Ibid. p. 225–226.

[110] The Settler population was more interested in concentrating on coffee, dairy, sisal, sugar, tea and maize for export. PBR 109. KBU/116 Kiambu Political Record Book p. 1.

example, with deductions being paid to African farmers per 200 pound bag of maize, to cover loading, storage, marketing and transport costs.[111] It appears that no such deductions were given to women for their production of beans or sweet potatoes that were also in demand and sold on the internal market.[112] The transactions were certainly male to male, that is male District Officers promoting these crops to male chiefs, and the deductions paid to men. These policies were promoted as 'progressive farming', implying that women's production was backward, secondary, and that subsistence farming was of little importance to the colonial economy. As Ainsworth poignantly remarks:

> One of our future chiefs, who has just finished the scholastic part of his education … is about to take down some of his people to Kabete Farm [a demonstration farm] to learn ploughing and a better class of agriculture.[113]

Such actions bolstered male superiority and control over women's labour. Importantly it had the effect of downgrading what were considered women's crop varieties: sweet potatoes, millets and indigenous bean varieties, as well as women's inter planting techniques. The administration had promoted new bean varieties such as Rose Coco and Canadian Wonder beans, sorghum, cassava and European vegetables such as onions, cabbages and tomatoes as well as "Flat White" maize varieties.[114] These crops did not become a regular part of local diets until years later.[115] The Department of Agriculture reports that by 1924, in Nyanza Province, "there was a belt of approximately 100 square miles where the coloured native maize has been practically eradicated".[116] By examining the total tonnage of produce exported out of Nyanza Province, over the ten year period 1909–1918, a period in which gender norms concerning agricultural production were supposedly still intact, we find that women's crops

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[111] Fearn H., Op. cit. p. 158.

[112] Ibid. p. 79.

[113] KNA AR1254/13. Nyanza Province Annual Report. p. 71.

[114] Kitching G., Op. cit. p. 47.

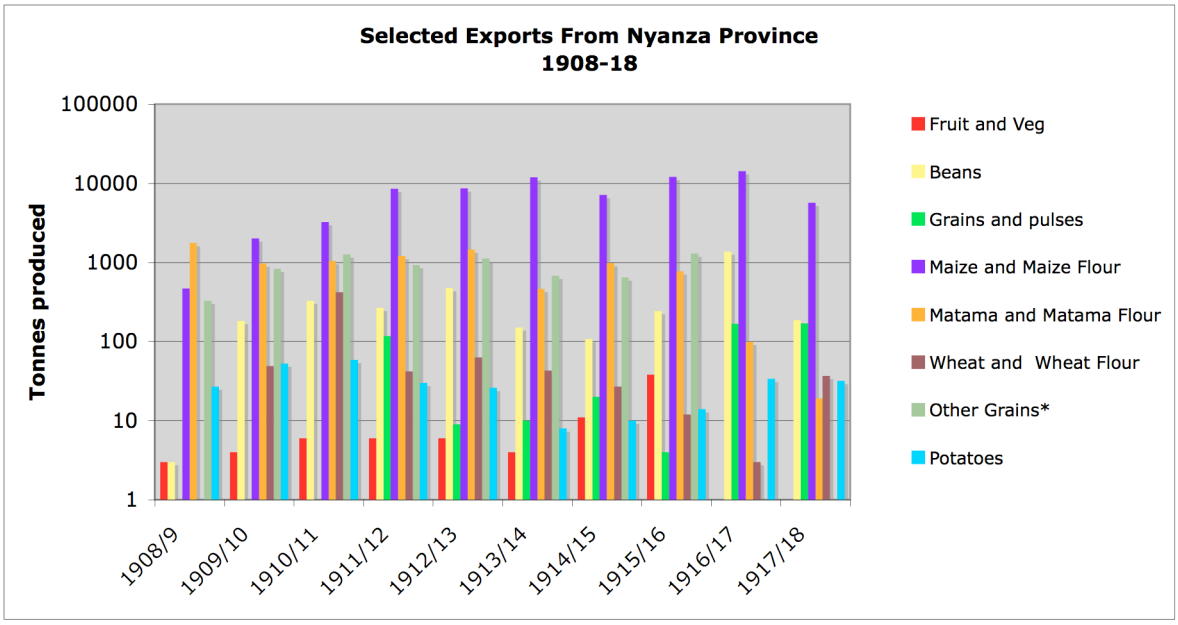
[115] Hay M. J., Op. cit. p. 149. Further it must be remembered that any surplus that women produced for their own family's consumption or for barter between households would not be recorded in official figures as it did not reach these formal markets.

[116] DOA. Annual Report. 1924. p. 22.

were already at the margins of crop production. Graph 1, below, shows that Maize dominated production, totalling 73,887 tonnes for those years. The next highest was Matama Flour at 8,700 tonnes, the other grains, which probably consisted of buckwheat, sorghum and millets at 7,095 tonnes, then the introduced Rose Coco and Canadian Wonder beans, 3,307 tonnes. These figures give an indication of the already marginalized position of women's own crops and the commandeering of their labour power into the production of introduced crops.

Graph 1. Selected Exports from Nyanza Province. 1908–1918.

Note: vertical scale is logarithmic



Source: Compiled from KNA 1257. Annual Report of 1915/16, Comparative Statement of Exports Nyanza Province and Fearn H., An African Economy. p 79.

*Other grains: included Millets, Linseed, Buckwheat, Chiroko

It also placed women's farming systems and produce outside of agricultural extension services, financial assistance, and what came to be termed "Betterment" campaigns.[117]

No doubt the ability of individual family units to defer entry into the waged labour force was contingent upon its wealth and location. Obviously, if women's cultivated plots of

[117] See Mackenzie's discussion of the Betterment campaigns, which she argues were a thinly disguised attempt to push women's agricultural production to the edge. Mackenzie A. F., Op. Cit. pp. 125–167.

land were on more fertile soils with good rainfall, then returns would be higher than that of crops produced on poorer soils. This meant that the family was less dependent on wage labour to pay debts or to buy other items of importance. If the Reserve was located close to sisal, coffee and tea plantations, it was more economical to produce crops for household consumption and for sale to the internal market, and take up some seasonal work on the plantations as the need arose. The situation of the Kipsigis is illustrative of this very point:

> [the Kipsigis] have on the borders two wealthy tea estates, whose demand for labour and native food is almost unlimited: they have large quantities of stock and very fertile and well watered land. The two tea estates alone have a labour roll of about 9,000 and pay out about £6,000 monthly in wages besides requiring about £10,000 worth of native food annually.[118]

So great was the impact of the maize trade on the Kipsigis that the District Commissioner feared "that the Kipsigis may be growing themselves out of the labour market".[119] By 1930, the Annual Report tells us that, "comparatively few Lumbwas were employed on the Tea Estates".[120] In fact, the income that some Kipsigis men were making from the sale of Maize enabled them to hire a tractor from a European farmer, to break up ground in the Reserve.[121] This meant that women had larger areas to cultivate as sowing, weeding and harvesting were women's and not men's work. Contrast this to the situation of some Kipsigis men who were able to lessen the demands on their labour time and avoid going out to work on the nearby tea plantations.

The increases in African crop production that occurred in the first thirty years of colonial rule were attained by women's agricultural production. In the period 1908 to the end of the 1912–1913 season, African production accounted for 70% of all of Kenya's exports, which came mainly in the form of hides, skins, copra, ivory, wattle bark, maize and sesame

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[118] Native Affairs Department. Annual Report. 1930. p. 9.
[119] Ibid. p. 9
[120] Ibid. p. 9.
[121] Manners R., The Kipsigis of Kenya. In: Steward J. H. (ed.), Op. cit. p. 291.

seeds,[122] of which the latter two items involved women as the main producers. By looking solely at the production of Maize from 1912 to 1918 in Table 2 below, a time when male out-migration was high, largely due to the impact of the First World War, maize production actually increased.[123]

Table 2. Kenyan Maize Production 1912–1918.

YEAR	1912	1913	1914	1915	1916	1917	1918
TONS	8,510	8,594*	11,882	7,165**	12,108	14,192	5,689***

Source: Clayton Anthony & Savage Donald C., Government and Labour in Kenya 1895–1963. p. 87. Notes: * The English hoe was introduced in 1913. ** A major weevil infestation affected storage of the crop. *** In 1918 the November rains failed and famine ensued. De-mobilisation occurred in March 1918.[124]

Male labour was conscripted from the Reserves in large numbers for the war. Ainsworth the DC for Nyanza Province was instructed to conscript 42,500 men over and above the 52,000 who were already away in March 1917. He obtained men at a rate of 3,000 per month for April and May and 1,600 per month until October.[125] This recruitment coincided with the planting of the maize and sorghum crops in February and March and harvesting in August and September. The large differential between women's traditional crops (grains, pulses, sweet potatoes, etc), and the expansion of the maize crop in Nyanza was in no small way due to women's cultivation, as it was sown on the women's land interspersed between other crops.[126] The ability of women to improve this production was influenced by some technical improvements, in particular the traditional digging stick being replaced by the English hoe. Fearn notes that "some 30,000 English hoes where sold, in the Kisumu District, Nyanza

[122] Brett E. A., Op. cit. p. 176.

[123] KNA 1257 AR 1917/18. Nyanza Province Annual Report. J.B. Ainsworth, District Commissioner. A similar situation occurred during WWII, with production figures from the Reserves showing very good returns. Orde Brown, Labour Advisor to the Secretary of State for Colonies, 1946 stated: "… these figures are impressive when it is remembered … that a very large proportion of the able bodied men have been drawn away and two years of drought occurred at the same time". CO 822/130/2. Report on Labour Conditions in East Africa. 1946. p. 86.

[124] Tignor R. L., Op. cit. p. 98.

[125] CO 533/182. Bowring to the Colonial Office, 20th June 1917. See also KNA 1258 AR 1916/17. Nyanza Provincial Annual Report. W. Pickford. District Commissioner.

[126] Fearn H., Op. cit. p. 84.

Province, in 1913, to women for use mainly on their own land".[127] Previously women used a digging stick with a pointed iron blade on it, as well as knives and axes, in their agricultural work.[128] Significantly, maize had the advantage of having a shorter growing period than sorghum. It could be grown in poor soils, during short rain cycles, and cultivated during off-peak seasons, often providing two crops per year and it gave a higher yield than indigenous varieties.[129] These qualities of maize may have helped to offset food shortages due to crop failures.

Apart from the impact of the English hoe on women's production, the question must be asked: why did women, despite their reticence grow maize and other introduced crops successfully during this period? The answer is multi-layered. Firstly women's production at this stage continued to be independent from that of men. These production levels were to a large degree sustainable, because of the fact that a production system had developed in all four ethnic groups in which the absence of men would not leave women's agriculture impoverished. Thus up until 1920, women, via the growing of maize, a crop introduced to men, by men, still had control over grain production, and in the Nyanza District the rules governing usufruct rights were still being adhered to. This meant that Nandi, Kipsigis and Luo women were still the main traders of grain and could sell grain surpluses. Secondly, it appears, therefore, that in the first two decades of colonial rule women made decisions, when their husbands left for the war or to take up wage employment, to utilize maize and other introduced crops, that had a high demand, and ready markets, that brought in money with which to pay the hut and poll taxes and to provide for the purchase of other important commodities such as cattle, goats and sheep. In short, women's productive ability and

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[127] Fearn H., Op. cit. p. 83. Fearn argues that the increases in maize production were due to better marketing facilities and transport links. However you had to grow it first!

[128] Middleton and Kershaw. Op. cit. p. 22.

[129] Tignor R. L., Op. cit. p. 298.

judicious use of markets subsidized and protected men's wealth. However, for women, the contradictions inherent in the growing of maize and other introduced crops, were, over time, to come with high physical and income costs. In terms of the former, as Kitching points out, in Maragoli and other areas of North Kavirondo by the mid-thirties there were:

> two maize crops, two sorghum crops and one crop each of beans and sweet potatoes. In addition there were seven different periods of sowing or planting, four different harvests, three periods of weeding and two different periods of hoeing or turning over the land in preparation for planting. Women were responsible for all these tasks sharing only a small proportion of the planting duties and the harvesting of maize with men.[130]

This led to conflicting priorities for women. For example, coffee required intense labour input from September to December, which is the traditional African agricultural planting time. Women were then faced with the choice of planting food crops or working on the coffee plantations or doing both. On the coffee estates women did most of the weeding and harvesting because this was considered women's work.[131] By 1925, figures recorded over 11,000 children employed in picking tea, coffee, and pyrethrum.[132] By 1927, women and juveniles at the peak season comprised over:

> … 20% of the total labour force. Within the purely agricultural labour force women and children accounted for as much as 35 to 40% of total employees at the peak coffee picking seasons.[133]

Women's workloads increased dramatically and they resisted by running away from their husbands, or refusing to harvest cash crops as in the Thika District, where the District Commissioner reported in 1941 that:

> the 'coffee picking season became a political issue this year even more so than in previous years owing to the fear that the women would not turn out to pick it'.[134]

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[130] Kitching G., Op. cit. p. 85.

[131] Weeding was divided into light weeding: 2000–2500 Sq yards/day, and heavy weeding: 880–1200 sq yards/day. CO 533/382/13. Appendix C. p. 96.

[132] Middleton and Kershaw. Op. cit. p. 129.

[133] Wolff Richard D., Op. cit. p. 128.

[134] KNA 526 ARC MAA 2/3/8111 Thika District AR 1941. p. 2.

Schmidt also notes similar resistance by Shona in Tanzania, of women who refused to put fertiliser, in this case cow manure, on maize crops because it took too much of their time in collecting, transporting, and spreading it.[135]

The development of plantation crops, such as sisal, tea and coffee, and the use of women's forced labour in agricultural production, placed women in a powerless position. The Chief Native commissioner states that:

> In some instances, a tribal retainer would be sent out to produce a given number of girls without reference to the chief or headman. In either case when a father or owner of a girl actively objected to her going he was called to Kyambu and fined a sheep by the D.C. and the girls had to go. … The girls are seduced by threat or by favour. The native overseers often have the power to get the girls days cut or to favour her and let her off work. The girls are not free owing to their being under the system of impressment, and knowing that if they cause trouble they may be made to suffer and if they desert their fathers will be penalized.[136]

These sorts of forced labour arrangements ignored established gender conventions concerning the relationships between fathers and daughters that seemed to dictate a daughter's obedience to her father's wishes. The idea of fathers being punished for either protecting daughters from the vicissitudes of ruthless employers and tribal retainers, or being punished because daughters ran away from such situations must have been an anathema. It certainly would have placed both parties in conflict with each other and with other significant members of the family.

A combination of prevailing male attitudes that dictated women's roles as wives, mothers and labourers, coupled with the limited options of other sectors of the economy, meant that attempts by women to move into more permanent waged labour away from the rural sector, proved difficult. For example, there were two factories that employed some

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[135] Schmidt E., Op. cit. p. 82.

[136] CBMS/IMC/ Box 240. Native Labour Correspondence. Letter Dr. S. E. Jones to J. H. Oldham. 31/Aug. 1921.

female labour, a cigarette factory in Nyanza and coffee curing works in Mombasa, the latter employing around 367 women and girls.[137] One of the more lucrative incomes for women was to work as a children's nurse earning an average of Shs/- 34 a month in 1934.[138] It paid a little better than the wages of laundry men and cooks, at Shs/- 25 and Shs/- 28 respectively.[139] The employment figures for 1927 showed that 160,000 men were employed across a wide range of industries, the majority, 76,838 employed in agriculture, 15,800 working in townships in shops, running transport businesses or as office messengers, 12,890 employed by the Government, 16,216 working in railway construction and maintenance, and 22,000 in domestic service.[140] These same figures state that 30,000 women were employed seasonally.[141] These figures show that although options for men outside of the agricultural sector may have been limited, at least they existed and were of a wider scope than those available for women. Women's lack of formal education prevented them from gaining employment as teachers or as clerks in the government administration. The lack of opportunities for women outside the rural economy was still evident in the Labour figures of 1957, after some sixty years of colonial occupation. In the public service for example, there was one adult women to every 30 adult men employed. In domestic service it was 1:15 and the private industry sector was similar to that of the public service: 1:30.[142]

Intensifying Gender Roles

There is no doubt that African agriculture during the first two decades of the century was commercially successful. This was due to a combination of factors. Firstly, the land frontier

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[137] Stichter S., Op. cit. p. 56.

[138] Kitching G., Op. cit. p. 259.

[139] Stichter S., Op. cit. p. 56.

[140] Clayton & Savage, Op. cit. p. 151. I have quoted the major employment areas involving the greatest numbers of men. The figures included smaller industries, such as marine maintenance, 428, and the building trade, 750.

[141] Ibid. p. 151.

[142] Mss. Perham. 437/6. AR African Affairs Department. 1957. p. 4. The raw figures are: public service, there were 29,908 adult men and 1,004 adult women. In domestic service there were 7,450 adult men and 534 women, and in private industry, 37,085 men were employed compared to just 1,280 women.

was still open, in that access to land was still available either in the reserves or via squatting on the settler's farms. Furthermore, the African population remained relatively stable during these two decades. Secondly, markets for the crops produced were found in the increasing urban populations, in labour camps set up to build rail and road links, and in the European sisal, tea and coffee plantations. Thirdly, the success of these markets for African produce was aided by the failure of small-holder, settler agricultural production.[143] Fourthly, constraints placed on African production capabilities, through taxation demands and labour recruitment, were met by a more efficient utilisation of the 'dormant' labour time of both men and women and by the judicious use of seasonal labour requirements.[144] Crucially as Kitching notes:

> … the fact remains that in the period 1905 to 1930 it was the quantitative expansion of women's labour time which was primarily responsible for such commercialisation of African agriculture …[145]

Whilst Kitching is correct in stating that women's labour took up the extra workload, he fails to identify the changes that occurred within the gender specific production systems and who gained from them at the gender level.[146] By the mid 1910s men had been forced by the criminalization of cattle raiding, away from active participation in cattle production and then pressed into cultivated crop production and waged labour. As a result, women began to lose control over their farming systems, in particular what they planted, harvested, and sold. These changes forced women to make choices about where to utilize their labour time, based on family position, social responsibilities and on economic returns. Choices were made, not

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[143] van Zwanenberg R. M. A. with King Anne., Op. cit. p. 34.

[144] The dormant labour period refers to the time between planting and harvesting of crops. It does not mean that there was no labour required to attend to farming activities such as weeding. It means that it was a time of less intensive labour activity.

[145] Kitching G., Op. cit. p. 20.

[146] Although Kitching calls for more research in this area, he goes on to say that: 'may be in the end it made little difference, in that men still asserted their rights of control over the produce of all land except that from the plots accorded to their wives.' He argues that this resulted in the marginalisation of women's farming to subsistence holdings. Surely that is the point. In terms of who gained from the intensification of the gendered division of labour and income it relegated women to increasing marginalisation not only of income, but importantly of political space and authority. Kitching G., Ibid. p. 87.

only in terms of the time spent on producing a crop but on the types of return gained from it. That is, would the crop produce food for the family, or surplus for sale? If a cash crop were sold would a wife obtain a percentage of the profit if it was passed on from the husband?[147] Thus, the decisions women made on returns were complex, linked to conjugal bonds, out migration of husbands to labour on European farms, political alliances, and class. Women from poor households, for example, whose husbands went to work on European farms for long periods of time, faced hard economic times if the husband made no remittances to his wife and family.[148] Wives married to Chiefs were often better placed to hire labour and therefore expand their cultivation. For some women, changes to the gender divisions of labour left them facing choices over reducing the risk of the farm failing, and their husband's facing the need to engage in income maximization via labouring for others.

The production of maize clearly accentuated these dilemmas. Certainly, as we have seen, maize cultivation was resented by women. However, gender conventions designated that women physically planted and harvested it and, whilst it is evident that its profits ended up in the hands of men, those same returns paid for taxes and other expenses.[149] Thus, women via their labour on this crop helped to keep the hearthhold together, yet at the same time eroded their control over their own agricultural returns and crops, simply because they did not get the time to work on them. Which is more important in dealing with the impact of colonial occupation: keeping conjugal bonds and families together or keeping control of, or organising for, the returns of what you produce, to come into your own hands? The increasing control over women's labour and their position within the family unit, often did not allow for the latter to happen. For men on the other hand, who controlled the distribution of labour, both

[147] Mackenzie A. F., Op. cit. p. 145.

[148] Berman B. & Lonsdale J., *State and Class in Kenya*. Op. cit. p. 126. Wages for farm labour was a low as eight shillings per month in 1920. A labourer had to work two to four months a year to meet taxation demands alone. Since few worked for a full year there was little left over for sending home.

[149] Mackenzie A. F., Op. cit. pp. 133–138.

that of wives and other men and who received higher wages than women, their deliberations on returns were different. Undoubtedly, their decisions were affected by family circumstances, such as, if they were squatters, or remained in a Reserve, had large land holdings or political relations with the colonial administration, that is if they were chiefs, or were educated or engaged as migrant labourers. Men had more flexibility than women in deciding how to utilise their income because they had more options open to them. Kipsigis men for example, via the use of the plough, took up extensive maize growing as an alternative to becoming migrant labourers.[150] That same plough co-opted women's labour time, with little of no returns to be gained from it.

It is this intensification of gender differentiation that began to harden perceptions of acceptable behaviour and the roles of Kenyan men and women. These choices and the escalating inflexibility of gender relations were reflected, for example, in the increasing amounts paid in the form of hut and poll taxes, which went from £175,000 in 1914–15, £279,000 in 1919–20 to £658,414 in 1920–21.[151] This is an increase of 375%, over six years. These sums represented a considerable amount of money. Men however, earned the majority of it, as they were drawn more than women into the waged economy and they paid these taxes. Following the gender hierarchy of European economic systems women's earnings were considered secondary and only useful for family subsistence. This is also reflected in the lower wages paid to women for their labour. Importantly, due to the delineations that existed in the storage and distribution of harvests (the end product of labour), women and men did not pool their incomes, instead they were segregated into what were considered female and male spheres of activity and responsibility.

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[150] Peristiany J. G., Op. cit. p. 147.

[151] Berman B. & Lonsdale J., *State and Class in Kenya*. Op. cit. p.115.

The gender income inequality was reflected in the growing importance of education. It could be argued that the British policy of getting the sons of important men in local communities educated, ultimately resulted in the preference for male as opposed to female education.[152] For example in 1929, after 30 years of colonial rule, at the government school in Kericho district, 67 pupils were enrolled and they were all boys.[153] However, it could also be argued that prior to British occupation, the education of children after a certain age, or around the ceremonies associated with initiation, was a segregated affair with boys' education seen as a male responsibility and women in charge of instructing their daughters.[154] With the advent of schools, this gendered separation of educational practices continued, with more boys than girls attending school and men's wages being used to pay for it. The lack of girls entering formal education was a combination of the ingrained male attitudes towards female education, the gendered segregation of incomes and the lack of income available to their mothers to pay for it.[155]

Entrenching Inequality

The development of the waged economy and the commercialisation of indigenous agriculture, both hardened existing gender delineations and entrenched the patriarchal notions of the colonising country about women remaining firmly in the private-family sphere. The factors of land control, selective out migration, squatting, increases in production and changes in production techniques, in particular the use of the hoe and the plough, certainly had differing

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[152] KNA AR 1254/13. Nyanza Province Report. The Mission school in Nyanza was only educating the sons of chiefs and headmen. p. 70.

[153] KNA AR 1272. Nyanza Province Report. 1929. p. 74. The small number of girls who attended school was still evident in 1951. In the Machakos district, for example, there were a total of 5460 girls in both primary and intermediate schools. This represents 25.2% of the total student numbers. KNA DC/Mks 1/1/33. p. 37.

[154] Ominde S. H., *The Luo Girl. From Infancy to Marriage.* Macmillian. London. 1952. p. 58. Orchardson I. Q., The Kipsigis, Op. cit. pp.10–19.

[155] Allman J. & Tashjian V., "I Will Not Eat Stone." A Women's History of Colonial Asante. Heinemann. Portsmouth. 2000. Notes similar distinctions over the payment of school fees within Asante households, when education was introduced to sons. p. 33.

impacts on regions, ethnic groups and gender relations. As we have seen the onslaught on women's production systems occurred slowly, and was often contradictory. At times women's involvement in maize production for example, was to show that they were capable of producing increasing quantities of maize when their menfolk were away, thus proving that they still had a degree of control over the production processes. Yet with cultivation expanding via the introduction of ploughs, and the distribution of seeds solely to men, women were unable to direct where their labour was employed, and this limited their ability to control income generating options for their own use.

The movement of men away from their traditional mode of accumulation, i.e. pastoralism, was aided by the colonial regime's use of bribery, such as the distribution of free seeds, wages and class differentiation. The latter was established by the use of a system of Chiefs and headmen, who collected hut and poll taxes, pushed fellow clan members into labouring, and as an incentive for doing so received a percentage of the taxes and commissions collected. For women this loss of control over cultivated crop production came at the expense of their ability to gain control over the returns from the new seed varieties, in particular maize, which brought back higher returns than women's usual crops.[156] This is despite the fact that it was women who physically planted, weeded and harvested these crops. The use of wages gave men further advantage over women in agricultural production in that men's wages were consistently higher and, with them, men could buy new seeds, technology and hire labour.[157] Women simply did not have the purchasing power or the authority that the higher male wages gave their menfolk. The ability of wealthy men to pay for hired labour, with their wages, reinforced their traditional control of the labour supply. Yet, women were not passive victims of the commercialisation of African farming, rather they took advantage

[156] DOA Annual Report. 1924. p. 22.
[157] Berman B. & Lonsdale J., *Unhappy Valley*. Book Two. Violence and Ethnicity. James Currey. London. 1992, p. 387,

of new technologies and where possible new markets. When the labour burden became too great, women protested. These decisions were influenced by the need to keep families alive and to attempt to preserve a sense of who they were. Despite the increased workloads, and marginalisation of women's own crops, farming upheld both of these elements.

It is therefore not surprising that when the British arrived and saw that women were in charge of the cultivation of the food supply, as distinct from pastoralism, that they deliberately used African men's labour to challenge this control and by doing so undermined women's wealth and independence. It was women's farming that was in direct competition with settler production, as it was women's knowledge and labour power that produced it. There is no doubt that the British decision to reduce men's involvement in pastoralism was primarily aimed at securing a labour force for the settler community. If by moving men into women's cultivated crop production, they could control not only women's sexuality; power and authority, but also women's wealth creation avenues, then the threat that women's independent production posed to the establishment of European agriculture would be reduced. Huge taxation bills forced the indigenous population into compromising decisions on returns, labour distribution and the types of crops to be cultivated.

The use of labour laws such as the Kipande, squatter regulation, in particular the draconian legislation of 1918, and its incorporation with the punitive Masters and Servants Ordinance in 1926, aided the creation of this labour force. The settler dominated parliament and the administration, over the first two decades of colonial rule, was not at all interested in promoting, let alone supporting women's farming. It was a case of establishing the crudest form of capitalist expansion by attempting to create both a compliant workforce with no or very little agricultural opposition.

As we will see in the next chapter, the British continued to pursue this policy via the further legislation of labour, radically changing notions of land ownership and its use. Finally as African women were, by British moral standards, threatening and perceived as the cause of all the colony's troubles, the administration utilized sections of customary law that supported both the male dominance of women and facilitated the expansion of Britain's imperial endeavour. However, we will also see that these changes began to open the space for women to challenge the moral authority of both men and the colonial regime.

CHAPTER FIVE

WOMEN, LAND AND LABOUR

Introduction

The experience of the first three decades of colonial rule, 1900–1930, changed the inter-connectedness of women and men's agricultural responsibilities. The loss of men to migrant labouring and the co-option of women's labour into the production of maize in particular, impacted upon established agricultural systems and the labour time of both women and men.

The negative effects of the Depression on the Kenyan economy, the widespread famines of 1934 and 1943 and the increasing power of the settler farmers to dictate agricultural policy changed the administration's policy toward African agriculture. Settler influence skewed agricultural policy towards export crops and the subsidisation of the settler farm sector and this in turn led to an expansion of cash cropping within African agriculture. The process benefited men more than women, and consolidated men's positions as farmers and breadwinners. Major changes in land ownership and use brought about by the implementation of the Swynnerton Plan were to further entrench male authority over women's labour and decisions.

In view of these changes the chapter argues that if the first three decades of colonial rule resulted in the movement of men into women's agricultural production, then the period between 1930 and 1952 brought about a decrease of land for women's own productive uses and an increasing co-option of women's labour time to work on men's crops. In short, women lost real control over their land use and access rights, becoming casual labour on land and crops that men now used as a basis for their own wealth creation. The colonial administration's policy of improving African farming facilitated this process by changing

women's access to land in a number of ways. Firstly the loss of access to land for women's own crop production caused by the expansion of newly promoted crops continued. Secondly, women lost access to the wealth that was created, via the co-option of their labour time into crops that were promoted by the colonial administration to men. Thirdly, women lost control over land access rights due to a radical change in the structures of land ownership, in particular land titling, brought about by the implementation of the Swynnerton Plan.

For women, discontent concerning land access and the co-option of their labour power found its expression within marital relations. On marrying, women were able to establish their lives on their own terms with the degree of independence that was afforded from having children and producing subsistence crops for the household. However, when men increasingly co-opted women's labour for commercialised cropping ventures, and decreased access to land for women's own crop production, women became caught within the contradictions of traditional expectations and the exigencies of colonial rule. Within the confines of marriage women reacted by demanding their rights to land, shaming husbands into action, running away from unwanted marriages to lovers or to the towns. Mostly however, the pressures of colonial rule saw women forced into waged labouring by the colonial regime, which for women was limited to seasonal and intermittent agricultural work on half the wages of men. Women were expected, by both the administration and their families, to remain within their communities, their homes and in particular their marriages. Unlike their menfolk, women faced enormous opposition upon leaving their homes or the security of marriages. When these women ran away to escape workloads and loneliness, they were considered to be little more than prostitutes, because they had abandoned their marital or natal homes without the permission of their families: guardians, husbands, chiefs, uncles and elders. If these women went to the towns, they crossed social and gender boundaries, which challenged identities for all concerned.

These layers of social control were exacerbated by missionary societies, the administration, and the British public's campaigns against bridewealth, initiation and forced marriage.[1] All of which placed pressure on women's relationships within families, and between wives and husbands, bringing into question, understandings of marriage and identity and their associations with the use of power.

Men on the other hand, were forced out of families in order to satisfy the labour and taxation demands of settlers and the administration. The men who took up positions as labourers on plantations and settler farms or worked for the administration as clerks, soldiers, police etc, and who returned to their communities began to challenge understandings of social control, power, tribal law and age-set transfers. Their disagreements were with the governing elders and councils and centred on how to deal with the over ruling by the colonial regime, of indigenous systems of law, initiation, the advent of money rather than cattle as the medium of exchange, wealth and status. Men had an accepted space for this dialogue of dissent via their age-grades, councils, Kiamas or via the re-establishment of rituals. Even so, this dissent exacerbated the, at times, tense relations between uninitiated men, their fathers and the dominant age-set that came from the existing social pressures of generational change.[2] Elders found the discontent within marriages, generational change and the changing concepts of wealth difficult to deal with.[3] They wondered how they were to proceed and balance the demands of the colonial regime and the claims of their kinfolk.

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[1] See letters to the Manchester Guardian in file CO 847/6/11. In particular those by Archdeacon Owen, concerning the forced marriage of girls in Kenya. Missionary societies demands that their converts not pay bridewealth was considered to be part of their campaign to improve the position of women, in that they were not chattels to be sold to the highest bidder or the man with the greatest wealth.

[2] Fadiman J., *When We Began There Were Witchmen*. University of California Press. Berkley. 1993. p. 262. These tensions were expressed via taunts, chants and petty brawls between warriors, family heads and seniors.

[3] MP 435/2/2. NAD. Annual Report. 1925. pp. 3–5. The report notes that younger men suggested that the value of the stock paid by the incoming generation might well be used for establishing schools rather than simply going to feed the out-going elders.

By the mid to late 1930's women's discontent began to shatter what fragile bonds held disparate families and clans together. These 'rebellious', so called 'chattels', prostitutes, 'minors,' and 'gossiping' women began defining new identities on their own terms. The disputes over land, labour and marriage raised intense social and political questions concerning identity and how connections to the past might deliver solutions in times of uncertainty, and as time went on, modernity.

Land and Labour

The post-depression period, through the Second World War, to the period of the Emergency 1952–59, saw the domination of European agriculture, in particular that of estate and plantation agriculture, over that of African production.[4] In the 1930s the Kenyan economy was at the mercy of world economic events with the decline in coffee and maize prices, both of which formed the backbone of Settler agriculture and Kenyan exports.[5] This resulted in declining wages for African labourers and increasing insolvency for the settler community.[6] For example, between 1929 and 1935 wages for African workers fell by 40%.[7] Maize prices

[4] This was facilitated further as, from 1942 onwards, settlers 'received guaranteed prices for their products, cash advances against future crops, rehabilitation loans and breaking-in grants'. This guarantee of prices was enshrined in legislation passed in 1942 and known as the Increased Production of Crops Ordinance. Nothing like this was granted to African producers. For example, the lack of inoculations against rinderpest, and few cattle dipping programmes ensured that African cattle would not be disease free and therefore allowed access to wider and more lucrative markets. Youé C. P., 'Settler Capital and the Assault on the Squatter Peasantry in Kenya's Uasin Gishu District 1942–63.' *African Affairs*. Vol. 87, No. 348. July 1988. p. 395. See also Stichter S., *Migrant Labour In Kenya: Capitalism and African Response, 1895–1975* Longman. Essex. 1982. p. 103.

[5] The majority of settler production was exported, with coffee accounting for fifty of the export value. Kitching G., *Class and Economic Change in Kenya: The Making of an African Petite Bourgeoisie 1905–1970.* Yale University Press. New Haven. 1980. p. 57.

[6] During the Depression, exports dropped from £3.422 million in 1929 to £1.909 million in 1934. At the same time the Kenyan administration was obliged to pay interest on its loans from Britain which amounted to 33% of recurrent expenditure. In 1936 £3,000,000, was owed by the settler community and the colonial administration itself was in debt by around £17,000,000 most of which was owing on the Kenya-Uganda railway. van Zwanenberg R. M. A., *Colonial Capitalism and Labour in Kenya 1919–1939.* East African Literature Bureau. Nairobi. 1975. pp. 1–2 & 18–19.

[7] Stichter S., Op. cit. p. 95.

for the same period decreased by 54%.[8] Fazan, the District Commissioner for the Kiambu District in 1931 noted:

> The income from a holding in the Kiambu/Fort Hall Reserve of say 3.39 acres in 1931, for example, would bring in Shs 192/- but Shs 139/- would be consumed by the family, leaving Shs 53/- to pay taxes (worth Shs 27/50-) leaving Shs 25/50. Add earnings of Shs 53/- per annum from the sale of crops. … these figures are an average with most people living below these levels.[9]

This desperate economic situation was compounded by further declines in African agricultural production as more severe climatic events occurred in the 1930s. In the Nyanza Province, the Depression was followed by famine in 1931–32 and a localized drought with famine becoming widespread across Kenya in 1934. There was further widespread famine in 1943.[10] The effect of these harsh climatic periods led to the forced sale of livestock and an increase in the number of men forced into migrant labour.[11]

For the majority of the African population living in the Reserves these years brought increasing social and cultural dysfunction. The increasing population pressure brought about by returning squatters who were expelled from the European areas in the 1940s was in part responsible for this. Growing social unrest was compounded however, by overstocking and changes from shifting to intensive cultivation methods that placed increasing pressure on faming systems and soil fertility.[12]

These three decades began to catalyse more effective political resistance, by the Kikuyu with the formation of the Kikuyu Central Association (KCA) and by the Luo, via the

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[8] Ibid. pp. 95–96.

[9] KNA Kiambu District. Misc Correspondence. MC 136. 1931. p. 63.

[10] The food situation was not eased in the 1940s due to efforts to supply food for WWII for the British campaign in north Africa. Hay J., Luo Women and Economic Change During the Colonial Period. In: Hafkin N. J. & Bay E. G., *Women in Africa. Studies in Social and Economic Change.* Stanford University Press. Stanford. California. 1976. p. 103.

[11] The hut and poll taxes remained at the usual levels during the depression despite calls for their reduction by every Administrative officer. Mss. Perham. 437/1. Lonsdale J. M., Archdeacon Owen and the Kavirondo Taxpayers Welfare Association. p. 3.

[12] Sorrenson M. P. K., *Land Reform in Kikuyu Country. A Study in Government Policy.* Oxford University Press. Nairobi. 1967. p. 26.

Young Kavirondo Association.[13] These political organizations initially focused their efforts on land loss, on the rates of hut and poll taxes, declining wages, the need for African independent schools and importantly the Kapinde system of labour registration.[14] Kikuyu Women set up their own political association known as the Mumbi Central Association in 1930, predominantly because their grievances, in relation to women's labour conditions on coffee plantations, were not being taken seriously by the KCA.[15] Soon these political organizations were to be the main driving force behind grievances pertaining to land claims, agitating for and obtaining a Royal Commission on Land in Kenya in 1932.[16] Finally the 1950s was to bring about major political change in Kenya, with the advent of the Mau Mau rebellion in 1952 and the subsequent internment of most of the Kikuyu population in labour camps. These conflicts became the catalyst for the granting of independence ten years later.

The Commercialisation of African Agriculture

African agriculture from 1910 through to the mid 1920s, had been relatively ignored by the administration as it concentrated on establishing a stable pool of labour to work on Settler farms and the plantations. From the 1930s onwards, however the colonial administration pursued a policy to diversify and commercialise African agricultural production in an effort to improve the maintenance of African food supplies during times of drought and famine and for

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[13] Harry Thuku formed the Kikuyu Central Association in 1921, to campaign for the return of Kikuyu land, the loss of which had affected approximately four of the Kikuyu population. In the Luo area the Young Kavirondo Association in formed in 1921 by three mission educated men, and was converted into the Kavirondo Taxpayers' Welfare Association, (KTWS) by Archdeacon Owen. Like the Kikuyu Central Association, the KTWS agitated for compensation of land alienated for townships, trading centres and European estates. *The Origins and Growth of Mau Mau*. Colony and Protectorate of Kenya. Sessional Paper. No. 5. 1959/60. Hereafter called the Corfield Report. p. 46.

[14] Ogot Bethwell A., British Administration in the Central Nyanza District of Kenya, 1900–1960. In: Klein Martin A. & Johnson G. Wesley, *Perspectives on the African Past.* Little Brown. Boston. 1972. pp. 415.

[15] Presley Cora Ann, Labor Unrest Among Kikuyu Women in Colonial Kenya. In: Robertson Claire C. & Berger I. (eds.), *Women and Class in Africa.* Africana Publishing Company. New York. 1980. p. 256. In Kikuyu mythology Mumbi was the wife of Gikuyu.

[16] *Kenya Land Commission.* Great Britain Colonial Office. 1933. It became known as the Morris Carter Commission.

the export market.[17] In order to achieve this the administration needed to "improve" farming techniques. Most African farming until the 1930s was still of the shifting cultivation type, except in the more densely populated areas of the Central Province (Kiambu), which were moving towards a continuous cultivation system. The system of shifting cultivation was one of expansion into new land each year, and the fallowing of some cultivated land for about eight years.[18] Manuring was generally not practiced due to the length of the fallowing period used, and because cattle and goats were often herded some distances away from cultivated land. The major implement for digging in the Central Province, Luo and Kipsigis areas was a wooden hoe or digging stick.

The colonial administration's policy to improve cultivation techniques involved strategies to increase yields, and modify the type of crops grown and planting regimes. To promote these improvements the colonial regime continued its policy of targeting male farmers via the supply of seed, extension workers and demonstration farms. La Fontaine in his annual report of 1936 records:

> … the increased readiness to adopt improved agricultural methods and the friendly co-operation which has replaced the former attitude of suspicious conservatism. Attacks upon this conservatism have been made by constant demonstrations in the field, by the issue of improved seed, by escorted visits to seed farms and by lectures of agricultural officers at central schools and of native instructors at village schools.[19]

These seed farms were certainly instrumental in improving production quantities and quality. The maize varieties produced had a higher yield per unit of land than the indigenous yellow

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[17] Fearn H., *An African Economy: A Study of the Economic Development of the Nyanza Province of Kenya, 1903–1953*. Oxford University Press. London. 1961. p. 156. The enacting of the Marketing of Native Produce Ordinance of 1935 was aimed at increasing the quantity of African produced to be marketed. '… the second object [of the bill] is to stimulate and encourage native produce in order that we will be able to improve our exports' — The Attorney-General introducing the second reading of the bill in the Kenya Legislative Council. July 2. 1935. p. 170. As quoted by Fearn, p. 156.

[18] Kershaw G., The Changing Roles of Women and Men in the Kikuyu Family by Socio-economic Strata. *Rural Africana***.** Vol. 29. 1975. p. 179.

[19] KNA AR/95. Central Province Annual Report. 1936. La Fontaine S., pp. 58–60. The Annual Report of 1935 in Meru summarised: 'There are 408 acres under cultivation as seed farms in the various reserves. These provide a nucleus for the agricultural work of each district and offer scope for a large amount of demonstration work. The main function of these farms is the bulking of new varieties of marketable crops for the natives'. p. 44.

maize variety.[20] The seed farms also developed a higher protein and drought resistant cassava.[21] The Department of Agriculture also attempted to alleviate drought risk, by reducing the time taken to grow crops. For example the indigenous variety of sorghum took approximately ten months over two rainy seasons to mature. The aim of the department was to develop a sorghum variety which would mature in six months thus reducing the risk of loss due to the failure of one of the rainy seasons.[22] La Fontaine, later records the administrations success in producing drought resistant crops, stating: 'that from 1935–36, the area under cultivation … increased from 14,093 acres to an estimated 54,450 acres due to changes in cultivation methods'.[23]

Similarly the Christian Missionaries promoted this improved agricultural vision, but more in an effort to make their positions more secure, both in the gaining of converts and to independently finance their activities. Their efforts in Meru for example, although gaining few converts, did establish compounds of agricultural activity.[24] The latter produced not only a safe refuge for any converts, but provided food security for themselves and examples of good agricultural practice to the surrounding communities. As Fadiman records of the Holy Ghost mission:

> Faced with years of famine, the mission responded with drives toward local self-sufficiency. Deep furrows were gouged across the mountain slopes [of Mt Kenya] to bring fresh water to each station and with it the promise of electricity. The flow of water also led to bumper crops on mission grounds, providing enough to feed those who converted and to lure others who might.[25]

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[20] Department of Agriculture. Annual report. (DOA AR) 1935. p. 84.

[21] Ibid. p. 84.

[22] The Department worked on at least a dozen varieties of crops, including maize, millets, legumes, sesame seed, and eleusine. DOA AR 1934. p. 72.

[23] KNA AR/94 Central Province Annual Report. Meru. 1936. La Fontaine S., p. 58. The famine resistant food crops were cassava, legumes, millet, muratha-maize and sorghum. Interestingly, cotton is included in the list of famine resistant crops. Presumably as it was considered a back up crop in that it produced an income if the food crops failed.

[24] Fadiman J., Op. cit. p. 253. Between 1910 and 1924, Presbyterians and Catholics together recorded fewer than three hundred conversions. Those who converted were often on the fringes of their age grades, outcasts, trouble makers or in some cases women whose arranged marriages saw them become the wives of converts.

[25] Ibid. p. 253.

The promotion of intensive cropping practices and improved seed varieties were facilitated with a major change in the administration's policy to make available to Africans, seed to crops that had mainly, if not exclusively, been the domain of European farmers.[26] In relation to coffee this represented a major change in attitude as before 1931 Africans were fined Shs 30/- if they had any coffee trees.[27] In the case of cotton in the Nyanza Province, the policy change was to actively increase the areas under cultivation of an existing cash crop. Although maize was the main crop exported out of Nyanza, the 1930s saw a real growth of cotton production, mainly due to its promotion by the administration. Production of cotton lint went from approximately 2 million pounds in 1930 to 24 million pounds in 1936–37.[28] The cotton price however, dropped from 30 cents per pound in 1923 to 10.5 cents per pound in 1932 and remained relatively flat until 1944.[29] In Nyanza cotton was grown on grazing land, that is men's communal land.[30] However, as women were responsible for crop cultivation, women planted and weeded the cotton. Cotton then, competed for women's labour because it was planted at the same time as food crops, during the short rains. Men and the administration controlled the cotton harvest and its sale, so it was at harvest time that women lost any control over it. Importantly as the table below shows, in terms of returns of the quantity produced, or the monetary value of the crop and the amount of labour it required, cotton failed.

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[26] The report of the Agricultural commission in 1929 recommended that a licence fee of £10 be imposed so as to discourage Africans from growing coffee. The commission's argument was based on the grounds that if Africans grew coffee, it would be in small parcels, and not be easily inspected or controlled. The commission did admit that the current policy was discriminatory on racial grounds. MP. 476/1/1. Report of the Agricultural Commission in 1929. p. ix.

[27] The local Native Council Minutes 28th Oct. 1931. KNA AR. DCNN/1/12. 1931. p. 23.

[28] Fearn H., Op. cit. p. 73.

[29] It rose to 50 cents per pound in 1952, but production had dropped back to between 16–14 million tons at the same time. Ibid. p. 73.

[30] In the Luo areas of Nyanza, cotton was introduced on communal plots of land in 1907. By the 1920s, cotton was grown mostly in the Kisimu area and North Nyanza close to the Uganda border. See Fearn for his outline of the stop-start nature of cotton production in Nyanza Province. Fearn H., Ibid. pp. 72–76.

Crop	Days worked per acre	Yield lbs	Return per acre in Shs.
Cotton	50	200	75
Maize	50	3,600	437
Mtama	48	1000	38
Groundnuts	60	800	198

Table 3. Comparison of Labour, Yield and Returns for various Crops North Nyanza, 1955.
Source: Fearn. H., An African Economy. p. 77.

Despite cotton's low returns, it was introduced into the Central Province in Meru in 1934 with the planting of 150 acres; Fort Hall with 178 acres in 1935, and 1000 acres planted with the establishment of a ginnery in Embu in the same year.[31] At the same time as cotton was introduced in Meru, export crops such as coffee, ground nuts, rice, tobacco and legumes were also planted.[32] It was the production of these cash crops, in particular tea, coffee, wattle, cotton and rice, which were to form the basis of an export industry in Kenya so that the colony could be financially independent of Britain.

In terms of the relationship concerning plants that were viewed as either exclusively for women or men's use and or property, these new crops undermined the separateness of these relationships with major implications for women and men's work, access rights and wealth. For example, the Kikuyu would use trees to settle territorial disputes because the

[31] KNA AR/94 Central Province Annual Report. Meru. 1935. Vidal M. R. R., p. 45. The production of cotton in the Kikuyu Reserve had failed by the beginning of WWII due to prices dropping sharply and the fact that cotton competed with the labour demands of maize which had a higher return. Kitching G., Op. cit. p. 69.

[32] Ibid. KNA AR/94 Central Province Annual Report. Meru. 1935. Vidal M. R. R., p. 45. Coffee was introduced to Embu, Meru in 1934, later in Fort Hall and in north Nyanza in 1952. Initially the limited amount of coffee planted at Meru, 27 acres and 19 acres at Embu, was due to a conflict between renters in obtaining land from rights holders within these acreages. DOA AR. 1935. p. 88. Coffee was first grown by Europeans on appropriated Kikuyu land at Kiambu by a catholic mission in 1902. Sorrenson M. P. K., *Origins of European Settlement in Kenya.* Oxford University Press. Nairobi. 1968. p. 265. Tea, planted by Europeans early in the colony's life was promoted to African growers quite late. In the Fort Hall district it was introduced in 1946, and 1952 35 acres were planted in Nyeri. Heyer J., The Origins of Regional Inequalities in Smallholder Agriculture in Kenya, 1920–73. *East African Journal of Rural Development*. Vol. 8, Nos. 1&2. 1975. p. 154. In the Kipsigis land unit tea was introduced in 1959 with 126 growers being allowed to plant a third of an acre each. Manners R., Land Use, Trade and the Growth of the Market Economy in Kipsigis Country. In: Bohannan Paul & Dalton George (eds.), *Markets in Africa*. Northwestern University Press. Evanston, Illinois. 1965. p. 508.

trees were used as boundary markers. Because land allocation was the responsibility of men, trees were viewed as male property. Trees solidified territorial boundaries and therefore political relations among kin, tenants, clan members and different ethnic groups:

> If a boundary tree fell down another was planted in its place. If a mark disappears and a dispute arises the Kiama and the elders of the clan are called to re-mark the boundary as near as possible to where they believed it was. If a boundary was marked as the result of a dispute, …. [and] if disputants refused to accept the decision of the elders each was asked to if he was prepared to swear by the soil that he claimed. If one refused, it was a sign of fear and the case went against him. … Otherwise, … each had to swear an oath "may this soil eat me, if this land is not mine".[33]

The importance of trees in the Kikuyu land use system, as Haugerud notes, had serious consequences for some tree planting efforts of the government:

> The tenurial implications of tree planting contributed to the failure of an attempt in the 1930s by the colonial government to encourage planting of trees by distributing seedlings free of charge. Embu farmers refused to plant the seedlings because they believed that doing so would give the government a claim to their land.[34]

Yet it was wattle trees that were to become a major focus of the administration's effort to expand agricultural in the Kikuyu areas in the 1940s and 50s.[35] Wattle production amongst the African population, previous to the 1920s, had been restricted to the holdings of chiefs, headman, clerks and teachers.[36] The collaboration of the Department of Agriculture and the UK multinational, Forestal that engaged in the tanning production of leather, saw production expand from 20,859 acres in 1930 to 100,000 acres by 1935.[37] Wattle production eclipsed

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[33] CO. 533/398/8. Appendix A. Record of Evidence given by Natives at Barazas held by the Committee on Native Tenure in Kikuyu Province. 1929. Herein after known as the Maxwell report. pp. 2–3 & pp. 61–62. G. V. Maxwell, S. Fazan & L. S. B. Leakey were the Commissioners.

[34] Haugerud A., Land Tenure and Agrarian Change in Kenya. *Africa*. Vol. 59, No. 1. 1989. p. 75.

[35] Kitching G., Op. cit. p. 65. Wattle was introduced into Kenya in 1903 to provide wood for the railways. The settlers grew it to export its bark (10 tons were exported in 1910).

[36] Ibid. p. 65. Note that these were all men. Wattle grew best in the Kikuyu areas at elevations of more than 7000 feet. Both men and women took part in the cultivation of wattle, in that the men felled the trees and the women were responsible for the stripping of the bark. In 1947 Stripping licences or permits were allocated, in an effort to stop the sale of immature bark. DOA AR 1947. p. 41.

[37] DOA AR 1937. p. 57. In 1937, 16,025 tons of dry bark and 5,202 tons of green bark were produced. The dry bark was worth somewhere between Shs 45/92 to Shs 72/80 per ton. This equalled £36,793 – £58,331 at a rate of Shs 20- to £1.00. (The Kenyan £ was on parity with the English £ during the colonial period). In comparison wattle production in Nyanza Province was around 6000 acres in 1937. By 1946/47 bark sales equalled £187,158. DOA AR. 1947. p. 56. No wattle bark figures are available for the Nyanza Province in 1949. DOA AR. 1949. pp. 14–15.

maize production in the Central Province where in 1949 maize exports were worth £50,620, and wattle bark tonnage was 39,826, worth £415,710.[38] In the Nyanza Province in 1949, exports of maize totalled £452,161. However wattle production was in its infancy in the Nyanza Province, with only 910 tons produced in 1948, valued at £56,119.[39] According to Kitching, wattle became the most cultivated crop because it required little labour time and its returns were higher than that of other crops:

> per unit of land, a ton of maize or beans might have fetched more for their producer in 1937 than a ton of wattle bark, but they would also have taken much more land on which to grow. The volume of output from an acre of wattle trees simply exceeded the volume of output from any available alternative crop by a margin which more than counterbalanced any difference in unit prices.[40]

Whilst Kitching may be correct in his argument that wattle had higher returns and used less land and labour per volume of output than other crops, the fact is that it took eight years to get a crop from the trees. Thus, there must have been other influential factors in the avid take up of wattle cultivation. This could well have been a result of the long established use of trees as boundary markers as an aide to establishing claims to a piece of land. Trees indicated evidence of land distribution. The evidence presented to the Maxwell committee clearly outlined the use and rules governing trees, not only as boundary markers, but as a public declaration of patronage, in particular that given to tenants or those given access to land by the Mbari.

> If a Muhoi planted trees and subsequently left amicably, the trees are his and he must either give them to his late protector or else cut and remove them. If he is evicted for misconduct he must leave the trees standing and they become the property of the owner of the cultivation right.[41]

The planting of wattle trees then enabled men to use an accepted method of claiming land at the expense of other landholders, their relationships with other members of the Mbari and their wives. Men simply used an established association with trees to maintain the status of

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[38] DOA AR. 1949. pp. 14–15.
[39] DOA AR. 1948. p. 14.
[40] Kitching G. Op. cit. p. 67.
[41] CO. 533/398/8. Maxwell Report. Appendix A. Op. cit. p. 21.

the Mbari and its political ties. It is no coincidence that this expansion of wattle production occurred at a time when disputes about land were growing between the *ahoi* and members of Mbari.[42] Importantly, when land titling was finally undertaken in Kikuyu areas under the Swynnerton Plan which guaranteed surety of ownership, much of this wattle was cleared.[43] Thus, the planting of wattle can be seen as a way of maintaining allocation rights to land by Kikuyu men rather than solely as crop with lower labour requirements and good returns.

The outbreak of the Second World War further changed the emphasis of the improvement policy from an export policy, to a strategy that encouraged horticultural production, so as to supply food for the allied armies based in East Africa. The government took control over the marketing of maize, controlling its import and export with the establishment of the Defence (control of maize) Regulations of 1942, reducing the price to growers to 25 percent lower than the average world price.[44] This price control pushed farmers into growing more lucrative crops and no doubt helped the sector move into horticultural production. The change in production was uneven. In the Kikuyu areas of the Central Province with its proximity to better infrastructure and markets, in particular, Nairobi, horticultural production was more pronounced than in the Nyanza Province. In the Central Province in the Meru district for example, the number of markets went from 18 in 1935 to 171 in 1936 with 1000 trading licences being granted.[45] The closeness of the railway line and Nairobi to the Kiambu section of the Kikuyu Reserve facilitated the process of producing

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[42] Sorrenson M. P. K., Op. cit. pp. 39–41. The disputes over land between ahoi, kin and between members of the Mbari often resulted in litigation in the local Native Courts. At this level it was the chiefs, headmen, teachers and those with a mission education who could afford to pursue land ownership via the court process. Sorrenson argues that from this process a landed educated elite developed and it was this group that gained the most out of using the British system of law over that of traditional customs. Sorrenson also notes that between 1949 to 1951 fees paid in relation to land disputes in African courts rose from £13,000 to £24,000. pp. 78–79.

[43] Cowen M., 'Commodity Production in Kenya's Central Province.' In: Heyer J., Roberts P. & Williams G. (eds.), *Rural Development in Tropical Africa*. Macmillan. London. 1986. p. 123–125.

[44] Fearn H., Op. cit. p. 160. The Defence, (Control of Maize) Regulation took control of this crop away from the settler community as the government controlled the price from 1942 to 1951.

[45] KNA AR/94 Annual Report. Meru. 1935. 5/5/37. p. 7.

crops for sale rather than for subsistence. Whereas in Central Nyanza and the more isolated areas of the Luo and Kipsigis land units, the expense of transporting goods imposed heavy costs on the production of maize for sale. Such costs also made supplying the market outside these immediate districts with a quick growing cash crop virtually impossible.[46] In short, in the Central Province it seems that the market dictated the direction of production and labour and further strained the relationships between gender, land access, labour and wealth.

What is seen here, with this "improvement policy" during the 1930s and 1940s, is a change in the combination of crops grown for subsistence and for sale. There is a decline in the production of cereals, sorghum, millets and varieties of indigenous pulses, and a rise in commercial produce — tea, rice, coffee, cotton, and fruit and vegetables — all of which required large labour inputs. The reduction in the availability of land and labour for the cultivation of subsistence crops not only forced farmers into growing higher value crops for sale, such as fruit, vegetables and wattle, but also forced a greater reliance on income from commercialised agriculture and wages. Thus the intensification of farming, the opening of new markets and the pressure to produce food for the war effort after 1939 solidified money, rather than cattle, as the medium of exchange and established the value of land as wealth. By the late 1930's not only did wages have to meet the demands of taxation, but also the payment of labourers, the purchase of food, education, and importantly the purchase of power and bridewealth, that was once paid for by stock, beer or barter. Money was a very limited resource for women and in the newly emerging monetary economy this lack of money forced women into situations of dependency on their husbands that they had never encountered before.[47]

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[46] This is still the case today, with the exception of flower growing around Lake Victoria by the Luo.

[47] The dependency that women experienced before colonial rule revolved around land allocation, not about begging husbands for money to pay for food or seeds, or having to supply their labour to help grow commercial crops.

These events were to change the nature of farming from a system where women decided how much if any surplus produce was to be sold or traded, to one where in some areas of Kenya, the majority of produce was sold. This put a monetary value on crops, and in so doing the administration changed the gender cleavages around marriage, labour, food crops and income segregation. Importantly, the decisions that household members made and who made them were no longer based on pre-existing gender division of labour and power relations.[48] For women who were once the traditional arbiters of decisions concerning food, its production, storage, distribution and its mythological powers, the move from its cultivation to its purchase forever changed women's power and wealth within the household. Not only was the demand for women's labour power to increase substantially, but the gender based conventions of crop ownership and land usufruct were from now on to be central to the increasing conflicts between wives and husbands. For women, the loss of control over the end product of a crop became a seat of conflict because to work for a man 'became wasted labour'.[49] In the case of maize, wattle, coffee, horticulture, the money ended up in the hands of men as they took harvests to markets controlled by the administration. The men who laboured on crops may have well resented doing women's work, but the money received from these new crops, they regarded as their own.

Women's Loss of Access to Land

In pre colonial Kenya, Nandi, Kipsigis, Kikuyu and Luo women were independent producers of the family food supply. They grew food on land assigned to them by their husbands and fathers-in-law. Each wife had her own dwelling and areas of land that were separate, often by

[48] Berman B, & Lonsdale J., Violence and Ethnicity. Op. cit. p. 387–388.

[49] Allman J & Tashjian V., *"I Will Not Eat Stone". A Women's History of Colonial Asante.* Heinemann. Portsmouth. 2000. p. 140.

some distance, from that of her co-wives.[50] The system of cultivating fragmented areas of land not only made use of different soil and climatic types, but as an agricultural practice was an effective method of risk management in that it insulated households against food shortages induced by natural conditions such as localised drought, plague or pests. Importantly, this dispersion evened out the demand for labour requirements, by allowing for the staggering of cultivation tasks. This type of land use system not only provided a variety of crops, but also contributed to the diversity of cultural structures and political relationships based on patronage such as loans of land, cattle and food in times of need or for socially and ritually significant occasions. The anthropological literature points to this conclusion in that the descriptions of land use reveal that land was not viewed as a single or static entity, because land was subject to different user rights. For example the evidence presented to the Maxwell Committee on Native Tenure in Kikuyu Province in 1929 supports this view of fluid land use and "ownership" which could more correctly be named allocation rights.[51] Land was certainly not viewed as a single holding with one owner who had exclusive rights.[52] For the Kikuyu, the land ownership system was based on relations between 'patrilineal related men who *allocated* land and *owned* cattle. Collectively known as the *mbari* and headed by a *muramati* who allocated land to each *mbari* member according to availability and need'.[53]

Land was not seen as a commodity or a statement of wealth, in the same way as cattle. The need to allow land to lie fallow for long periods of time meant that areas of allocated land for cropping were only of value for a short period of time, two to four years. Thus, land was a

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[50] Kikuyu women lived on their shambas with their children. For the Luo the primary domestic unit was the compound known as the *dala*, in which a senior male, his wives and the houses of younger brothers and married sons lived. Each wife and her children had a separate house**.** Mss. Afr. s. 1672/4 Wilson G., Luo Customary Law. pp. 5–11. See also CO 822/192 Report on Agrarian Policy Dealing with Population Increase, Land Tenure and Fragmentation in Kenya. 17/Nov/1951. p. 8.

[51] CO. 533/398/8. Maxwell Report. Appendix A. Op. cit. passim.

[52] Mss. Brit. Emp. s. 332/21/1 Letters to DC Kiambu from Kjomo Kihiko regarding the loss of his clan lands to European owners. pp. 85–88.

[53] CO. 533/398/8. Maxwell Report. Appendix A. Op. cit. pp. 3. 37.

fluid resource, widely available to all if there was abundant agricultural labour to utilize and defend it. As these latter two items were restricted, land utilization was contingent upon them. Land differed from cattle. Cattle proved that a family had power and social connections. Cattle in times of war were mobile. Importantly they converted into children and lineage via their use in bridewealth transactions.[54] Thus wealth was portable, bridewealth could be paid and ritual life could continue. However, land was different, land was a stationary asset, it could be lost and could take considerable effort to reclaim, and re-establish farming, both in terms of either finding unoccupied land or fighting for lost land. Land and the crops that it produced were subject to failure. Farming required hard work, digging, planting, harvesting, threshing, and storage of grain. Such activities were subject to sickness, drought, flood and plague. In short, although land was of economic importance, cattle superseded the social, political and ritual importance of land for both the individual and the clan. Land required large quantities of resources to farm, defend and maintain spiritual connections. Cattle on the other hand reproduced themselves, required few inputs: water and grass and while their milk provided food in times of crop failures. Thus, cattle were life sustaining and could always be relied upon.

The fact that land required lots of labour to be able to access its rewards, in some way explains why land allocation and use rights systems had evolved, rather than outright land ownership laws to.[55] Thus we find that women cultivated many sections of land, some of which was left fallow. Other areas of land were used for grazing, or sown with crops of different growing cycles. The use rights to this land included grazing rights at certain times of the year or during the fallow cycle, hunting rights, fuel wood and water collection rights, building rights, inheritance rights, rental rights and cultivation rights. In such a use rights

[54] Smith J. H., Of Spirit Possession and Structural Adjustment Programs. *Journal of Religion in Africa*. XXXI, No 4. 2001. p. 434.

[55] This system was no doubt informed by oral traditions, and a lack of written law.

system it is clear that a piece of land might be subject to claims by many individuals, at different times of the year or during the agricultural cycle. It is also clear that there would be times when these rights created conflict between the users. Tenancy arrangements, which gave rights to grow certain types of crops, also reflected these competing use rights and allocation systems. For example, Muhoi were not allowed to plant perennial crops such as yams, bananas, sugar cane or trees because the tenant might be able to claim long standing rights to the land.[56] The fact that the Muthami had house building rights implied a more permanent tenancy period and was indicative of the stronger relationship with his benefactor. Further, the land allocated under these arrangements was redeemable by the *muramati* with the standing crops and livestock reverting back to the *Mbari.*[57]

Similarly, like the Kikuyu, the Luo made the distinction between a person who had authority over a field known as a *wuon puodho,* and a person who had authority over the land, *wuon lowo*. The latter being the arbitrator of allocation, whilst the former had control over the agricultural cycle of the land deciding on the timing of sowing and what to plant. If the differing rights of use and conflicting rights of allocation came into dispute then the councils of elders, *jadwong gwen,* arbitrated.[58] Their decisions were enforced by evoking, the powers of the spirits.[59] The Luo also had tenants at will, *Jadak,* or *Omomenyu* (newcomers), who were given land by the members of the host lineage, in return for customary obligations.[60] Those allocated land had no rights to may any claims to permanent rights to it and the *Jadak* or *Omomenyu* could be asked to leave if they were found to be troublemakers or

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[56] CO. 533/398/8. Maxwell Report. Appendix A. Op. cit. pp. 55–56.

[57] Ibid. p. 30 and p. 38.

[58] This consisted of the senior men of the agnatic clan. Mss. Afr. s. 1672/4 Wilson G., Luo Customary Law. Op. cit. p. 34. and xii. See also Whisson M., *Change and Challenge. A Study of the Social and Economic Changes Among the Kenya Luo.* Christian Council of Kenya. Nairobi. 1964. pp. 87–89**.**

[59] Mss. Afr. s. 1672/4 Wilson G., Op. cit. p. 10.

[60] Mss. Afr. s. 1672/6 Minutes of Law Panel Committee, Kisii section. 29th–30th November. 1954. p. 12.

quarrelsome.[61] Land under Luo law, belonged to the *oganda*, that is, all its members, past, present and future; an individual held it in trust and could not sell or mortgage it.[62]

This system of land use rights gave *no* gender or land holder 'ownership' to a piece of land in the way English law understands land ownership. That is, as Freehold with an attached individual title giving the owner all user rights to the exclusion of all others. Rather the use rights system as outlined by the Kikuyu at the Maxwell inquiry gave access or more correctly, shared access rights, (with certain members of the clan, rights to allocate that access), to a selected piece of land. However, the complex system of land tenure presented by the Kikuyu at the Maxwell Inquiry, for example, is not only evidence of the articulation between social relations, abundance of land and use rights, but reflected the Kikuyu sense of urgency to prove to the Commission that the land was theirs to allocate. The Kikuyu giving evidence at Fort Hall when asked by the Inquiry, 'who owns the land' replied:

> all land is owned by Mugiriga, (clans) It was originally owned by the major clans but is now separately owned by sub-divisions of the major clans.[63]

Then on being asked 'is the land family land' stated:

> Land is controlled by individuals, [Muramati] selected for their wisdom. … Normally the controller of the land is the eldest son of the eldest son, but if he is a man of ill-nature the members of the Mbari assemble with the elders of the Muhiriga and elect another in his place. The controller can assign unused land of a dwindling family to an increasing family within the Mbari.[64]

The evidence was also a clever manipulation of Kikuyu definitions of land ownership to fit with British notions of land ownership.[65] The chiefs and headmen who gave evidence to this committee, knew by 1929, how to play the 'white man's' game. That is, their experiences of the British occupancy of their land, brought into use not only restrictions on land access and

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[61] Mss. Afr. s. 1672/4 Wilson G., pp. 34 and xii.
[62] Ibid. p. 18.
[63] CO. 533/398/8. Maxwell Report. Appendix A. Op. cit. p. 34.
[64] Ibid. p. 37.
[65] Muriuki G. *A History of the Kikuyu. 1500–1900*. Oxford University Press. London. 1974. p. 6.

the important notion of exclusivity, but transferred an existing understanding of ownership associated with cattle to that of land. These experiences meant that the language used by those giving evidence at the hearings was the language of the administration. Hence land, which may have been *exchanged* to settle political disputes or wars was now termed as 'sold'. Having to pay 'rent' in labour, or being turned off the land at a moment's notice meant that adopted members of the *mbari* became 'landless tenants'. This latter situation was unheard of before European settlement. The *ahoi* of the Kikuyu were not landless tenants: they were part of the community, and contributed to its status, adding to the labour supply and political power of their adopted clan. They were not the landless tenants of English rural life.[66]

In the new world of commercial agriculture and the exclusivity of land ownership on settler land, if women stayed on the land allocated to them by their husbands, they found it vastly reduced in size by the early 1930s. In the Central Province the Kiambu District, closest to Nairobi, the preponderance of settler farms and increasing population densities in the District had reduced the amount of land available per person for cultivation. Kitching states that land densities went from:

> 7.88 cultivable acres per household in 1931 to 3.18 in 1948, a decrease of 57.9% in seventeen years. Similarly in the Nyeri district the area of cultivatable land per household decreased by 38 percent, and in Fort Hall, it decreased by 43.4 percent over the same period.[67]

The Reserves had became densely populated and by:

> 1945, in the Kikuyu populated Nyeri District, there were 542 persons per square mile leaving an average of only 3.34 acres of cultivatable land per family, while Fort Hall and Kiambu had 411 and 420 persons per square mile respectively. The Agriculture department estimated that 24 of the holdings in the Africans' areas of the Central Province were smaller than the 2.5 acres it considered necessary for bare subsistence, with the proportion as high as 44.8 in Fort Hall.[68]

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[66] Mss. Brit. Emp. s. 332/21/1 ff1-225. Letters to Creech Jones from Ormsby Gore. 25th June 1937 and 23rd July 1937. pp. 54–64.

[67] Kitching G., Op. cit. pp. 118–121. A household consisted of 5–6 persons.

[68] Berman B., *Control and Crisis in Colonial Kenya*. James Currey. London. 1990. p. 275.

Contrast this with the 11 acres that was the average amount of land used by a Kikuyu family around the turn of the century of which 3–5 acres were cultivated, the rest used as fallow and for grazing.[69] In the Luo areas where land was regarded as communal and was distributed between sons, the result of being confined to the Reserves was land subdivision into smaller and smaller plots. So that by 1945 in some areas such as Maragoli, plots of land ended up being no larger than three to five acres per family.[70] Similarly women's allocation of land for private use on plantations was often no more than the government-allowed one acre of land on which to grow the family's food.[71] This became known as a "kitchen garden".[72] Resident labourers were allocated no more than two acres for cultivation and over time the amount of stock allowed was drastically reduced.[73] The issue of land, its allocation, use, productivity, and the commercialisation of agriculture were all to collide with the advent of the Swynnerton Plan.

Land Titling

The Swynnerton Plan of 1951[74] was the final attack on the farming methods of women, their independence and turned them into dependent, domesticated housewives. The rationale for the development of the Swynnerton Plan was that land consolidation and registration would alleviate population pressure, improve agricultural production and efficiency, improve soil conservation, decrease the amount of litigation arising from disputes over land ownership and

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[69] Middleton J. & Kershaw G., *The Kikuyu and Kamba of Kenya.* International African Institute. London. 1972. pp. 25–32.

[70] Stichter S., *Migrant Labour In Kenya: Capitalism and African Response, 1895–1975.* Longman. Essex. 1982. p. 104.

[71] CO/533/549/4. Resident Native Labour Problem in Kenya. p. 35. This allocation was part of the labour contracts that were drawn up by the government. This report includes a sample labour contract, which contains stock allocations and the cultivatable land allowance.

[72] Foeken D. & Tellengen N., Proletarianisation, Land, Income and Living Conditions of Farm Labourers in Kenya. *Journal of Peasant Studies.* Vol. 24, No. 4. July, 1997. p. 301.

[73] CO/533/549/4. Resident Native Labour Problem in Kenya. p. 35.

[74] Roger Swynnerton was the Assistant Director of Agriculture in Kenya when he wrote the plan in November 1951.

solve the problem of landlessness by bringing about the development of an artisan class.[75] The plan was based on English notions of land ownership, titling and class and gender differentiation although concessions were made to customary law concerning the inheritance of land. Titles could be inherited and sub-division was to be allowed, but only if the sub-division remained an economic unit, and the transfer carried out in accordance with native custom.[76]

Radically, the plan aimed to place people into aggregated settlements, and from this, land was to be "consolidated" around the village:

> Allotments of under 3 acres are grouped round the village where the owners will have to live, and holdings of 3 to 6 acres are to be placed beyond these. Holdings of over 6 acres are placed still further away from the village. The object of this grouping is to encourage those with 3 to 6 acres to buy up the adjacent allotments in order to increase their holding to an economic size. Those who own less than 3 acres contribute one quarter of an acre to their housing plot in the village, whilst the landless are given a similar plot, for which they will pay rent to the African district council. The landless and the allotment holders will become the village artisans and shop keepers of the future and will also be available to work as paid labourers on the larger holdings.[77]

In the Kikuyu areas the speed of this consolidation was no doubt assisted by the fact that the majority of the Kikuyu population was interned in labour camps as part of the Administration's response to the Emergency, rather than an attempt to establish a viable agricultural system. In 1952, after years of tension and bitterness over land, wages, forced labour, and injustice, the Kikuyu exploded into open rebellion. Only 32 European settlers died in the subsequent fighting, but more than 1,800 African civilians, over 3,000 African police and soldiers, and 12,000 Mau Mau rebels were killed. Between 1953 and 1956 Britain

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[75] CO. 822/192. Swynnerton R. J. M. et al., Report on Agrarian Policy for Dealing with Population Increase and Land Tenure and Fragmentation in Kenya. passim. pp. 1–6.

[76] CO. 822/192. Swynnerton R. J. M. et al., Op. Cit. p. 16.

[77] Pedraza G. J. W., Land Consolidation in the Kikuyu areas of Kenya. *Journal of African Administration*. Vol. 8, No. 2. April 1956. p. 85.

sent over a thousand Kenyans to the gallows, often on trumped up or non-existent charges.[78] They interred almost the entire Kikuyu population in villages or prison camps. The Swynnerton Plan's forced movement of people into villages sustained the Administration's control over the Kikuyu population and aimed to keep a lid on political dissidence. Land consolidation was sweetened by allowing the indigenous population to increase the production of export crops to a viable level. As a result the effectiveness of the Swynnerton Plan differed in different parts of Kenya. For the Kikuyu who had been made a priority, on paper at least consolidation and registration moved fairly quickly. Thus in the Kikuyu districts land consolidation, began in 1955 and was completed by 1956, by which time 780,000 acres out of 999,000 had been consolidated.[79] On the ground, however, it was a different story.

> In the Central Province, ... by no means did it manage to reduce, let alone eliminate what were referred to as small and uneconomical holdings. Legally the holdings were registered in one person's name, but it was quite often accepted, both legally and practically, that such a person was not necessarily the sole owner of the land but a trustee who held such land in trust for other members of the family.[80]

Thus for the Kikuyu the position of *Muramati* not only remained, but was enhanced because now he owned via a title deed land within the *Mbari* and continued to allocate its use. Furthermore, the decision to maintain inheritance procedures based on customary practice essentially legalised two systems of law, and to a degree enforced African understandings of land and its associated allocation and access rights. So it is not surprising that land title recorded an individual or co-operative as the owner but allocation rights were maintained as per customary practice. For the Luo for example, the process of delineating land ownership and use as claims to land ownership, rested with one's ability to trace back land use and

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[78] Percox D. A., 'Mau Mau and the Arming of the State.' pp. 121–154, and Anderson D. M., 'The Battle of Dandora Swamp'. pp 155–175. Both in Odhiambo Atieno E.S. & Lonsdale J., (eds) *Mau Mau & Nationhood*. See also Anderson D. M., *Histories of the Hanged: Britain's Dirty War in Kenya and the End of Empire*. Orion. London. 2005.

[79] Kitching G., Op. cit. p. 326. See footnote 17 in relation to Fort Hall.

[80] Alila P. O., Kinyanjui K. & Wanjohi G., 'Rural Landlessness in Kenya. Dynamics, Problems and Policies.' *Occasional Paper*. No. 57. IDS University of Nairobi and FAO. 1985. p. 7.

allocation rights via inheritance through ones agnatic kin.[81] This is due to the fact that land is divided into equal parts between sons, according to their mother's position as a first or second wife. The allocation process, under the direction of the eldest son, was assisted and advised by senior men of the lineage. The ensuing division was based on principles that made sure that each person should have enough land for *his* needs and for the needs of *his* household. That is, needs that first met cattle grazing requirements and *then* cultivation requirements. Although the Luo economy consisted of mixed farming, it was dominated by a pastoral economy wherein cattle were the basis of political power. According to Whisson, after these requirements were met, 'the rights of those related by marriage or through women, the rights of those who had come as friends, allies or refugees were considered'.[82] For women however, in any of these categories, access to land was through marriage, and if her husband died she was dependent on the land allocated by her married sons or if she had no sons, then by her husband's brothers.[83] The impact of the Swynnerton Plan, its land titling, enclosure demands and the legalising of customary inheritance processes placed another barrier between women and any possibility of outright ownership of a piece of land. Women were shut out, as the men bargained among themselves for land, export crop income and a place within any 'legal structure', for example a position on a Native Land Tribunal that would enhance their wealth.

In the Nandi Reserve, under the Swynnerton Plan, land was titled to adult males. According to Huntingford, prior to the Swynnerton Plan, arrangements for land allocation saw that cattle grazing areas were communal and cultivated land for millet, sorghum and vegetable

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[81] Mss. Afr. s. 1672/4. Wilson G., Luo Customary Law. pp 21–28.

[82] Whisson M., Change and Challenge. Op. cit. pp. 91–92. For a discussion on the situation in Luo areas see: Shipton P., The Kenyan Land Tenure Reform: Misunderstandings in the Public Creation of Private Property. In: Downs R. E. & Reyna S. P. (eds.), *Land and Society in Contemporary Africa.* University of New England Press. Hanover. 1988.

[83] Ogot Bethwell A., British Administration in the Central Nyanza District of Kenya, 1900–1960. In: Klein Martin A. & Johnson G. Wesley, *Perspectives on the African Past.* Little Brown. Boston. 1972. p. 417.

production was usually three quarters of an acre per family unit.[84] Land allocated was not less than ten acres and in many areas averaged twenty acres. The implementation of the Swynnerton Plan permitted persons who had already been allowed to enclose large tracts of land, to register them, and in many cases these lots were larger than average holdings. No doubt some labourers who had been exposed as migrant labourers or squatters to European land ownership concepts pursued such enclosure arrangements, using it for their own personal advantage.

Similarly, the Kipsigis:

> fenced off land in that they placed fences around land that was cultivated, ... after the seed has been sown, a fence is made for the field which usually contains patches cultivated by several persons. The fence is a barrier against cattle, goats, sheep and bucks.[85]

By the1930s certain Kipsigis used customary land tenure and cultivation rights to sanction the enclosure and subsequent conversion to individual property of large tracts of land, 'a process against which others could protect themselves only by following suit until all land in Kipsigis was individually claimed'.[86]

In an effort to solve the dual problems of ownership versus allocation rights the Administration in 1959 legislated so that land 'registration operated to defeat all existing rights and interests under customary law'.[87] By issuing individual titles and extinguishing customary rights and interests, it hoped not only to provide security from litigation, but importantly abolish the authority of the clan elders over land.[88] This meant the elder men

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[84] Huntingford G. W. B., *Nandi Work and Culture.* Her Majesty's Stationary Office. London. 1950. p. 65.

[85] Orchardson I. Q., *The Kipsigis.* Kenya literature Bureau. Nairobi. p. 93.

[86] Oboler R. S., *Women, Power, and Economic Change: The Nandi of Kenya*. Stanford University Press. Stanford. 1985. p. 171. She is quoting from Manners.

[87] Berry S., Concentration without Privatization? Some consequences of Changing Patterns of Rural Land Control in Africa. In: Downs R. E. & Reyna S. P. (eds.), *Land and Society in Contemporary Africa.* University of New England Press. Hanover. 1988. p. 57.

[88] Pedraza G. J. W., Op. cit. p. 84. Pedraza was an Administrative Officer in Kenya from 1951–1959 See KNA 416. AR Nyeri District 1955. KNA 880 AR Uasin Gishu District 1957. KNA 1544. CN/26 AR Central Nyanza District. 1957.

would no longer be able to exercise their ability to allocate land. For women it reinforced the insecurity of usufruct rights. From now on access rights to land that was privately owned were no longer dependent on marriage or clan relations, but on money.

Prior to British land legislation, land ownership, allocation and access rights in these four groups was complex and multi layered unlike the exclusivity of freehold or leasehold titling used by the colonial government. For the Kikuyu, Kipsigis, Nandi, and Luo, land allocation and access rights entailed responsibilities. These responsibilities included being able to hold onto a piece of land for past and future generations, and to accommodate a variety of usufruct rights during the agricultural cycle. The Swynnerton Plan did not examine the complex relationships between land allocation, land use, and its links with the social and political power relations of each group. By 1959, the Government clearly set out to entrench money and land as the basis not only of economic transactions, but by implication to place it at the centre of social and political relations between individuals and communities.

If we return to the example of wattle and the 100,000 acres on which it was planted, or the increased acreage put under cotton, for example in the Meru and Embu districts, that in 1936 alone, went from 7,140 to 20,015 acres, then the implications for women's production were serious.[89] As these examples indicate, if the commercial export crops were planted on land that was usually allocated to women on marriage with which to produce their own crops, then it raises issues not only about ownership rights but about access rights in relation to women's wealth. Moreover, the diversification sought by the administration would only occur in the Reserves with difficulty, as land and labour in the Reserves were both at a premium over the 1936–1952 period.[90] The pressure on land in the Reserves had several

[89] KNA AR/94 Central Province Annual Report. Meru. 1936. La Fontaine S., p. 60.
[90] C0/533/556/6 Memorandum on Mackakos Reserve for Submission to Sir Harold Tempany. March 1946. pp. 1–2.

contributing factors: the administration's restrictions on any more land being opened up to the African population, an expanding population and in the Kikuyu areas, a push to move the squatters out of European farms back to the Reserves to accommodate newly arriving soldier settlers.[91] The push by the British to diversify African agricultural production via the use of wattle, cotton and later pyrethrum, coffee and tea as well as the promotion of new or improved seeds such as maize, taro, and millet, cannot be viewed solely as a simple policy of diversification or a policy to solve problems of famine, overstocking, land degradation or to create exports.[92] This diversification, intensification of cropping practices, changes in land ownership and later after the Mau Mau uprising, the establishment of villages, was as much about class and gender differentiation and dislocation as it was about agriculture.

The promotion of freehold titling proposed by Swynnerton required surplus money to be able to purchase land. The majority of the African population did not have access to such finance. Those Africans who received an education and were able to obtain work as teachers or clerks, or some women who took up prostitution, were more favourably placed to purchase land. As Phillips noted in 1944:

> It is a fact that hundreds, possibly even thousands of acres have changed hands by 'irredeemable sale' during the past ten or fifteen years, and that most of this has gone into the hands of a very few people, including chiefs, tribunal elders, and the educated minority.[93]

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[91] The movement of squatters back to the reserves differed in different parts of Kenya. Most of this movement occurred in the Kikuyu areas of the Central highlands. In 1945 there were 122,000 Kikuyu squatters living in the Central Province who were removed into the Kikuyu Reserve. In Western Kenya, the Nandi were able to resist the forced repatriation into the Nandi Reserve due to the reliance of the settler population on the Nandi for the procurement of cattle and labour. This resulted in the Nandi squatter numbers slowly increasing from 13,346 in 1931 to 32,287 in 1948. [Around 1100 people per year.] Youé C. P., 'Settler Capital and the Assault on the Squatter Peasantry in Kenya's Uasin Gishu District 1942–63.' *African Affairs*. Vol. 87, No. 348. July 1988. p. 404.

[92] There is a strong argument that suggests that the improved seeds caused land degradation as they took more from the soils than the local indigenous varieties that they sort to replace. The new seed varieties also produced a high risk of famine as the new varieties of food crops did store as well as those usually cultivated. The retuning stock simply compounded this problem. Mackenzie Fiona. D., *Land Ecology and Resistance in Kenya. 1880–1952*. Edinburgh University Press. Edinburgh. 1998. pp. 147–8.

[93] Phillips Arthur, *Report on Native Tribunals*. Colony and Protectorate of Kenya. Nairobi. 1944. p. 59.

Indeed without money it became increasingly difficult to enter the new political landscape. Being able to pay for the education of children meant that these could later help illiterate parents deal with changes in laws, land titling and marketing of goods. Or further, by using money to gain a political advantage.[94] By 1952 and by the end of the Mau Mau rebellion, the colonial regime had firmly established the two main components of a capitalist economy, that of a supply of labour and a dependence on money as a medium of exchange. The Swynnerton Plan established the accumulation, in this instance, of land, as the final component of this system.

Women could not translate the production of food security, or their increased workloads, and pitiful earnings from picking coffee,[95] into negotiating claims for access to land. Moreover they did not have the money for the outright purchase of the registered title deeds when land titling for rural land occurred under the Swynnerton Plan. Indeed the idea of women negotiating land ownership, as distinct from a claim of land access with male clan members, let alone a title deed from a District Commissioner's office, would have brought social ridicule. Quite simply land allocation was not women's business.[96] Farming was. Women doing men's business would have brought moral outrage to her family, and perhaps lead to accusations of witchcraft. Their menfolk would have been perceived by the community as failing in their duties both as husbands and elders. Moreover, in failing to control the assets of their families, men would be accused of failing not only to control their

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[94] Berman B, & Lonsdale J., State and Class. Op. cit. p. 192-193.

[95] NAD. AR. 1925. pp. 64–74. In 1925, 5,477 women and 11,315 children had been at work at some time or another in the year mostly weeding, hoeing, picking tea and coffee, and herding. At harvest time, the numbers were 27,994 women and children engaged on picking coffee and 7,745 harvesting maize. Wages for women in 1925 were Shs 12/- to Shs 14/- per 30 day card. Children earned Shs 6/- to Shs 8/- per 30 day card. This had increased in 1929 to Shs 20/- for adults and Shs 10/- for children. Male agricultural wages varied from, Shs 12/- to Shs 16/- and other labourers Shs 16/- to Shs 20/-. *Colonial Annual Reports 1928–1938*. Great Britain Colonial Office Annual Reports. 1929. p. 77.

[96] White's examination of prostitutes owning houses in Nairobi is illustrative of this. These women so threatened both their familial menfolk and the British administration that their houses were systematically destroyed under the rhetoric of a clean up of Nairobi. See: White L. *The Comforts of Home: Prostitution in Colonial Nairobi*. University of Chicago Press. Chicago. 1990. Passim. pp. 185–228.

wives, but most importantly to maintain the accepted gendered traditions, both real and spiritual, associated with marriage, fertility and social stability.[97]

For women whose access to land was only via marriage, and who as wage labourers on European farms received lower wages than their menfolk, the Swynnerton plan entrenched a further layer of inequality. Not only did the Swynnerton plan produce an impoverished landless class of men who were to 'become shop owners and artisans' but women in the main were to be an unseen reserve pool of labour on low wages, with little formal education.[98] Women in this situation were to remain in the agricultural sector, with remote possibilities of entering a skilled labour force or a more stable industry. Women's land and labour under the Swynnerton plan were to be exploited by their menfolk, European farmers and the administration to subsidize Kenya's export industry.[99] Women were to be utilised as unpaid labourers to control conservation problems, be a pool of intermittent labour on the coffee and tea plantations of the Settlers and to work on the commercialised crops of their husbands for little or no payment.[100] The Swynnerton Plan was in many ways for women in the Kikuyu, Luo, Nandi, and Kipsigis communities, the final blow of an administration, which for the five decades of its existence had viewed women as uncontrollable and backward. It perceived women's knowledge of agriculture as a threat to the establishment of successful European capitalist farming and reduced women from the position of autonomous producers to unskilled, mostly illiterate peasant labourers.

Finally the Swynnerton plan exploited the gendered divisions of usufruct. By changing the rules on land ownership, it aggravated the vulnerabilities of the usufruct system

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[97] Berman B, & Lonsdale J., Violence and Ethnicity. Op.cit. p. 386.

[98] CO/822/192, Swynnerton R. M. J., Report on Agrarian Policy for Dealing with Population Increase, Land Tenure and Fragmentation in Kenya. pp. 1–3.

[99] Kitching G., Op. cit. p. 326–328.

[100] Berman B, & Lonsdale J., Violence and Ethnicity. Op. cit. p. 420.

and left women in a powerless vacuum, at the mercy of their menfolk and having to cope with the worst excesses of customary law.[101] For example, on marriage a woman was given access to land, it was considered hers to cultivate until her death, and her sons inherited it after her death.[102] Despite this, a wife's land access after the death of her husband required that brothers-in-law look after their brother's wife, or wives, by taking them as a wife (levirate marriage).[103] For example, amongst the Kipsigis the decedent's unmarried brothers and the sons of the paternal uncles would inherit the widow.[104] As Wilson states this means that:

> … whoever takes [the deceased husband's] wife as Chi liel, [levirate marriage] is the legal guardian of his fields and of his children.[105]

The Swynnerton Plan's land titling entrenched in law, a brother-in-law's claim to own the land that a widow cultivated so that the land remained with the deceased husband's kin. The result left widows in vulnerable situations and in an effort to survive, they would often take brother-in-law to court over land disputes after their husbands had died.[106] Still others joined churches in order to gain some independence over their lives after the death of husbands. The compounding effects of the Swynnerton plan and customary law left widows, married women and daughters at the mercy of their menfolk.

The Marriage Wars

The closure of the land frontier, coming hard on the heels of the increasing commercialisation of agriculture in the Central Province in particular, limited where women could turn to gain an income and political space from which to negotiate over issues which affected their

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[101] CO/822/192, Swynnerton R. M. J., Report on Agrarian Policy for Dealing with Population Increase, Land Tenure and Fragmentation in Kenya. Op. cit. p. 8

[102] Mss. Afr. 1672/4 Wilson G., Luo Customary Law. Op. cit. p. 30. This is the case in Kipsigis, and Kikuyu customary marriage practices.

[103] If her husband had no brothers, then his cousins would be expected to offer protection to his wife and his children.

[104] Peristiany J. G., Op. cit. p. 83.

[105] Mss. Afr. 1672/4 Wilson G., Luo Customary Law. Op. cit. p. 21.

[106] Mutongi K., Op. Cit. p. 91.

livelihoods. Men were not in the same position as they had far greater opportunities for off-farm employment and wages, admittedly poor wages and punitive working conditions, to fall back on. Over time, this enabled some men to improve their land and farm inputs.[107]

The commercialisation of agriculture, in particular the loss of control of harvests and the increasing use of money, left women in a position where they were forced to rely on the institution of marriage as the basis of identity and to turn away from it to deal with the effects of colonialism. Marriage was a public affair be it customary, or as a result of elopement, and importantly it was a contractual arrangement between two families.[108] It involved negotiations between all parties, the payment of bridewealth as well as a public marriage ceremony involving the carrying off of the bride to her husband's home. Parents chose their daughter's husband and their son's wives.[109] There were reciprocal rituals and gifts given in relation to bridewealth and marriage ceremonies. Failure to undertake these rituals or to accept or return gifts of bridewealth sometimes cancelled the contract.[110] The transfer of bridewealth, paid in cattle, goats, sheep, honey, and as time went on cash, was public knowledge.[111] Indeed, how could the transfer of livestock from one area to another not go unnoticed? The process was in fact a statement of pride as the public gift giving and rituals involved both of the communities in which the couple lived. It stated that a marriage had occurred, bridewealth had been transferred and two families' futures were irrevocably intertwined.

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[107] This is particularly so for those in the pay of the administrations such as elders who sat on the Native tribunals for example. Purchase here involved both use of 'traditional' land allocation methods by marrying more wives, inheritance, and by purchase with money. When land titling became widespread during the 1950's, under the Swynnerton Plan male Mbari members banded together in co-operatives to purchase land.

[108] Elopement usually resulted in the man paying the bridewealth to the father of the woman concerned, and over time the marriage became accepted by the families of those concerned.

[109] Phillips Arthur, Op. cit. p. 294.

[110] Ibid. p. 294.

[111] In 1947 a cow cost Shs 120/- bull Shs 60/- wages Shs 12/- to 16/- per ticket for resident labour (30 days work). C0/533/549/4. The Problem of the Squatter. Economic Survey of Resident Labour. Kenya. Part A. pp. 32, 34. In 1928, one cow was roughly equal to 12 goats. Mss. Afr. s. 1153/3. Fazon S. H., Points of Native Law and Custom. p. 2.

Married women and their mothers needed marriages to work. The mothers of newly married daughters were proud of them and expected them to uphold the family name and status by being an obedient, deferential, hard working wife, who bore many children. Furthermore, mothers needed the marriages of their daughters to last because it reflected her status as the provider of labour, influencing fertility and lineage. Wives wanted marriages to endure because they gained the respect and protection that came from being a first wife or a second wife. They understood clan knowledge and lore: that the children they bore, the access to land and the food that their farming produced, gave them status within the community.

Fathers had a vested interest in a daughter's behaviour in a marriage because they would use her bridewealth to enable their sons to gain wives. Importantly, marriage involved the transfer of bridewealth and if a woman was granted a divorce, an extremely rare occurrence across all four ethnic groups, then this bridewealth and any associated natural increases had to be returned. How could a married woman leave her husband if her family had used this bridewealth to pay for her brother's wives and further, if it was returned she would lose her children? As,

> Where a man has been married according to native law and custom and has paid bride-price in full, he cannot be made at a later date to take back the bride-price and so relinquish his rights to the children. … if a women quarrels with her husband and leaves him taking with her the children born of the marriage, the husband can sue for return of bride-price if he wishes, which if accepted means that he can no longer claim the children. If on the other hand he does not wish to sue for bride-price he will be entitled to the children already born and any that may be born to the woman at some future date by another man.[112]

Leaving marriages meant great losses for women. If husbands turned out to be violent or negligent, their wives were expected to remain with them, so that no shame or loss of wealth would occur. If a married woman ran off with a lover or was promiscuous then she drew the

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[112] Phillips Arthur, Op. cit. pp. 102–103.

wrath of her kin and those in power.[113] Control over a married woman's behaviour differed to that of men. If a Kipsigis woman for example was found guilty of adultery, then it was grounds for divorce by her husband. If the husband was found guilty of adultery then he paid fines, often of a number of sheep and goats, to his wife's family and to the elders. If his wife caught him, she would abuse him in violent terms.[114] If his liaison resulted in a pregnancy then the fine was higher. If he was caught with another man's wife then he was fined in cattle. As divorce was publicly shameful and costly for all concerned it was rare. Among the Kipsigis, a woman could seek divorce on one ground only. Peristany records:

> That if her husband neglected his conjugal duties in favour of some other women, (to whom he is not married), and this lessened to such an extent the possibility of his wife becoming a mother.[115]

This did not mean that a divorce was granted as the couple's families usually intervened to try and get the husband to mend his adulterous ways.[116] Yet by 1931, trouble within marriages, saw the Local Native Council in North Kavirondo being so concerned with the number of women who had left husbands for lovers, that it was of the opinion that: 'women should be held personally responsible for unfaithfulness and punished accordingly'.[117]

Thus for women marriage was enforced by enormous, economic, social and moral sanction. Not the least was the inflationary cost of bridewealth, which rose to Shs 1000/- and sometimes double in 1944 in Kikuyu areas.[118] Such expense must have made it very difficult for women leave unwanted marriages. However the intensification of cropping, and the crippling workload that this produced for women, had a contradictory effect in that it began to crack the vice-like economic and moral grip that marriage had over women's lives. In

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[113] Peristiany J. G. Op. cit. p. 84.
[114] Ibid. p. 84.
[115] Ibid. p. 88.
[116] Ibid. p. 88.
[117] KNA AR. DCNN/1/12. Annual Report. North Kavirondo, Kakagema. 1931. p. 23.
[118] Phillips A., Op. cit, records, fathers deciding to 'educate their daughters as this would attract more bridewealth'. p. 294.

particular women began to utilise the courts and British law. In some cases, although the intentions of the laws were aimed at improving women's marriage conditions, their effect was paradoxical. British law in the colonies for example, offered protection to forced brides. However it relied on these brides having the strength of character and the knowledge of the British laws, to pursue a petition for protection. As the Manchester Guardian reported:

> … that violently protesting girls may be dragged along the public roads, at times on the ground, beaten and buffeted. At what point in this process would it be best for them to bring the matter to the notice of the authorities.[119]

Further

> If the girl [who is being forced to marry against her will] has the strength of will to continue her resistance she is free to lay her complaint before the Commissioner of the Province or the Native Authority. … If the girl were to come forward with her complaint it might be that the stigma of her action would adhere to her name in her own village: she might have to face the resentment of her family and the disapproval of her elders and she might seriously prejudice her chances of acquiring another husband and feel that after all she had only freed herself from one fate at the cost of enduring something worse.[120]

Whilst the issue of forced marriages raged in the letters pages of English newspapers and in the House of Commons, women themselves remained caught between missionary attitudes, long established clan views on marriage, divorce and adultery and possible destitution if they left unwanted marriages. When women ran away from their homes to towns or mission stations or returned to their mother's houses, they faced public ridicule, ostracism, destitution, and sometimes court. As early as 1924 for example, the Native Affairs Department recorded that within the Native Tribunals the main cases were civil claims that dealt with runaway wives and marriage.[121] If wives or their mothers took abusive and violent husbands to court to seek a divorce for their daughters, the courts would often rule in the favour of the husband and not grant the divorce. Importantly the tribunal's membership consisted of men who came

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[119] CO 847/6/11. Manchester Guardian. 23/7/1936. Article headed 'Forced Marriage'. No byline given.
[120] CO 847/6/11. Southerly to Ormsby-Gore. 6th November 1936.
[121] NAD AR. 1924. p. 21.

from the very communities where wives wanting divorces lived.[122] However the use of the public arena to enforce the previous public marriage would:

> Certainly have been shameful for the man, since public testimony concerning his abusive behaviour would have been considered an irreparable disgrace - not necessarily because it revealed him to be a brute but because it demonstrated that he had failed to "control' his wife, to instil in her the values of deference, respect, duty and obedience expected of women in this patriarchal society.[123]

Public shaming by women was of course, a long established method of pressuring menfolk into better behaviour. Widows in particular, made use of it to claim their rights because widows had the protection of the kin of her late husband. Widows used this protection to complain of injustices to male relatives in order to gain what was rightfully theirs. These complaints were often undertaken in the public arena so that all heard the situation. This embarrassing moment was usually a catalyst for action by the male relatives.[124]

In seeking a divorce in the court system, a woman faced a Hobson's choice as Mutongi records:

> Even if I found a man to marry me he could not afford to pay the bridewealth, Liavuli, [my husband] had paid for me. And as a non-virgin and a divorced woman I was not worth much. So I had no choice but to stay married to Liavuli. Where would I have gone.[125]

Divorced women had few options. They did not have the protection that was afforded to married women. That is protection from unwanted sexual advances, gossip, and accusations of witchcraft or unruliness. A divorced woman would have been left wandering around, seen as a prostitute, bringing shame on all her immediate families. Her sexuality, her implied spiritual fertility, and of course the economic benefit of her labour, were no longer available to her husband or his family. Nor were her children part of her parental family even if she

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[122] Mss. Afr. s. 1672/4 Wilson G., Luo Customary Law. Op. cit. p. 3.

[123] Mutongi K., Op. cit. p. 155.

[124] Potash B. (ed.), *Widows in African Societies: Choices and Constraints*. Stanford University Press. Stanford 1986. p. 5. See also Gwako Edwins L M., 'Widow Inheritance Among the Maragoli of Western Kenya.' *Journal of Anthropological Research*. Vol. 54, No. 2. 1998. pp. 173–98.

[125] Mutongi K., Op. cit. p. 154.

returned to her mother's house and took them with her, as her husband could claim them back.[126] This placed children outside of any protection the new situation may have afforded. Thus women endured marriages not only to prevent their own destitution, but to keep their children and their children's inheritances.

> … land given to a women is her inalienable right to hold and to cultivate until her death. In normal circumstances a women is taken in levirate on the death of her husband by one of his close agnatic kin or at least by a member of his clan. If, however, she decides against the wishes of her husbands' clansmen to go to a stranger then her land reverts to her husband's clan to be inherited by his nearest agnatic kin. … If she had a son then the land would be held in trust for him until he married.[127]

In Luo marriage disputes, both unmarried and married sons who returned to their father's homes were able to claim, as their inheritance, the land that their mother had utilised when she lived with her husband. This meant that male inheritance was contingent on women's labour within the confines of marriage. No doubt the nexus between retaining a woman's labour under the guise of maintaining inheritance for male heirs was one of the main reasons that the Native Tribunals were so reluctant to grant divorces.[128]

However, women who stayed and worked alone on the land allotted by their absent husbands were also subject to a loss of male protection. As a Mutongi recorded in one of her interviews:

> [Otiende's] husband worked in a distant city. … and returned home only for brief visits and on one of the visits….he infected her with venereal disease. She had no choice but to go to the clinic for treatment, but when her in-laws found out they spread rumours that she was sick because she was sleeping with other men.[129]

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[126] Mss. Afr. s. 1672/4 Wilson G., Luo Customary Law. Op. cit. p. 30.

[127] Ibid. p. 30. Wilson cites numerous court cases where widows have taken the agnatic kin to court to claim land that was usually allocated to their sons. Disputes mostly arose between widows who were once co-wives and had dependent sons. In land allocation disputes, the sons of the first wife had priority over the sons of second or third wives.

[128] Native Tribunals existed side by side with but were almost entirely independent of the ordinary courts of the colony. Kenya had the Supreme Court, the courts subordinate to it and the Native Tribunals, which were under the control of the Provincial administration. The Native Tribunals were set up to administer native customary law and were an attempt to replicate the Kiama institutions with the appointment of elders to adjudicate cases. Those appointed by the District Commissioners were often faithful Government servants. Over time the Tribunals came to be regarded as corrupt as elders were open to bribery and favouritism. Phillips Arthur, Op. cit. pp. 5–7. pp. 11–15.

[129] Mutongi K., Op. cit. p. 157.

Marriage was not a relationship between equals or to a degree, between two individuals. Husbands and significant men brought to marriages, both the threat of physical power and the power of granting a livelihood via land allocation and usufruct rights. In turn, women brought the powers of sex, food, labour and immortality via children. In societies where disrespect by wives, brought retribution both through violence to themselves and perceived causes of forms of sickness, barren marriages, or misfortune, the power that came from the concept of spiritual protection was not to be challenged recklessly. It was the glue that held male power in the ascendancy over women, and for women it had its equivalent in their powers of fertility both actual and perceived. Stepping outside it brought not only personal destruction but destruction to one's immediate kin, one's clan, and a person's identity.

This latter issue was most profoundly experienced when women or young girls went to mission schools. Here they faced ridicule by their families, spinsterhood and importantly loss of protection from the spirit world. They faced derision and scorn as mission schools disallowed the practice of circumcision and its associated teachings concerning the ways of customary law. Importantly, uncircumcised girls were not considered marriageable because they were still considered to be children. Mission schools were regarded as centres of prostitution and any girl in attendance was viewed as such.[130] Women who were the wives of converts faced an even more uncertain situation as he was expected to "put away his second and subsequent wives and only live with his first wife and her children":[131]

> Traditionally, the first wife was of superior status to all the subsequent wives that a man had. This is reinforced by the rule that only the first wife can be a communicant member of the Anglican church, only she can be 'saved' (if other

[130] Kanogo T., *African Womanhood in Colonial Kenya. 1900–50*. James Currey. Oxford 2005. p. 114. Mission school students were expected to marry without asking or paying bridewealth.

[131] Proceedings of the Christian Missionary Society. Year Book. 1909–1910. p. 54.

> wives become revivalists, they must leave their husbands) and only her children can be baptised in infancy.[132]

The putting away of wives, meant that they were essentially divorced as bridewealth had to be returned and any cultivation rights that they had were lost. It is not surprising then to find the following situation:

> … wives fear their husbands being influenced by the Gospel, knowing that if they wish for baptism, all the wives but one must be put away. Therefore they use all their influence to hinder the children from coming to school, and any who come forward for instruction - any who are real inquirers have to endure a good deal from their heathen relatives, who persistently do all they can to cause them to return to the heathen ways, and alas in several cases they succeed.[133]

For those women who remained with their husbands, as most women in colonial Kenya did, they faced two complex realities. If they stayed on their allocated land, they faced a massively increased unpaid workload in the hope of maintaining not only food security but also the underlying sense of identity that was associated with it. Secondly they faced an isolation that came from being passed over by the social changes brought about by educating their sons and over time their daughters. Where were these women going to turn to re-establish their identities and power if the institutions that promoted them were falling apart? Mission daughters who failed to marry, denied their mothers the satisfaction that came from seeing a married daughter established as a farmer, with children, and a homestead to develop. How could a daughter support her mother in later life if she did not have these things? Daughters who married Christian men where no bridewealth was exchanged, were not considered to be properly married. They therefore did not have the rights that proper marriage bestowed. They were in a sense cut adrift. Daughters who ran away to towns were lost in a world where their mothers had no standing. Institutions, rituals, being properly married established and maintained identities. The women who lived on and farmed land, allocated by their husbands saw themselves and their actions as continuing to create not only their own

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[132] Mss Afr. s. 1792/45/7/15. Whisson M. G., 'The Will of God and the Wiles of Men'. African Institute of Social research. Makerere University College. Limuru. Kenya. 1962. p. 24.

[133] *Proceedings of the Christian Missionary Society*. Year Book. 1909–1910. p. 54.

sense of identity and but that of their family and their clan. The changes wrought by rebellious sons, daughters and runaway wives destroyed what mothers, fathers, husbands and clan members had been trying to maintain.

To return to the diversification of African agricultural production pursued by the administration, and to the example of the 100,000 acres put under wattle in the Central Province, whose use rights and what types of rights and identities did it come into conflict with? Wattle and other high value crops such as fruit, vegetables, tea and coffee certainly drove women out of the rights to access to the land for growing crops for their own wealth creation.[134] The colonial administration's commercialisation of African agriculture undoubtedly denied women their ability to make decisions concerning land use and crop production. In short, it marginalised the very group of people who, at the turn of the century, were responsible for the sustainability of their communities and turned them into a reserve pool of labour for their husbands, plantation owners and the administration. It is here that the consolidation of men as cultivators of land can be located, along with the increased impact of their decisions about land distribution, their manipulation of usufruct into the western concept of ownership for their own gain, the use and most importantly the control of the product of women's labour. In short the increasing pressures placed on gender relations with tensions between access and use rights to land and access to and appropriation of women's labour and wealth creation changed accepted gender responsibilities. It created uncertainties, which some people were able to deal with better than others. Men who worked for the administration for example, were able to pay with cash for some of the things that were expected of their gender. Women began to use marriage to challenge what they expected of

[134] Wealth creation here means, being able to develop and maintain social stability links and food for subsistence.

their husband, of their parents, and as time went on to use English law as a means of airing their opinions. All of which came at a cost.

The tensions between women and men concerning women's labour, found expression in numerous protests and forms of resistance during these two decades. No longer were women content, and were increasingly unable, to subsidise men's wealth by selling surpluses of their crops as they had done in the first three decades of colonial rule; women now took their grievances into the public domain.

The New Modernity

The experience of the 1930s onwards consolidated men's reliance on money as a means of survival, and for women the period solidified their position as a reserve pool of cheap labour for European estates, as unpaid labourers on their husband's cash crops and as part time farmers on their own crops.[135] The areas under cultivation by men and women for their own subsistence production decreased, in part due to the Settler's domination of the agricultural policy of the administration, which reduced the land allocated to squatters and residents on plantations and led to an influx of people returning to the reserves.[136] By the 1950's, the productivity of small land holders in the Reserves was further compromised by intensive farming practices, poor soils, and population pressures which meant that many households could not obtain a subsistence living and had to resort to an increasing reliance on wage labour.

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[135] Lonsdale suggests that one third of the adult male population had left Nyanza for work between 1913 and 1963. Hay M. J., *Economic Change In Luoland: Kowe 1890–1945*. Unpublished PhD Thesis. University of Wisconsin. 1972. pp. 170–171.

[136] Subsistence here is defined as food that is cultivated to ensure the physical and social needs of a household are met.

By moving men into cultivated cash crop production, the colonial regime thereby appropriated women's allocated land into men's land for the newly emerging crops of maize, coffee, cotton, fruit, vegetables and tea. The appropriation of women's labour away from their own crops restricted women's labour time for their own wealth creation and redirected it, creating men's wealth of which women had little or no share. These factors had by the mid 1950s enabled the British to successfully undermine women's agricultural production. It essentially created a landless female population that provided cheap labour for the new export economy, depriving these women of subsistence and power.

The arguments that the men were having over land with the administration were not solely about who owned it, but more about men getting sole access and exclusive rights to it so that they could set about obtaining an income from commercial crops. The men kept the money they obtained from the growing and sale of cash crops despite the fact that women did most of the work. With this money, men were able to pay bridewealth for their sons, remove themselves from the humiliation of manual labour, which they regarded as women's work, and gain patronage within the community.[137] This was not only an attempt by men to regain some control over how they provided for their family's longevity, but about regaining their dignity, ritual prowess and a basis from which to generate wealth and political leverage. Both churches and the colonial administration failed to perceive that these financial dealings, jeopardised long standing social arrangements. The new Christian and administrative order did not understand the separateness of male and female worlds. Such divisions expressed themselves in food taboos, types of behaviour between mothers-in-laws and sons-in-law, in responsibilities within relationships and in the gender division of labour, markets and income.

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[137] Smock A. C., Women's Economic Roles. In: Killick T. (ed.), *Papers on the Kenyan Economy.* Heinemann Nairobi. 1981. p. 220.

The changes in the gendered distinctions represented in land and cattle undermined notions of identity, such as, what was it to be male and female. Cattle were strong, their hides and bones produced lasting personal possessions: clothes, ornaments, charms and their sacrifice at rituals provided links with the spiritual world. They were enduring and provided security in harsh times. In short, cattle were seen to possess the traits of men. Land and crops however, were liable to failure and crops produced were consumed quickly. Land provided the clay for pots, made only by women,[138] and these were easily broken: unreliable. Land was transient and easily lost to others: it was therefore fickle, uncontrollable, required rules to claim it. As women cultivated it, this fitted men's perception of women. In market places men traded ivory, goats, and cattle:

> Women traded millet, bananas … that is women's food. We men do not bother about that. What we watch is goats, sheep, cattle, but not small stuff like chicken, maize and millet.[139]

Women's notions of land access, which we have termed usufruct rights, and its dependence on marriage, were totally subsumed by the ability of their menfolk to play the politics of Eurocentric notions of land ownership for their own political advantage. This was nowhere more evident than during the Mau Mau war, when land allocation, usufruct rights and ownership were redressed as a fight for independence and nationalism. The gendered notions of maleness associated with cattle were simply recast as associated with land. After the titling process of the Swynnerton Plan, land provided what cattle had provided: security, stability, accumulation, lineage and a remoulding of male power.

Importantly, women were being assigned the role of the 'western', dependent, domesticated wife grudgingly allowed some "pocket money" from labouring on the land of others. Marriage became the site of conflict over what constituted gender identities and what

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[138] Orchardson I .O., The Kipsigis. Op. cit. p. 112.
[139] Kanogo T., Op. cit. p. 153.

gave them meaning. Conflicts over the definition of marriage arose when sons and daughters eloped, or refused to pay bridewealth, or married without the last rites of initiation. Generational disquiet brought about by the inability or refusal to pay for wives, or running away to towns challenged peers, elders and parents alike. Moral chaos and institutional breakdown were inextricably linked to land loss and changed cropping practices. That is the, loss of the dominance of women's hoe culture to that of a market ruled economy.[140]

[140] Heatherington P., Generational Changes in Marriage Patterns in the Central Provinces of Kenya, 1930–1990. *Journal of Asian and African Studies.* Vol. 36, No. 2. 2001. p. 175.

CHAPTER SIX

WOMEN, RESISTANCE AND MORAL POWER

Introduction

The last twenty years of colonial rule in Kenya were those of confrontation: confrontation within marriages, with spirit worlds, between genders, generations and, of course, with the colonial regime itself. Women's private and public protests, although viewed as extreme and considered to be beyond the capabilities of women to undertake, were, nevertheless, seen as the cause of the administration's problems.[1] These protests took the form of anything from tax evasion, to living in towns, to open rioting and civil war. It seems from these forms of protest that women used each opportunity, and every experience of life, to state their discontent with men, marriages, churches, taxation levels, market prices and wages. Kenyan women were not marooned in a past invented by their menfolk or the colonial administration. Women's rebellion against colonial rule showed they were active players in the game of gender, class and cultural reconstruction.

In establishing or demanding their rights, women, like their menfolk, forged alliances with significant men in their communities: fathers, their married sons, churches, and administrative officers. Runaway wives and girls who received a mission education and had been forced out of their parental households, went to the towns and mission stations as places of refuge.[2] Here they established for themselves a sense of security and identity. Women who had stayed on their farms, but were abandoned by husbands, or those who were widowed, made public their problems, by telling uncles, or sons, or their husband's brothers,

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[1] KNA/370. Annual Report Fort Hall/28. Jan. 1949. Coutts W. F., pp. 1–2.

[2] CO 847/6/11. Archdeacon Owen letters and articles concerning the forced marriage of girls in Kenya. no page numbers given.

of their problems. They did this in the hope that the public shaming of men and their failure to shoulder their responsibilities would bring about a change in attitudes, and force wayward husbands or fathers to care for their wives, or mothers and/or their daughters.[3] By speaking out perceptions of women changed, from an attitude of deference and obedience to a view of them as radical out castes who would no longer accept the word of fathers and husbands.

The strategies that women used to negotiate their rights and entitlements with co-wives, husbands, brothers and sons were sometimes contradictory. Women utilized the British legal system to take abusive, negligent, and unwanted husbands to court, despite the fact that these same courts often ruled against them. They formed alliances with colonial officials to gain compensation from ruthless men who had left them pregnant and supporting single-handedly the children of these failed relationships.[4] Strategies to obtain marital rights — to have a choice of marriage partner — were used by both men and women, but for different reasons. Men argued with their elders over inflated bridewealth costs, because often the meagre wages they received failed to provide sufficient funds to pay bridewealth for their wives. These men threatened the power of their elders by eloping and or abducting wives with no forthcoming bridewealth payments. Daughters challenged fathers who abused them with forced marriages, by arguing over whom they would marry. It was a way to assert some control over their future. All of these actions challenged generational politics, gender politics and class, and they were a way of dealing with the pressures of a new social order.

The laws enacted by the colonial administration concerning marriage types, which changed the flexible notions of customary law to that of a set of unified static conventions, created moral chaos that women bore the burden of. Men's collusion with the administration

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[3] Mutongi Kenda, *Worries of the Heart*. University of Chicago Press. Chicago. 2007. pp. 130–131.

[4] Thomas L., *Politics of the Womb*: *Women, Reproduction, and the State in Kenya*. University of California. Berkeley. In particular, women's attempts to obtain child maintenance. 2003. pp. 103–134.

in controlling women's sexual behaviour and reinforcing the gender division of labour, along with blending cultural law with colonial law, placed women in a web of moral contradictions, servitude, and powerlessness. Men did not face these attacks. Rather they compounded them via their treachery in usurping women's land and labour for their own financial reward. The deliberate creation of moral chaos was part of the colonising process. Thus the politics of colonialism embedded itself in the gender relations of the family.

The colonial regime's political power was reinforced by the attitudes of the Christian churches towards women. In particular, with respect to attitudes concerning female circumcision, women's sexual behaviour, abortion, and polygamy. The churches' fight for spiritual ascendency used gender relations, class divisions and mythology to obtain converts and spread their ideologies. They utilized accepted female gendered notions of hard work and subservience to maintain male converts and keep marriages stable. Thus women converts were taught to concur with their husband's decisions; accept a husband's authority as household head and work hard for their approval. At the same time this reflected women's need to remain within socially accepted norms in order to be heard.[5] Within this context women made use of the spirit world using the culturally accepted roles of diviners, spirit possessions, and witch doctors to maintain their powers as healers and seers. These latter roles brought them into direct conflict with the colonial administration adding to its prevailing view that women were uncontrollable, and trapped in the past.

The previous chapter argued that moral chaos was directly linked to the loss of land and ensuing economic changes brought about by the development of wage labour and a market economy. Within this context this chapter argues that in an effort to create an

[5] Hoehler-Fatton C., *Women of Fire and Spirit*. Oxford University Press. Oxford. 1996. p. 195.

economic and political space of their own, women contested the domain of familial obligation. This is explored through the politics of the changing understandings of marriage. That is, its rituals, the reciprocal marital obligations owed by husbands and wives, in-laws, and bride price. Furthermore, the analysis examines how these changing relations influenced women's use of mass protest, court systems, witchcraft, and conversion to religion to assert their marital rights.[6] Women protested over the efforts of the administration to restrict and punish circumcision practices, they protested with their men folk over low wages, high taxation levels and forced labour on government projects. They were concerned with the welfare of their families, the maintenance of moral codes and society, the markets for their goods, and their own living spaces, i.e., land.

Confrontations Within Marriage

Marriage in colonial Kenya was fundamental in organising production and reproduction. It was, and remains, a key element of social and cultural life. For both women and men marriage equalled the possibility of obtaining security, status, wealth and a political say in one's community. For men, marriage, polygamy, women to women marriage, child marriage and levirate[7] marriage offered the possibility of controlling the power and fear of women's sexuality.[8] Marriage demanded certain types of behaviour by all concerned, be they in-laws, brothers, sisters, uncles or members of the same age-grade. In Kipsigis marriages, for example, mother-in-law and son-in-law were to avoid each other. If they had to speak to one

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[6] Lambert H. E., *Kikuyu Social and Political Institutions*. Oxford University Press. London. 1965. p. 100

[7] Levirate marriage, involves a widow being taken in marriage by the brothers or close male relatives of her deceased husband.

[8] KNA MC/118/KER/53 Edgar T. L. 1958. He cites four grounds for women to women marriage amongst the Kipsigis: those who wept at the time of initiation: those who are suspected of being witches: those who become pregnant before initiation and were therefore unclean, and those who were disabled. He also states that a father could force his daughter to marry a woman where the marrying woman was wealthy. p. 4. Peristiany is vague on this, only stating that the marriage process of women to women marriage was the same as the ordinary marriage process. pp. 81–82.

another then it had to be done at a distance.[9] The son-in-law was not to eat food cooked by his mother-in-law. The reason for these behavioural practices was to prevent any possibility of improper (sexual) behaviour between the two.[10] It was feared that sexual relations between them would result in the sterility of his wife or barrenness, either of his cattle or, his wife.[11] This is the power of women's sexuality that men feared. Marriage gave a man exclusivity over his wife's sexual power. He in turn had obligations towards her well-being. If he failed to fulfil them he risked experiencing the fear of what a women's sexuality could unleash, that is barrenness, childlessness and death of one's lineage.

Despite this, or because of it, marriage was a site of considerable conflict, contested from within by husbands, wives, and lovers. From without, it was under pressure from fathers, mothers, in-laws, inflated bridewealth demands, by the administration and by Christian churches that wanted monogamous marriages.[12] The colonial administration colluded with fathers, elders and churches in trying to deal with the challenges that native marriage was encountering. The State enacted marriage laws and/or ordinances, aimed to create a civil marriage code that would improve married women's and widow's security.[13] The Bill to Provide for the Marriage of Native Christians and for the Dissolution of Such Marriages passed in 1931, for example, aimed at promoting monogamy as the preferred marital state, and attempted to allow Christian widows a choice about she lived and to retain

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[9] Peristiany J. G., *The Social Institutions of the Kipsigis.* Routledge and Kegan Paul. London. 1964. p. 107.

[10] Ibid. p.107.

[11] Barrenness meant that no male child was born. It did not mean impotency. Ibid. p. 107.

[12] Methodist Missionary Society. Minutes of the Executive Meeting at Meru. 27/28 Jan. 1933. p. 5. In: Wesleyan Methodist Missionary Society. South African Synod Minutes, Kenya. 1933–1945. MMS 352/353. Box 374. Microfiche.

[13] See for example: CO 533/421/5. The Report of a Select Committee of the Legislative Council appointed to consider and report on the Provisions of a bill to Provide for the Marriage of Native Christians and for the Dissolution of Such Marriages. pp. 11–12. See also, Phillips A., *Report on Native Tribuanls.* Nairobi. 1944. p. 296.

her children by the provision of maintenance.[14] The legal report into the Ordinance however, freely admitted that such action would cause difficulties and:

> Disputes as to the nature and extent of maintenance to which a Christian widow will be entitled … will be determined on the merits and in *accordance with the custom of the tribe* to which her deceased husband belonged.[15]

This points to the contradictory nature of colonial laws. The Bill to Provide for the Marriage of Native Christians although aiming to give widows a choice to not live under levirate marriage arrangements, added the provision that her relatives could decide her fate. This left widows and their children at the mercy of their husband's relatives, as they could well argue that, as she was now legally an adult, that they had no responsibility towards her. Or they could equally argue that she and her children would be afforded maintenance under customary levirate marriage practices and she would then be forced to go and live with a brother of her deceased husband.[16] In some ways it was a legal minefield. Women were caught in the middle, between male power brokers: community elders and husbands, and customary practice on the one hand and colonial lawmakers on the other.

All married men were concerned with upholding the rights of a husband to the productive and reproductive labour of his wife and for a father to maintain the right to the brideweath of his daughters.[17] The marriage legislation detached those rights from any reciprocal responsibility to provide adequate care. If a husband failed for example, to provide his wife with new clothes and a hut her reputation as a wife was endangered. She

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[14] CO 533/421/5. Bill to Provide for the Marriage of Native Christians and for the Dissolution of Such Marriages 1931. See Section 10, subsections 1 and 2. p. 15.

[15] CO 533/421/3 Legal Report. The Native Christian Marriages and Divorces Bill 1931. p. 12. Italics mine.

[16] The bill provided a change of status for married women. They changed from being classified as a legal minor, and thus having to come under the protection of a guardian, to that of adult.

[17] Morris H. F. & Read J.S., cite the case of a man who delayed divorcing his wife for thirteen years so he could claim the bridewealth of his wife's daughters when they married. Morris H. F. & Read J. S., *Indirect Rule and the Search for Justice.* Oxford University Press. London. 1972. p. 179. Footnote 39.

was reputed to be a *mukoma thi*, someone who sleeps on the ground, a concubine.[18] Hence wives complaints that their husbands were failures.

Most colonial administrators and men in authority were inaccessible to women either because of a culture that demanded deference and respect from women towards significant men or because the colonial administration often left indigenous women, as the bill on native Christian marriage and divorce shows, to the vexatiousness of their menfolk. For example in cases where a wife runs away from her marriage and tries to obtain a divorce, the local Native Councils which heard such cases consisted entirely of men, often from the same community in which the couple lived.

Furthermore, the Local Native Councils, debated the issue of returning bridewealth: limiting the amounts to be returned or the amounts to be paid. These discussions however, made sure that both father's and husband's wealth were protected. Thus: 'If a man's wife returns to her father, the latter should return only half the dowry to her husband'.[19] Efforts to limit the amount of bridewealth paid or to set limits to it met with opposition from fathers and elders alike as it would decrease their power over their daughters and remove a significant source of income for them.[20] It also highlighted the class differentials between those demanding high bridewealth and those who could not pay it. Those who wanted to see a fixed rate challenged the government:

> … the community will appreciate it very much, could the government have an urgent fixation. If the policy can fix poll-tax why not do the same to bride-price?[21]

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[18] Peterson D., Wordy Women: Gender Trouble and the Oral Politics of the East African Revival in Northern Gikuyuland. *Journal of African History.* Vol. 42, 2001. p. 474. KNA. MC 363 DC/FH. 3/1. Report on the Kikuyu. 1950–52 Fisher J. p. 91.

[19] Mss. Afr. s. 1153/1. Extract from the Minutes of the Provincial Council Meeting. Fort Hall. Oct. 21st 1922.

[20] Phillips A., Op. cit. p. 296.

[21] Ibid. p. 295.

The high costs of bridewealth and its non-affordability assuaged colonial masters and church leaders who thought that their efforts to promote Christian monogamous marriages were succeeding. Yet what the debate over bridewealth really highlighted was the articulation between marriage and accumulation. Brothers relied on their sisters for bridewealth to be able to marry, to get on with their lives and not remain as children. Thus, as Kershaw relates: '[a sister] unlocked her brother's life, continuing her father and mother in her brother's sons and daughters'.[22] Marriage and bridewealth payments were central to these relationships. For brothers and sisters this was both the cause of tension and attachment between them.[23] Wives would run away to one of her married brother's household to seek protection from abusive husbands, or widows would go and reside with them after the death of a husband. On the other hand sisters who eloped with lovers threatened her brother's possibility of marriage. Fathers and sons united to obtain the successful return of a daughter or sister who had run away from a forced marriage or who had eloped. As Shadle cites in the following example:

> When I [Nyaabe] was at our home they [my brothers] went to see cattle near Nyaramba in order to marry me off by force. I then ran away and I went to the accused. Those brothers of mine came [to the accused] and were given 11 cows. Nyaabe's brothers remained unsatisfied and her lover promised he would deliver more cattle after the harvest.[24]

For men who were poor, or who could not afford the inflationary costs of bridewealth, formal marriage remained out of reach. These men either eloped or abducted a woman to live with. Living with a woman in Kenya without having paid bridewealth was a criminal offence, so elopement and abduction were risky undertakings. The enactment of this type of law, which criminalized certain sexual relations, shows the linkages between customary law and English law used by men to uphold their authority, despite the fact that it was men, not women who

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[22] Kershaw G., Mau Mau From Below. James Currey. Oxford. 1997. p. 24. The first and second born children of a marriage were considered to embody the spirits of their grand parents.

[23] For a discussion on the importance sisters as social actors in royal households and their relationships with their brothers see Buijs Gina, 'Gender and Chiefship in Southern Africa'. In: Bryceson D. F., Okely J. & Webber J. (eds.), *Identity and Networks*. Berghahn Books. Oxford. 2007. pp. 164–178.

[24] Shadle Brett, Bridewealth and Female Consent: Marriage Disputes in African Courts, Gusiiland Kenya. *Journal of African History*. Vol. 44, No. 2. 2003. p. 252.

would be charged with adultery and elopement. Such law enabled Elders not only to control the behaviour of younger men, but importantly allowed a husband to enforce his rights over his wife and hence his wife's behaviour. Thus lovers ended up in court, with the accused being charged with elopement or adultery by a husband wanting to get his rights to his wife back. Some women however pointed out that it is not the lover who should be accused or considered guilty, "as it was *I* who went to his home of *my own* choice".[25]

The problems occurring in marriages, runaway wives, and elopements, brought the issue of women's consent and choice of marriage partner to the surface. Shadle's work on Gusii court records, reveals that women stood up in court and openly challenged their fathers over marriage to partners they did not want. These women threatened to stay with their lovers, if their fathers did not consent to their wishes. So:

> Gusiiland became caught up in bitter debates over whether bridewealth and parental choice alone made marriage or if female choice was necessary for the creation of a legitimate marriage.[26]

Disputes between fathers and daughters, junior men and their elders concerned who women wanted to marry, what type of marriage they wanted, and its costs. What was not disputed was the fact that both men and women remained committed to marriage, as it was the foundation of identity both as an individual, as an adult and as a community. It provided a sense of security both physically and spiritually. For both women and men it met their desire to have children. For men, it meant exclusive rights to women's sexuality and labour. For women marriage entailed the exclusive protection of her husband from the sexual advances of others and the social and political prowess that marriage and children bring. Bridewealth was the vehicle that facilitated these rights and responsibilities.

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[25] Ibid. p. 256.
[26] Ibid. p. 242.

The problems associated with what constituted marriage — being correctly or properly married — had important implications for, bridewealth payments, parental rights, inheritance practices and inter clan marriage. Over time, with the establishment of towns, the increasing intermarriage between different ethnic groups, religions and clans and the push toward monogamy, understandings of marriage processes changed. Various and differing pre-marital arrangements, payments and ceremonies came into being, along with freedom to choose a partner and new expectations of both parties. The movement of people across communities, due to wage labouring for example, widened life experiences and began to break clan laws on intermarriage. Phillips cites a case of a man who had been convicted of 'removing a married woman without permission, "contra native law and custom", and had been fined Shs 100/-.' The couple lived in Nairobi, had been together for three years and had two children. The appellant had offered to pay bridewealth to the father of the woman but it had been refused. The problem was that they were from the same tribal group which, being an exogamous unit, had prohibited degrees of kinship intermarriage. Thus their marriage had transgressed native law.[27] The appellant contended they were married according to local i.e., Nairobi custom, and the Municipal Native Affairs Officer although upholding the conviction, set aside the sentence, arguing:

> that sooner or later some native will transgress it [exogamous marriage rules] … I do not feel that this merits criminal punishment.[28]

Marriage obligations for men and women changed not only because of the changing types of marriage but also with the changing nature of crop production, in particular with the advent of the production for sale of maize and over time, of surplus food crops. In the Kikuyu, Luo and Kipsigis areas, maize was initially grown on men's land and sold by them. Women became increasingly involved in its production, as their allocated land began to be

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[27] Phillips A., Op. cit. pp. 297–298.
[28] Ibid. p. 298.

utilized to grow it. Further, male out-migration from the family farm pushed women into working on men's land to grow this crop. The sale of maize and any surplus food crops, paid the hut and poll taxes, something that benefited both men and women, in that neither went to prison for non payment of these taxes. However, in the context of obligations owed by husbands and wives to each other, the production of maize changed the expectations of both parties.[29] In the pre-colonial period food produced by either party was for consumption or barter. Although both women and men were involved in the market place, trading cereals, animal skins, pots and some tools, the rewards of this barter system were the property of the individual 'seller' to use how they saw fit.[30] The advent of the commercialisation of maize production changed women's production from that aimed at consumption, to that for sale. The increasing use of women's own food crops to pay hut and poll taxes meant that women gained little to no financial return. In this way the implied obligations of husbands and wives radically changed. In the case of hut tax, women became indirectly responsible for men's debts/obligations as these tax payments were a male duty, bestowed on men by the colonial office, but ultimately paid for by women's labour. Cash cropping therefore broke the nexus between mutual obligations concerning labour and mutual care that indigenous marriage contracts assured. Similarly male out migration to labour on settler farms, plantations and into the towns had the effect of removing men's immediate responsibilities towards their wives' security in providing for example, labour for hut making, or for clearing new areas for crop production.[31]

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[29] See Hay J. M., Luo Women and Economic Change During the Colonial Period. In: Hafkin Nancy J. & Bay Edna G., *Women in Africa. Studies in Social and Economic Change.* Stanford University Press. Stanford. 1976. pp. 100–103.

[30] Peristiany J. G., Op. cit. p. 149. For a detailed examination of Kikuyu trading activities before colonial rule, see Muriuki G., *A History of the Kikuyu 1500–1900.* Oxford University Press. London. 1974. pp. 101–108.

[31] Driberg J. H., The Status of Women Among the Nilotics and Nilo-Hamitics. *Africa.* Vol. 5, No. 2. April 1932. pp. 404–421.

The production of cash crops of maize, wattle bark and coffee had yet another impact. It caused an inflationary rise in bridewealth costs. Maize production and prices were particularly high during the 1950s, going from Shs 13/- to Shs 28/- per bag by 1954.[32] By the end of the 1950s wealth flowed to those men who had appropriated their wives' land and labour. Women were more valuable than ever before and bridewealth rose accordingly.[33] Thus in relation to Kipsigis bridewealth:

> Bridewealth was less than at present. 1 cow, few sheep and goats instead of the modern average of 6 cattle, 10 sheep, 10 goats. If no sheep or goats, a man had to pay Sh/-1000. In the old days a little beer and food were used at weddings but now there is a great expense of church, [registration] at District commissioners office and native ceremony, … which takes another Sh/-1000 for food.[34]

The demand for women's labour in the production of cash crops and the inflationary rise in bridewealth over the colonial period, tied women more firmly into their marriages. For men this inflated bridewealth tied them to the esteem associated with wealthy men, whether or not they were weatlthy. As Mothoni points out men claimed:

> you paid a lot of money because you had to act like a man. You had to show you could take care of a wife, and this responsibility began with paying a good bridewealth. As long as a man understood that he was getting a good, well mannered, educated wife, he did not hesitate to pay.[35]

The court cases brought before the LNCs centred not on the fact that a wife ran away to a lover, or deserted her husband because she did not love him, but on the fact that husbands had paid bridewealth. They had demonstrated that they had acted like men and they therefore wanted their wives to act like wives.

Whilst marriage disputes in the courts raged, others took recourse to the spirit world to solve marriage problems. Marriage conflicts and sexual behaviour, similar to all

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[32] Fearn H., *An African Economy:* A Study of the Economic Development of the Nyanza Province of Kenya, 1903–1953. Oxford University Press. London. 1961. p. 161.

[33] Shadle Brett., Op. cit. p. 246.

[34] Mss. Afr. s. 1792 Matson. 16/3/41. p. 24.

[35] Mutongi Kenda, Op. cit. p. 121.

behaviours, were influenced by the supernatural, via the use of potions, oaths and curses. Men had at their disposal recourse to love potions and potency charms, charms to inflict venereal disease on adulterers and charms to punish evil wishers within the household.[36] Parents also held the fear of placing a curse over their daughters if they did not marry the husband chosen for them. This curse, it was believed, would make the man or the woman infertile. If young lovers eloped and parental approval was not forthcoming, then this disapproval could be strongly enforced by the elders of the clan as well as the concerned parents by oaths and appeals to the spirit world. Uncontrolled, unauthorized illicit sex was seen as a source of destruction, bringing sicknesses that were beyond human control. These calamities and sicknesses attributed to witchcraft or spirits, troubled the body or the mind and of course community peace. Jealously, lust, bitterness, hatred, despair, loneliness, emotions that can come from the experience of failed marriages or from the massive pressures placed on daughters to stay in marriages that they did not want or from husbands who had taken lovers or another wife formed part of a discourse with the spirits.

> At spirit possession dances … the spirit-speech that goes on between the possessed and the spirit-medium refers to the spirit, i.e., the women, being neglected by her husband, his lack of care and concern, his favouritism towards another, and his meanness.[37]

The supernatural invoked obedience, and women and men who were known to be able to converse with this world, were both feared and respected.

Witchcraft

In pre-colonial Kenya, the spirit world strongly influenced the day-to-day life of clans, families, elders and social structures. The living had to be careful not to antagonise the spirit

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[36] Gomm R., Harlots and Bachelors: Marital Instability Among the Coastal Digo of Kenya.' *Man*. New Series. Vol. 7, No. 1. 1972. p. 112.

[37] Parkin D., Disputing Human Passion: The Negotiation of the meaning of love among the Giriama of Kenya. In: Caplan P. (ed.), *Understanding Disputes: The Politics of Argument.* Berg. Oxford. 1995. p. 176.

world of ancestors, of spirits that cause sickness, or those that influence natural events or form part of the environment.[38] The latter spirits were thought to be free to roam. They could possess people and give them the power to prophesise. Whereas the spirits of ancestors remained within the confines of the communities in which they once lived and possessed the same qualities in death as they did in life.[39] Rituals associated with fertility, marriage, rain ceremonies, or against epidemics, droughts, and enmity, were part of everyday life.[40] These ceremonies made use of charms and spirit mediums, to practise medicine, or to make threats and oaths to maintain agreements between disaffected parties. Appeals were made to those skilled in dealing with the spirits to help settle serious disputes such as accusations of adultery, theft, murder or indeed the practice of witchcraft itself.[41] In Meru, for example, distinctions were made between a Morogi "a poisoner who collects medicines secretly at night", a Muga, a medicine man who is a power for good/healing, and a Muroria, a soothsayer who foretells the length of famine, or war, as revealed in dreams.[42] Recourse to the spirit world was a method of social control, in that behaviour outside of what was considered socially acceptable would be dealt with by invoking the powers of malevolent spirits. It was also a method of lineage continuance in that, by following rituals that satisfied the rules of fertility and morality, people were guaranteed a future and the lineage prospered. Balancing these things was difficult. There was the authority of elders that relied on councils, kin loyalty, the placement of fines and the use of oaths to bring about social order.[43] Yet this

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[38] Hoehler-Fatton C., Op. cit. p. 215, fn. 3. Spirits of the environment lived in trees or in the Luo belief in the lake or serpent spirit, *Mumbo*.

[39] Mss. Afr. s. 1792. 45/7/15. Whisson M. G., The Will of God and the Wiles of Men. p. 5. CO. 847/13/11. p. 4.

[40] For examples of these rituals see Mss. Afr. s. 1153/1/b Fazan Papers, which describes the ritual associated with curing sterility problems in marriage. See also Peristiany's description of the ritual associated with epidemics. He states that this ritual had not been performed since 1919 'as it was thought that the government appointed head men would use it against those of the *kokwet* and in so doing endear themselves to the government'. Thus Peristiany's assertion that government appointed 'headmen' in Kipsigis communities were considered outcasts by their own people and were not trusted. Peristiany J. G., Op. cit. pp. 221–2. The Meru held a similar view of those in the employ of the administration. Fadiman J. A., *When We Began There Were Witchmen. An Oral History from Mount Kenya*. University of California Press. Berkeley. 1993. p. 267.

[41] Lambert H. E., Op. cit. pp. 124–5 and pp. 141–144.

[42] Fadiman J. A., Op. cit. p. 272.

[43] Peristiany J. G., Op. cit. p. 188.

authority could be challenged by the spirit world via the use of witchcraft by those outside the communities, or as Anderson notes by:

> the prophetic or divinatory powers available only to the most senior and most proficient *orkoiik*, [witchdoctor/seer], powers which could most successfully be invoked and harnessed during moments of high social drama, when society was challenged from outside or when its own mechanics of social change, such as the age-sets that regulated the relationships between generations, went through contested processes of transition.[44]

Indeed the Meru practiced witchcraft against the newly appointed District Commissioner, Edward B. Horne when he first came into Meru territory.[45] The elders laid items associated with cursing and causing harm along the pathways he used on his journeys around Meru territory. When these threats failed to bring about sickness or his death, panic broke out amongst the Meru elders and warriors over not only what to do, but why these actions had failed.[46] In such situations, the power and authority of the Meru elders was severely challenged as the spirit world had not reinforced it. This allowed younger men, warriors, and the age-sets below the reigning group to challenge the impotency of their elders.

In indigenous communities distinctions were made between sorcery, diviners, practitioners of the evil eye, medicine men etc, as the actions of diviners and sorcerers where in part public and known and by the fact that anyone could make use of their skills. Diviners for example, had the skill to discover the cause of a client's problems, "choosing from among several major sources of agency: ancestor spirits, spirit possession, the divine creator, mischievous spirits, the transgression of accepted sexual relations."[47] Hence, the use of diviners (*ajouoga*) in Luo communities to settle quarrels enabled the community to resume its

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[44] Anderson David M., Black Mischief: Crime, Protest and Resistance in Colonial Kenya. *The Historical Journal*. Vol. 36, No. 4. 1993. p. 854.

[45] Fadiman J. A., Op. cit. p. 271. Horne was District Commissioner in Meru from 1907–1917. He was a linguist, and spent considerable time trying to understand the Meru spirit world. The Meru are considered to be part of the Kikuyu ethnic group who speak closely related languages. Lambert H. E., Op. cit. p. 1.

[46] Fadiman J. A., Op. cit. p. 271.

[47] Ciekawy Diane, Witchcraft in Statecraft: Five Technologies of Power in Colonial and Postcolonial Coastal Kenya. *African Studies Review*. Vol. 41, No. 3. Dec. 1998. p. 139. Fn. 7.

normal life.[48] Diviners solved problems whereas witches/witchcraft created enmity, social discord, chaos. Within African communities witchcraft was seen as intrinsic to an individual, part of his or her soul or personality. This belief, Middleton and Winter noted, meant that:

> … it is reasonable to test a person for witchcraft by administering a drug [known as the poison ordeal] which can only be rejected through vomiting by a person whose inner being is untainted by witchcraft. Such a test is inappropriate in the case of a person suspected of having practiced sorcery since his use or non-use of this technique has no connection with his inner being or true identity.[49]

Witchcraft made use of rumour, hints, suspicion and insinuations. It is practised, by those and on those, who are found within one's own community. As Ciekawy and Geschiere state, 'witchcraft epitomizes the frightening realisation that there is jealousy and aggression within the intimate circle of the family where only solidarity and trust should reign.[50] Thus as the Nandi viewed it, witches bewitch from pure hatred, or jealousy of someone, in revenge, or in some cases as a form of self-help, for example, to obtain the settlement of a debt, such as bridewealth payments.[51] Sickness, an event that had no reasonable explanation in Nandi communities, was also attributed to witchcraft, which was principally practised by women.[52] The use of the evil eye *Sihoho* in Luo communities was also attributed to women. The Luo live in compounds, (*Keyo*) with co-wives living next door to each other sharing a courtyard.[53] This living arrangement argued Le Vine, made the Luo quarrelsome, litigious and susceptible to accusations of sorcery and witchcraft.[54] Yet the threat of its use could keep the peace between co-wives, as a person who practised it, not only brought trouble and quarrelling into

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[48] Mss. Afr. s. 1792. 45/7/15. Whisson M. G., Op. cit. p. 9.

[49] Middleton J. & Winter E. H., *Witchcraft and Sorcery in East Africa*. Routledge & Kegan Paul. London. 1963. p. 23. The poison ordeal was banned by the administration. It has been argued that this ban enabled witches to go undetected and thus has allowed the practice of witchcraft to grow to proportions where it is seriously undermining state stability.

[50] Ciekawy Diane & Geschiere Peter, Containing Witchcraft: Conflicting Scenarios in Postcolonial Africa. *African Studies Review*. Vol. 41, No. 3. Dec. 1998. p. 5.

[51] Huntingford G. W. B., Nandi Witchcraft. In: Middleton J. & Winter E. H. (eds.), Op. cit. p. 180. The Nandi had two clans, the Kamwaike, and the Kapchemuri, who are known to be able to practise their craft from a distance. They were a clan that had come from Massai country and were ostracised from Nandi society.

[52] Mss. Afr. s. 1792. 4/4–6/4. Hamstead C. S., Notes on Nandi. Kisumu Provincial Annual Report. 1907–8. p. 35.[53] KNA PRB 22/EN/10. ELGON Nyanza Political Record Book. Luo Law and Custom Regarding Land. 1953. p. 4.

[54] LeVine R., Witchcraft and Co-wife Proximity in South-western Kenya. *Ethnology.* Vol. 1, No. 1. Jan. 1962. p. 43. He then argues that these accusations are usually placed around possessions, food and other resources as such things were scarce due to the geographical location of Luo land.

the home but they risked ostracism and banishment. Thus the fear of being accused of being a witch served as a low level sanction against the use of sorcery and witchcraft.[55]

At the same time however, spirits (*Juogi*) in Luo mythology exist in everything and they possess both the ability to do good and inflict harm.[56] Offerings are made near objects such as trees and rocks because they are thought to house ancestral spirits. Whereas men dealt with ancestor spirits and their impact on lineage, women tended to dominate spirit possession, or ecstatic experiences of spirit encounters. Fatton argues that under the influences of missionary societies, women's role with spirit encounters changed. Now women's ecstatic practice is subsumed, with men taking the leadership roles demanded of Luo gender divisions by officiating at mass and administering the sacraments.[57] Women's spirit possession power now tends to be expressed within the context of singing.

In contrast, the Kipsigis, according to Orchardson, have a low incidence of witchcraft use as they have an understanding 'that the law, custom and nature: *pitet* (pl *pitonik*) is unbreakable, as in, "it is the nature of the Kipsigis to do so and so"'.[58] Despite this, Peristiany claims that the Kipsigis have four categories, or more correctly four purveyors, of witchcraft. The *laibon*, who came from Massai clans and exercised their power via spirit possession, dreams, and magic amulets: the *orgoyot,* who were male members of specific clans and who were attributed a variety of supernatural powers: the *ponindet,* a person able to use the evil

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[55] Mss. Afr. s. 1792. 45/7/15. Whisson M. G. Op. cit. p. 10.

[56] Ocholla-Ayayo A. B. C., *Traditional Ideology and Ethics Among the Southern Luo.* Africana Publishing. Uppsala 1976. p. 187.

[57] Hoehler-Fatton C., Op. cit. 1996. pp. 207–210. See also fn 50. p. 232. For further analysis of women's involvement in Spirit Possession cults see, Wipper A., *Rural Rebels: A Study of Two Protest Movements In Kenya.* Oxford University Press. Oxford. 1977.

[58] Orchardson I .Q., Some Traits of the Kipsigis in Relation to their Contact with Europeans. *Africa*. Vol. 4, No. 4. Oct. 1931. p. 469. The same word, *pitet*, is used to describe each of these concepts.

eye, and the *chebsogeyot*, a female witch doctor with only curative powers.[59] Each of these possessed important powers, the *laibon* for example would use their dreams to bring about successful cattle raids, predict droughts or successful harvests. A *ponindet,* was considered the most dangerous type of witch, who was always jealous, casting curses, (*chubisiet),* that could only be removed by the *chebsogeyot*. If a *ponindet* made *kokwet* life difficult then he or she was put to death.[60]

Some administration officers held the view that witchcraft and the practice of magic was viewed as a normal part of everyday life and acted as the glue that held African societies together.[61] To deal with this the administration made distinctions between sorcery, diviners and witches.[62] This was, to a degree, politically expedient as it allowed the administration to utilize the similar distinctions present in indigenous societies, as well as make use of these processes to enforce new laws.[63] It also shows that some in the administration understood the power of the supernatural and its influences on everyday life. Frank Lamb, District Commissioner in Meru in 1928 stated:

> I have been engaged in the investigation of witchcraft throughout the district. I have found that in addition to the usual form of witchcraft … there exists in

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[59] The *Laibon* were deported out of the Kipsigis land unit shortly after the arrival of the British. Peristiany J. G., Op. cit. pp. 225–227. Orchardson notes that the breaking of the law is unnatural, *sogorge* and is punishable by cursing, *chupge*, to curse one's self. In cases of witchcraft, if the curse were reinforced by an elder, the offender could be dis-owned by the clan: (throw him with a leaf, *wiree* or *wiren sogot*) that is, public execution. Orchardson I. Q., Some Traits of the Kipsigis in Relation to their Contact with Europeans. Op. cit. p. 469. See also Kenyatta J., *Facing Mount Kenya*. The Tribal Life of the Gikuyu. Secker and Warburg. London. 1959. pp. 301–305, for similar descriptions of witchcraft punishment.

[60] Peristiany J. G., Op. cit. p. 94. He does state that one form of witchcraft, *ponindet*, is gender specific in that it is inherited female to female or male to male. p. 94. He cites the case of a trial of a woman accused of witchcraft and she is asked if her mother, grandmother or great-grand mother were known to be witches. They were not known to be such, so the woman was acquitted. p. 201. See also Orchardson I. Q., The Kipsigis. Op. cit. pp. 19–36.

[61] CO/847/13/11. Comments by J. L. Keith 24/11/39, Extract from, An African Survey. Lord Hailey 1938. No page numbers given. It should be noted that not all administrators held this view of African witchcraft. The overwhelming British view of witchcraft was that it was evil and socially destructive. Lamb, Horne, and La Fontaine were some of the few administrators who understood the use and importance of the spirit world to local communities. Both Horne and Lamb worked in Meru and both attempted to utilise the spirit world to their advantage. Horne effected a degree of social control by transforming the Njuri Nceke into a Local Native Court in 1912. These became the Local Native Tribunals around 1919–1920s. Lamb, in an effort to solidify the power of British law, set out to destroy the Meru witchcraft practice.

[62] Evans-Pritchard E. E., Witchcraft. *Africa.* Vol. 8, No. 4. Oct. 1935. pp. 417–419.

[63] Waller R., Witchcraft and Colonial Law in Kenya. *Past and Present.* Number. 180. 2003. pp. 240–270. Passim.

> Tigania and Igembe two secret societies in which witchcraft is used to extort property or to enforce its orders … These two are known as Aathi and Kagitha.[64]

Having discovered this, Lamb later declared that if the government-appointed headmen and tribunals were to succeed:

> It is essential to break the powers of these societies … The powers of witchdoctors are enormous and each witchdoctor is a member of a secret society. This … must be checked.[65]

Such accusations could do nothing but put two vastly different views of administering justice on a collision course. However, within colonial rule, there was conflict between legal/secular administrative control verses the use of customary law to maintain any sort of control over witches and communities.[66] Although the colonial administration viewed the practice of witchcraft as such a serious threat to English law that it imposed the death penalty as punishment, in reality *ponindet* were often only fined and or sent into exile.[67] The use of corporal punishment for witchcraft convictions in Kenya was usually reserved for cases where the claim to supernatural powers had some criminal purpose, such as fraud, or personal harm.[68] Its use was however morally complicated in that what was right and proper in indigenous society, such as the community dealing with accusations of witchcraft within its own legal system, and executing a witch, was considered a criminal offence within the British system of Law.

In all the ethnic groups under discussion here, the punishment of witches was viewed as a necessary part of keeping the peace. Punishment of witches in Kikuyu communities, as

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[64] Fadiman J. A., Op. cit. p. 302.

[65] Ibid. p. 308.

[66] Seidman R. B., 'Witch Murder and Mens Rea: A Problem of Society Under Radical Social Change'. *Modern Literature Review*. Vol. 28. Jan. 1965. p. 48.

[67] Seidman gives an overview of the types of defence arguments that were used in colonial and British courts. These included self-defence, insanity, mistake, defence of others and provocation. He states that all failed. He also states that the punishment by death was commutable and that most courts in handing down their sentences hoped that this would happen. Seidman R. B., Witch Murder and Mens Rea: A Problem of Society Under Radical Social Change. *Modern Literature Review*. Vol. 28. Jan. 1965. pp. 46–62.

[68] CO/847/13/11 Lord Hailey. An African Survey. p. 295. Personal harm here meant the use of pain to determine if a person had committed a crime, and extended to murder.

amongst the Kipsigis, Luo and Nandi, was a community affair. That is, if a person accused of witchcraft was to be executed, it was done only after a long series of misdeeds and deliberations over those deeds had occurred. The family of the accused was consulted and indeed would be the first to start the execution process.[69] This symbolized the breaking of familial bonds. The whole process of conviction and punishment was long and no doubt deeply disrupting to the community and carried out only after rituals of cleansing and oaths had failed to get the offender to mend their ways.[70] The colonial administration's Local Native Tribunals, (LNT), replaced these processes and councils of justice.[71] The tribunal's membership was often made up of the less important members of communities and whose job it was to decide what to do about the spirit world and how to punish those skilled in its ways.[72] Although in many ways the tribunals continued the accepted punishments of witches, of banishment, beatings, public purging, and execution,[73] the fact was that these decisions were not made by those in the community with the real authority to do so.[74] This caused considerable tension between the LNT, the members of councils (*Kiamas)* and the administration. The administration accused the LNTs of equivocation and indifference, with 'the Chiefs as a whole show[ing] a strange apathy and reluctance to engage in debate.'[75] At the same time, the LNT members tried not to betray the authority of community elders. Further they lived in fear of 'persecution from the person being accused of being a witch'.[76]

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[69] Kenyatta J., Op. cit. pp. 301–305 See also Fadiman J. A., Op. cit. p. 268.

[70] Fadiman J. A., Op. cit. p. 268.

[71] Mss. 435/2/3 Perham M., Native Affairs Department A R. 1926. p. 33.

[72] Ibid. p. 33.

[73] Waller R., Ibid. p. 270.

[74] The membership of the LNT consisted of younger men, drawn from the ranks of colonial police, thus familiar with British administrative and criminal traditions and also seen in the pay of the administration. Fadiman states that the Meru elders Council, Njuri Nkeke, continued meeting but retreated behind a wall of secrecy, with its deliberations and actions unknown to the District Commissioners. Fadiman J. A., Op. cit. p. 269.

[75] KNA DC. NN1/13.1932. p. 20.

[76] Mss. Afr. s. 916. Phillips Papers. Notes on the Witchcraft Ordinance of 1925. No page numbers given.

Yet if the LNT convicted and executed a person guilty of witchcraft, the administration viewed it as murder and therefore those who perpetrated it were punished for doing so.[77]

The process of arbitrating between everyday life and the spirit world was to bring a degree of pragmatism into the administration of British law in that local administrators had more than enough to do. As was pointed out when Lord Hailey suggested a review into the Witchcraft laws in 1939:

> … the subject, is not I think a pressing one. It occasions great stress of mind to individual magistrates and other officers who come up against the problems of black magic, but it does not embarrass governments on the political plane. This being so, I think we should be wise to leave it for the present. What with the inquiries into land policy, native law, native administration and the future of legislative councils, (not to mention the war), invitations to investigate equally complex but less urgent problems are likely to do more harm than good.[78]

The number of witchcraft prosecutions remained low. In 1943 there were five convictions under the Ordinance and in 1944 this rose to six. Most of these related to using witchcraft medicine with intent to injure or for pretending to exercise acts of witchcraft.[79]

Yet the spirit world continued to influence attitudes and behaviour. Indeed how could this 'intimate circle of the family', when faced with the challenges of colonial rule, the moralising discourses of missionary societies, and the changes demanded by these institutions of local cultural law and ways of living, not pursue the use of witchcraft and magic, and call upon the spirits of the ancestors to deal with these problems. The advent of migrant labour, for example, changed the community's ability to control sorcerers and witchcraft, to seek out persons accused of such actions and to keep the peace. Men who returned from a year away working on settler farms came back with money, clothes and new ideas. They often faced

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[77] Mss. Afr. s. 742/2 Punishment of a Witchdoctor by Death in Meru — 1933. Cites a case in Machakos, where 60 people were convicted in the High Court of Kenya for beating to death a witch. These 60 people constituted the members of her family, and her neighbours. p. 1.

[78] CO. 847/13/11. F. J. Pedler in reply to Lord Hailey's Report. 14.12.39.

[79] Mss. Afr. s. 916. Phillips Papers. Notes on the Witchcraft Ordinance of 1925. Op. cit. No page numbers given.

suspicion from their communities, in that they may well be harbouring harmful charms and medicines to be used on those who did not share in their new-found wealth. Thus the labourer faced the fear of curses being placed on him so as control the threat of sorcery he might bring to his home. Could these perceived threats be controlled by the use of cleansing rituals or payments to an *orkoiik* or appeals to the *Njuri Nceke*? The fact remains that the impact of colonial rule created new behaviours and situations that were not controlled by traditional sets of rituals or recourse to advice obtained from the *laibon* or ancestors. Today rural to urban and rural to rural migration remains a major source of complaint concerning witchcraft, with people using it to demand possessions, land, or political patronage, from those in positions of power.[80] Witchcraft, once a common explanation of a sudden unexpected event, such as a death, or an adverse natural event, such as drought or flood now can be used as an explanation for the sudden accumulation of wealth, be that money, land, or power.[81]

Converts to Christianity

Missionary societies attracted those people, mostly men or younger males, who were powerless, considered to be unimportant, or on the margins of their communities.[82] The Christian Missionary Society, (CMS) missionaires at Kowe in 1906 for example, asked the Chief to send several boys from his location to be boarders at their newly established school.[83] The elders of Kowe purposely sent two boys from poor, relatively weak families, one an

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[80] Geschiere Peter & Nyamnjoh Francis, Witchcraft as and Issue in the "Politics of Belonging": Democratization and Urban Migrant's Involvement with the Home Village. *African Studies Review*. Vol. 41, No. 3. Dec. 1998. p. 71. For a modern day account of patronage and corruption within Kenyan politics, see also: Wrong Michela, *It's Our Turn to Eat*. Fourth Estate. London. 2009.

[81] So problematic and embarrassing were accusations of witchcraft to the Moi government that in 1994, it appointed a Presidential Commission to investigate occult practices throughout Kenya. The Presidential Inquiry into the Cult of Devil Worship. Government of Kenya. Nairobi. 1995. The report cited episodes of magic, ritual murder and cannibalism, which threatened to derail the country's national objectives. Passim. See also Smith James H., 'Of Spirit Possession and Structural Adjustment Programs: Government Downsizing Education and the Enchantments in Neo-liberal Kenya.' *Journal of Religion in Africa*. XXXI, No. 4. 2001. pp. 427–456.

[82] 'On the margins or edges of communities' refers to those who did not conform to social mores, it includes women who had not borne sons, and those who were socially isolated due to a lack of wealth or links with powerful families.

[83] Hay J. M., Op. cit. p. 99. There were 16 different Christian Churches in Kenya, ranging from the Catholic Holy Ghost Mission to the Protestant CMS and the Luthern Neukirchen.

orphan and the other from a *Jodak* family.[84] To the elders, these boys were expendable, in that they would never reach positions of influence within Kowe. For those on the edges of communities, the mission stations provided a refuge from both the demands of the colonial administration and the demands of newly appointed chiefs for labourers to work on the settler farms or on roads. For those who were powerless, particularly warriors who were forbidden to go raiding and forced into becoming migrant labourers by the demanding colonial regime, the mission stations provided a sense of duty and purpose. This was particularly the case if God's message was cast as that of an *askeche,* a warrior/soldier 'for Christ'.[85] For those who learnt to read and write and became teachers, refuge in these stations assuaged to a degree the longing of uninitiated men for admission into an adult world with its associated respect and power.[86] Without adulthood status, uninitiated men were in fact shut out from elders meetings, as Peterson puts it 'sitting with women while eavesdropping on the deliberations of their betters. They were dismissed as *atereki*, timid, silent people, they were socially forgettable'.[87]

Early female converts also consisted of those on the edges of their communities. In particular women who were abandoned by their husbands or widows or children who were orphans. These women and children were taught scripture and mothercraft skills, which they took back to their communities.[88] For both female and male converts, joining a church and becoming a teacher or a preacher was therefore empowering. It was also an abrupt and striking challenge to the accepted gender division of labour and subversion of the spirit world.

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[84] Ibid. p. 99. Hay claims that one of these boys came back to the village and converted the son of one of the more powerful elders. These two converts then set about teaching many of their friends and relatives the fundamentals of Christianity and reading and writing.

[85] Hoehler-Fatton C., Op. cit. pp. 118–119.

[86] The banning and or delay of initiation ceremonies in Kikuyu areas lead to great dissatisfaction amongst fully grown men who were considered children by their elders as they had not passed into adulthood via the processes of initiation. Therefore they did not possess the knowledge of adults.

[87] Peterson D., Wordy Women: Gender Trouble and the Oral Politics of the East African Revival in Northern Gikuyuland. *Journal of African History.* Vol. 42, 2001. p. 473.

[88] Thomas L., Op. cit. p. 67.

As Hay notes, the early male converts helped their mothers in the fields, something that was considered beneath the behaviour of men, and in so doing converted their mothers or sisters into a new belief system:

> After Obara [a convert] helped me to grind, he would light the fire and cook and give me food to eat. Then he gave me a piece of cloth to tie around my waist and the next day I went to church.[89]

The giving of the cloth was a powerful symbol as cloth for clothing was a gift provided by a husband to his new wife.[90] This symbolism combined with the going to church could also be viewed as going to another husband in that the church offered support, respect and security. In short, obligations that husbands owed to their wives.

Women converts destabilized male authority in that conversion gave these women, a voice of protest. Women converts who left their farms to preach or go to church, withdraw their labour.[91] Some of the newly appointed Christian converts utilized or tapped into the traditions of seers, spirit possession and ancestor worship and expressed their dissatisfaction with husbands, marriages, co wives or the administration.[92] In the Revivalist Church, which was active in the Luo areas, for example, women converts utilized their spirit possession powers and by the public action of confessing sins, voiced their displeasure over their husband's negligence, or drunkedness.[93] Elders on the other hand utilized the behaviour demanded of converts by their churches to regain control over wayward youth and immoral sexual behaviour.[94] If converts were seen to be drinking, dancing, engaging in premarital and extra marital sex, stealing or lying, they were fined by their elders and ostracised by fellow

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[89] Hay M. J., Luo Women and Economic Change During the Colonial Period. Op. cit. p. 100.

[90] KNA. MC 363 DC/FH. 3/1. 1950–52 Fisher J. Op. cit. p. 91.

[91] Berger I., Rebels or Status Seekers? Women as Spirit Mediums in East Africa In: Hafkin Nancy J. & Bay Edna G., Op. Cit. p. 169.

[92] Ibid. p. 157.

[93] Peterson D., Op. cit. p. 476.

[94] Ranger argues that the returning catechists and others influenced by missionary teachings attempted to outflank their elders with arguments over traditions and authority in an attempt to manipulate it to their own advantage. Ranger T., The Invention of Tradition in Colonial Africa. In: Hobsbawm E. & Ranger T., The Invention of Tradition. Cambridge University Press. Cambridge. 1983. p. 225.

converts until they confessed their sins in public.[95] This stirred up moral strife challenged patriarchal authority, generational power, and questioned the certainty of the spirit world. How were those accused, wives, husbands or fathers, to refute such accusations when the accuser was using an accepted process, for example spirit possession, to relay a complaint?

Converts could pitted the spirit world against family members utilizing it for their own advantage. This proved a source of resentment between converts and the communities from which they came or administered to.[96] Furthermore, churches did not permit converts to pay bridewealth when marrying. This raised serious questions as to what marriage was as bridewealth facilitated not just the marriage of two people, but created obligations and responsibilities between the couple's families. Without this payment, these obligations were nullified and the families and the married couple concerned, would not be protected by those assumed familial rights and responsibilities. Further, the lack of bridewealth payment caused insecurity for the children of a convert's marriage, for without bridewealth payments, protection was not afforded to them by the father's spirit world or his clan.

For Christian girls, conversion came at a cost, as they found themselves caught between three sets of laws: criminal, Christian and customary, but were seemingly bereft of any protection that each law might bestow. For example the Nandi Local Native Council tried to sort out which law applied in a case of 'interference with Nandi Christian girls':

> The President [of the council] explained … an interference with a girl over 16yrs of age was not a criminal offence according to British Law if she consented. The man involved could be sued in a civil case, in a subordinate court, and the girl's father or guardian could claim damages. The Nandi Christians could adopt the British law … if they wished. Several members of the Council said they were very well aware of the position in regard to this interference with Christian girls, and they really desired that something be done to prevent it. They agreed the British

[95] Mss. Afr. s. 1792. 45/7/15. Whisson M. G., The Will of God and the Wiles of Men. p. 30.

[96] Sandgren David P., 'Twentieth Century Religious and Political Divisions Among the Kikuyu of Kenya.' *African Studies Review*. Vol. 25, No. 2/3. June–Sept. 1982. p. 197.

> law should be adopted since Nandi law and custom could not possibly be applied to it.[97]

To which set of laws could an unmarried Christian girl turn to seek protection? Indeed where would she go? Girls who went to mission schools missed out on the education given to them in the *swinde* or *singroina* huts by an elder women, a *pim*. She was not taught about marriage rites (except Christian ones), clan history, the correct social connections or what clan she could or could not marry into.[98] Nor was she taught the rules concerning deference to husbands, elders and mothers-in-law, or appropriate sexual behaviour. These teachings, learnt in the *Sigiroinet* and *swinde* huts, were part of Kikuyu, Nandi, and Luo identity. Girls who went to mission stations were taught how to wash and, in some cases, iron their clothes, but had no knowledge of who they were, their social connections, or what was expected of them when they returned to their homelands.[99] The mission stations effectively robbed these girls of their identities and left them inadequately equipped to live within their homeland. Yet under the rubric of Christian dogma, laced with a certain amount of bile against indigenous cultural practices, in particular polygamous marriages, female circumcision, pre-marital sex and bride price, let alone any outward expression of courtship, such as dancing, mission stations continued to create moral strife. Thus:

> In the interests of the maintenance of law and order and public morality, repression of indigenous dancing, circumcision and even wrestling has been the order of the day. … the results have been that huge crowds of youths and girls gather at the markets usually after church services on Sunday, where they spend their time in idleness until darkness falls, - what follows can only be inferred.[100]

However, that the sexual activities of unmarried girls and women and its apparent immorality should be curtailed was not always viewed as necessary, although its vilification was couched in such language:

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[97] Mss. Perham. 443/2/1 Territories 90. Minutes of the Nandi Local Native Council Meeting 26/27 Nov. 1947. p. 9.
[98] Mss. Afr. r. 117. Holding Papers. p. 32.
[99] Mss. Afr. r. 191. MaryHolding Papers. Christian Impact on Meru Institutions. p. 67.
[100] Mss. Afr. s. 1857. Report of Community Development in North Nyanza District. 1950. p. 2.

> In Kakamega the unmarried girls live in the simba huts. … It is usual for the young men of other villages to bring a small offering to the father of any of these girls and in return for this he is allowed to sleep with the girl in the simba hut. … Every simba hut is a brothel and every night each girl has a different lover. This practice is so universal that the girls get no sleep at night and can rest only after early dawn till about 10am. Consequently they do very little work in the shambas because they are enfeebled. … If every inmate of a simba hut were taxed Rs3 annually some improvement might follow. … If marriage were made less costly it would take place earlier and more widely, more huts would be built and more revenue would accrue from the hut tax.[101]

Thus this kind of sexual behaviour could, apparently, be virtuous in the eyes of the colonial administration, if it was taxed.

For missionary societies, sexual acts were only morally acceptable if they occurred within the confines of a Christian marriage. This was at odds with a view that judged sexual acts in terms of their impact upon the lineage. Marriage was only a part of that process. Lineage continuance was a balancing act between the spirit world, its rituals, the fertility associated with food production and labour as well as being properly married. It required accepted forms of behaviour from both genders and at all times within one's life cycle. The passing on of knowledge between women, between age-grades and between men and women was intertwined with this balance. This is demonstrated through the timing of the passing on of knowledge and what type of knowledge was to be passed on and to whom. In Luo culture, there were ten different names given to married women, each name indicating the appropriate level of behaviour and its associated knowledge. For example, a woman who has only borne female children is a *Migumba* (barren woman); a women who is married to a man murdered by her close agnatic kinsman is a *Mire*, (a woman/girl of peace). An assigned wife is a *Nyar ot, Nyi udi.* All of these titles inferred a different status within clan relationships and, within this context, gave rights to certain knowledge.[102]

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[101] KNA Miscellaneous Correspondence. 854. PC/NZA 3/32/6 Nyanza Province. Ndeli Davis, District Commissioner for Mumais. p. 4.

[102] Mss. Afr. s. 1672/4 Wilson G., Luo Customary Law. pp. xii–xiv.

Those few female converts who for example who were taught midwifery, were placed in direct confrontation with this balancing process. Unmarried and uncircumcised, young convert women had no right to treat expectant mothers. They did not possess the knowledge levelto do so. Their convert-taught knowledge undermined that of more experienced married women, whose job it was to attend to births and carry out the correct rituals associated with the safe delivery of children.[103] This lack of status and experience represented uncontrolled female power, which could wreak havoc with the powers that held a lineage together. Further, these convert trained midwives, who were of marriageable age, should themselves have been married and had their own children.[104] That is, they were seen as reproductive misfits. That they had attended convert schools made them increasingly suspect as such women were viewed as prostitutes, as the power that came from knowing about birth and fertility was not to the lineage's advantage.[105] Their knowledge had not come through the accepted channels within the clan's experience or control.

Knowledge constituted power, it was a dangerous item if placed in the hands of the inexperienced or those with no seniority. That is, those who could not balance the power of the spirits with that of the experiences of general life as they had not lived long enough to experience it. The moral chaos created by the conflicting understandings of sexuality, of the contested domains of the spirit worlds and the misuse of cultural knowledge, collided over the issue of female reproduction and circumcision.

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[103] Orchardson I. Q., The Kipsigis. Op. cit. pp. 44–48.

[104] Thomas L., Op. cit. p. 71.

[105] Ibid. p. 68. Thomas states that the rumour of being labelled as a prostitute if you trained as a mid-wife may have stemmed from the fact that the only accredited midwifery training available was at the Lady Grigg Training Centre which was situated in the suburb of Pumwani, a known area of prostitution in Nairobi.

The Confrontation Over Circumcision

Although the conflict came to some sort of head in 1929 and again in 1956, it had simmered on and off in Kenya since the 1910s and would continue to simmer long after independence.[106] The missionary community was the most outspoken on the issue of female circumcision, and the colonial government, in its effort to control women's production via controlling their sexuality so that more male labour would become available, lent its support to the missionary societies' fight against female circumcision. The pressures of the church to ban the practice led to major protests in the 1920s with girls and boys being withdrawn from schools:

> A by-law passed by the local Native Council of the Kiambu Province restricting the operation to the simple removal of the clitoris, but little or nothing was done to enforce it. In April 1929 the first prosecution took place under the by-law and two women were fined Sh 30/- each for performing the major operation. Nobody was pleased. It was at once apparent that the Native Council had not had the people behind them when they passed the law and there was much indignation on the one side over the conviction and on the other at the sentence.
>
> Dr Arthur, Principal of the C S M [in the Kiambu Province] now considered his position strong enough to challenge a decision and took the course of action that all his church elders, on pain of expulsion, are to sign a paper renouncing the practice of female circumcision. The African Inland Gospel Mission followed this lead. It immediately became apparent that Dr Arthur had under estimated the hold, which the ancient custom has upon the people, even those who are professed Christians. Nine tenths of his congregations deserted him. About November 12th Dr Arthur followed up his original action by dismissing all out-school teachers who would not sign the paper. By this action he lost four fifths of his school children.[107]

Not only did Dr Arthur lose his school children but the Kikuyu were to establish their own private independent schools known as the Kenya Independent Schools Association (KISA) and their own church, the Kikuyu Independent Church. The action of banning circumcision of girls within the Central Province pitted the administration and churches

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[106] KNA AR/301 KUB/22 Kiambu District Annual Report. 1929. p. 2. For further reports on the issue of female circumcision and church actions to prevent it see: AR/347. FH/5 Fort Hall Annual Report 1925. Stone R. G., pp. 13–14 and Appendix I pp. 1–4. AR/284. KUB/12. Kikuyu District Annual Report. 1918/19. Northcote G. A. S., p. 29. Robertson Claire C., Grassroots in Kenya: Women, genital mutilation and collective action. *Signs*. 1996. Vol. 21, No. 3. pp. 615–642.

[107] KNA AR/301 KUB/22 Kiambu District Annual Report. 1929. p. 2. For further reports on the issue of female circumcision and church actions to prevent it see: AR/347. FH/5 Fort Hall Annual Report 1925. Stone R. G., pp. 13–14 and Appendix I pp. 1–4. AR/284. KUB/12. Kikuyu District Annual Report. 1918/19. Northcote G. A. S., p. 29.

against the indigenous population and sections of the Kikuyu population against each other.[108] This is highlighted in the protest songs that were widely sung during the time:

> Little knives
>
> In their sheaths,
>
> That they may fight with the church,
>
> The time has come.[109]

Or the following verse which is illustrative of the feeling towards those who signed Dr Arthur's paper renouncing female circumcision:

> He who signs, (i. e. take the "vow" against female circumcision)
>
> Shall be crucified.[110]

In an attempt to calm the situation the administration set about lowering the ages of initiation, hoping to remove the 'immorality' of uninitiated girls having out of wedlock children thus placating the church and still allowing circumcision to be practiced. M. R. R. Vidal, the District commissioner for the Central Province, finished his report in the Meru district in 1935, stating that a 'ritual proclamation has been declared which makes a delay in the initiation of girls, if they are to be initiated at all, beyond the onset of puberty, contrary to native law and custom'.[111] It should come as no surprise that laws across the country were inconsistent, contradictory and in some places unenforceable.[112] In some districts, such as Embu, Fort Hall, Meru, North and South Kavirondo, the operators had to be registered, in others only permission had to be obtained from parents or guardians, in still in other locations, in the Nyanza districts, certain types of circumcision operations were banned.[113] The local

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[108] CO 533/418/2 Report of the Church of Scotland Mission on Female Circumcision. 1932. p. 44.

[109] CO 533/418/2 Report of the Church of Scotland Mission on Female Circumcision. 1932. Appendix IX V. p. 95.

[110] Ibid. p. 95.

[111] KNA AR/93 Central Province. Annual Report. 1934. Vidal M. R. R., p. 112.

[112] Mss. Afr. s. 1792/33/4/34. Nyanza Annual Report. 1925. Hamstead R. W., The Nandi and Lumbwa councils were hostile to any interference with regards to Female circumcision rites. 'The Nandi were very concerned with the actions of some missionaries who attract young girls and do all they can to keep them, (and therefore prevent them from being circumcised) against the will of the parents or guardians'. pp. 50–51.

[113] Mss. Perham 440/2. Local Native Council Resolutions. p. 13.

Native Council of Embu for example passed three resolutions, in 1925, 1931 and 1937, all aimed at trying to clarify the law and make it workable.[114] The resolution to register operators was combined with the training of the operator by a registered medical officer.[115]

However, this 'ritual proclamation' declaring it an 'offence' against native law and custom, is certainly an invention of a native law and custom. Punishing clan members for *not* carrying out circumcision at a prescribed time, would have been unheard of prior to colonial and mission influence. Circumcision ceremonies were pre-arranged events, and were part of a generational handing over of knowledge: it was the ritual wereby children became adults. It was a ceremony of celebration for all involved. Yet by the time of the second major confrontation over circumcision in 1956, when the District Commissioner of Meru, J. A. Cumber, passed a resolution in the Native Courts to ban it,[116] members of the courts went so far as to declare the operation to be no longer customary.[117] If this were true, it was a major departure from what was viewed as integral to lineage continuation fifty years before. Clearly the control of women's sexuality by outside forces was the focus of such inventions. Male control over female circumcision for men's own gain lay behind these changes in laws. The events of the 1929 ban included accusations from the Kikuyu Central Association that the church, Christian elders and the government wanted to 'abolish Kikuyu customs and thereby compromise the tribe with regard to their land'.[118] The following song and its many versions was sung at the time to highlight this collusion:

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[114] Ibid. p. 13.

[115] CO 822/322. Female Circumcision in East Africa. No page numbers given.

[116] KNA MC/EBU/32. Minute No. 57/56. Resolution No. 12/56. African District Council of Meru. 12/April/1956. No page number given.

[117] KNA MC 44/EBU/32. F. A. Floyd. Provincial Commissioner Central Province to the Secretary for African Affairs Nairobi. 15th April 1957.

[118] CO 533/418/2 Report of the Church of Scotland Mission on Female Circumcision. 1932. p. 45.

> The D. C. ----------
> Is bribed with uncircumcised girls,
> So that the land may go.[119]

The result in 1956, of course, was rebellion, with Meru women taking their daughters across the Meru/Embu and Meru/Nyeri borders to be initiated. Wilkes, the DC for Embu, writing to the DC of Nyeri about the movement of women over to the Nyeri District to be initiated, asks:

> Any discouragement you can give to your old hagbags circumcising our sweet young things will be appreciated. May I suggest that any of our girls found in your district [undergoing circumcision] be prosecuted.[120]

By July 1957, 420 people in eleven villages were fined to the value of Shs 108,300/- an average per head of Shs 257/-.[121] These fines were for the circumcising of 153 girls.[122] The hardship caused by the imposition of these fines was brought to the attention of the Provincial Commissioner of Nyeri by one of the accused. In his letter to the PC, he writes that, when he was away for a short time, his wife had their daughter circumcised and that now he and his wife had been ordered to pay a fine of Shs 1000/- (Shs 400/- for him and Shs 600/- for his wife) or face a prison term for him of 4 months and for his wife, 6 months. He asks:

> Will the government take the [three] children for feeding till we complete our prison months? If the Law of Circumcision of girls is of government, they could possibly help me for these children till we come back with my wife.[123]

The conflicting and sometimes contradictory views on circumcision that the churches and the State held, to a degree reflected the roles of two different parties. When the ban was reinstated in 1956, the churches' response was to state that the ceremony associated with it was against Christian principles but the operation itself was not. As the Bishop of Meru, Bessone in a letter to District Commissioner, Wilkes writes,

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[119] Ibid. p. 45. Appendix. IX V. p. 95.

[120] KNA MC/EBU/32/44. 1925–1958. H. C. Wilkes District Commissioner Embu. 18/June/57 Miscellaneous Correspondence Embu District. In Embu in 1957, fines and prison sentences were meted out for those found guilty of allowing their daughters to be circumcised and on those who carried out the operations.

[121] KNA MC/44/EBU/33 Fines For Female Circumcision Gighugu July 1957, to the District Commissioner of Embu. 24/7/57. p. 47.

[122] KNA MC/44/EBU/33 Report on Female Circumcision Gighugu July 1957, to the District Commissioner of Embu. 17/7/57. p. 46.

[123] KNA MC/44/EBU/33. Mr Eshiboh K. Karangi to Provincial Commissioner, Nyeri. 5/6/57. p. 44.

> … I wish to make it clear that to say that the Catholic Church heartily condemns it [female circumcision] would over state the case and lead to confusion. If there are immoral ceremonies and practices involved these are condemned but not the practice itself, which the church considers indifferent on the moral point of view. May I suggest that it is for the doctor not the church to say the final word on the matter.[124]

By condemning the associated rituals the church was of course concerned with appropriate religious behaviour, not a woman's physical wellbeing. The government on the other hand, had through its rulings, public meetings (*barazas*) and punishments, reduced the rite of circumcision to a mere shell of its former meaning. The registration of operators, the type of operation to be allowed and punishments for transgressing these rules certainly had an effect. Now, mass circumcision rituals and celebrations ceased to be carried out. In Meru it was driven underground. Mission schoolgirls who came home for holidays, for example, would be circumcised without the involvement of the wider community, and if it was against the wishes of the girl, those who carried out the operation were punished.[125] This type of circumcision was carried out in the bush, where it had previously been associated with those who had become pregnant before they were excised. It was a shameful experience, not the cause for celebrating the coming of age.

Women were to bear the brunt of the increasing immutability of this invented 'native custom and law'. By changing the age of initiation for women, for example, circumcision became a prepubescent rather than a prenuptial ceremony as it dropped the age of initiation from the early twenties to the early teens. Now, at the age of 13 or 15, girls often became the

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[124] KNA MC/44/EBU/33. Letter by Bessone to Wilkes, District Commissioner Embu. 27th January 1957. [125] CO 533/418/2. Appendix. Report on the prevalence of female circumcision in Kenya in March 1932. pp. 4–5.

promised wives of men many decades their senior.[126] It also increased the birth rate, Holding stated:

> many women of polygamous marriages rarely had more than 4-5 children, spaced over 2-3 year period. In Christian families the pattern changed so that large families of 8-14 children by one wife emerged.[127]

For some Kikuyu women, the motivation for banning circumcision was immaterial. The result was that, without the final rituals of initiation, they could not gain any sexual and reproductive entitlements. The exchange of knowledge between women and the transfer of wealth between families was undermined. Everyone lost out. Brothers could not marry because they had no bridewealth upon which to draw. Mothers could not take pride in their daughter's marriages as her uncircumcised daughter went into a marriage as a child and would remain an uninitiated child all her life. She would gain no respect in her husband's household. What were these arguments around circumcision about? Were they about defining an ethnic culture: that is, what did it mean to be a Kikuyu or Kipsigis woman?[128] Or were the arguments about gaining control of the hearts and minds of women, or about inventing the concept of unruly women, or maintaining access to women's reproductive rights, or about gaining access to women's labour? The circumcision disputes were about all of these things, depending on where you stood within Kenyan society. Women's bodies, sexuality and roles in society were fought over by all and used by all for their own political ends. In this conflict the colonialist view of woman as victim was never more pronounced.

Yet, this perception of women as victims of their traditional pasts, was sometimes turned around by the women themselves when they used these same traditions as a strength

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[126] Langley states that similar changes occurred in Nandi society over the colonial period, which included a lowering of the marriage age, an increase in the fertility rate, which saw the size of families go from 2.6 to 8–10. There was also a decline in the two year gap that the Nandi placed between children. Langley Myrtle S., *The Nandi of Kenya. Life Crisis Rituals in a Period of Change*. St. Martin's Press. New York. 1979. p. 86.

[127] Mss. Afr. r. 191. Mary Holding. Christian Impact on Meru Institutions. p. 66.

[128] Miscellaneous Correspondence 121 Ker/53. Kericho District. p. 2. October 1944.

with which they could resist the church, the state and their husbands. Women's reaction to the ban of 1956 certainly challenged these powerful players. Young women circumcised themselves to show their courage, and to prove that women could make the move from child to adult on her own without the approval or guidance of elders, male or female.[129] Thomas points out that women and girls who chose to circumcise themselves did so as a response to the 1956 ban by refusing to accept it. 'Girls purchased razor blades and went to the bush to circumcise each other while their parents sat listening to the headman announce the ban'.[130] This defiance of a government ruling in 1956 has also to be seen in the context of the Mau Mau civil war.[131] Under the Emergency laws, which lasted from 1952–55, almost the entire Kikuyu population was forced to live in villages/camps and undertake forced, albeit paid, labour.[132] By October 1955 more than a million people were concentrated into 854 villages.[133] During the Emergency itself women and men were issued passbooks, without which they could be detained and or sent back to their ancestral village. Any attempt to travel had to be approved: women had to be married and or in employment if they were to remain in the cities.[134] For young women to risk being caught for undergoing circumcision under such oppressive conditions required a great deal of courage and secrecy. To organise and partake in the initiation rituals associated with female circumcision would have led to imprisonment. To tell others of such actions would have risked implicating them. Thus the statement 'I will circumcise myself'.

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[129] Thomas L., Op. cit. p. 94.

[130] Ibid. p. 89.

[131] In 1952, after years of tension and bitterness over land, wages, forced labour, and injustice, the Kikuyu exploded into open rebellion. Only 32 European settlers died in the subsequent fighting, but more than 1,800 African civilians, over 3,000 African police and soldiers, and 12,000 Mau Mau rebels were killed. Between 1953 and 1956 Britain sent over a thousand Kenyans to the gallows, often on trumped up or non-existent charges. They interred 1,050,899 Kikuyu in 804 villages with some 230,000 huts. Elkins C, 'Detention, Rehabilitation & the Destruction of Kikuyu Society.' In: Odhiambo E. S. Atieno & Lonsdale J. (eds.), *Mau Mau & Nationhood*. James Currey. Oxford. 2003. p. 207.

[132] Mss. Perham 467/3/folio 41/13. O. E. B. Hughes. District Commissioner Nyeri. 12/Feb.1953. p. 1.

[133] Berman, *Control and Crisis in Colonial Kenya.* James Currey. London. 1990. p. 366.

[134] Likimani M., *Passbook Number F.47927: Women and Mau Mau in Kenya.* Macmillan. London. 1985. pp. 40–45. From the start of the emergency Kikuyu women were arrested for not having passes and jailed for between six months and a year. White L., *The Comforts of Home: Prostitution in Colonial Nairobi.* University of Chicago Press. Chicago. 1990. p. 207.

Such actions may also be seen as generational defiance. Mothers of uninitiated daughters had a lot to lose if they were caught carrying out this activity. Not only was a prison sentence and a fine likely, but the loss of labour on the family farm and possible starvation was a real concern. Those daughters who circumcised themselves pitted themselves against mothers and their wider responsibilities. Yet, for these daughters the only way they could become women was through circumcision. They viewed their position as impossible. From this perspective, the nationalist Mau Mau war was irrelevant. Its impact however, stemmed from the social dislocation caused by the internment of families and government attitudes towards the indigenous population. Mau Mau brought to a head the simmering confrontations between all the protagonists.[135]

Everyday Confrontations

The imposition of chiefs and headmen by the administration enabled men to control women's labour by demanding women take part in communal labour projects which the government wanted undertaken, to meet labour requirements on European farms, or to carry out work that the chiefs wanted done. This appropriation of women's labour was widespread. It was pointed out that the system was open to abuse in that the headmen and chiefs could impose fines of £2.00 per person if they did not turn up for work. These fines could be increased. As the Reverend McKenrick reported:

> Great distress has been caused during the past month by heavy fines levied for failure to appear for such work. … even where injustice was quite evident the right of appeal was not granted by the ADC in charge. E.g., a fine of one sheep was assessed and the Tribal Police took four. As the chiefs and Kiama received

[135] For recent examinations of Mau Mau see: Odhiambo E. S. Atieno & Lonsdale J., *Mau Mau & Nationhood*. James Currey. London. 2003. Elkins Caroline, *Imperial Reckoning.* Henry Holt. New York. 2005. Kershaw G., *Mau Mau From Below.* James Currey. Oxford. 1997. Anderson D. M., *Histories of the Hanged: Britain's Dirty War in Kenya and the End of Empire*. Orion. London. 2005.

> half these fines, (the government the other half) there is every incentive to the chiefs to inflict fines as they therefore enrich themselves.[136]

By 1922 the political situation, particularly in the Kikuyu areas, reached a crisis point when Harry Thuku, the leader of the East African Association, was arrested. Harry Thuku had became known as the 'chief of women' due to his activities in trying to improve the conditions under which women worked on plantations. When he was arrested a riot broke out and his supporters tried to free him from prison resulting in the deaths of four women and nineteen men.[137] Women dealt with the injustices that were inflicted on them through song and by placing curses on chiefs, headmen and Europeans who sent them away as labourers to coffee plantations.

> Filipu let him be cursed.
> It is they who have caused to be taken away
> the chief (Thuku) of the girls who live in the coffee.[138]

This song for example, named any chiefs who threatened punishment or sent women by force to the coffee plantations. Women modified their traditional form of cursing, lifting their skirts and exposing their genitalia, by scratching their buttocks.[139] Hence:

> When Harry Thuku left, that is the time I started scratching my buttocks.
> When he came back, the scratching stopped.
> Let the white man face that,
> Because he is the one who forced Harry Thuku to go to Europe.[140]

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[136] CBMS/IMC/240 East Africa Kenya. Native Labour Correspondence. Missionaries in the Field. Letter. Rev F. H. McKenrick AIM to Dr S. E. Jones. Secretary Missionary Alliance. 8th August 1921.

[137] Thuku was sent to prison without trail until 1931. For an in-depth look at the revolt see Wipper A., Kikuyu Women and the Harry Thuku Disturbances: Some Uniformities of Female Militancy. *Africa.* Vol. 59, No. 3. 1989. The protest subsequently brought a drop in the rate of taxes from Shs 16/- to Shs 12/- and saw the replacement of Northey as Governor. Clayton and Savage. Op. cit. p. 121 and their footnote 43. p. 158. However, the changes in the hut and poll taxes were offset by increases in indirect taxes on goods bought predominantly by the African population. Brett E. A., *Colonialism and Underdevelopment in East Africa. The Politics of Economic Change 1919–1939*. Heinemann. London. 1973. p. 194.

[138] Filipu, according to Wipper, was one of four powerful Kikuyu chiefs, the others being Koinage, Waruhiu and Njonjo, who teamed up with the administration to force women to work on European farms and plantations. They were instrumental in getting Thuku arrested. Wipper A., 'Kikuyu Women and the Harry Thuku Disturbances: Some Uniformities of female Militancy.' *Africa*. Vol. 59, No. 1989. 3. p. 304. The song was banned by the government, according to Clayton A. & Savage. C., *Government and Labour in Kenya 1895–1963.* Frank Cass. London. 1974. p. 158.

[139] The Europeans thought that this gesture, scratching of their buttocks, indicated that the women had lice. Wipper A., Op. cit. p. 331.

[140] Ibid. p. 305 and footnote 6, p. 331.

The riots and continued absences from work did have some effect in that the Government passed an Ordinance that required women to be returned to their homes if they were engaged in labouring on plantation farms. However, in a confidential letter to Lord Passfield, the Secretary of State, the unnamed author claims:

> African women are as a general rule amoral and I doubt whether this moral instability is likely to be affected one way or the other by the existence of the Rules in question.[141]

Problems on the coffee plantations continued with small protests during the 1930s where issues concerning coffee pickers' conditions were raised. In 1934 Kikuyu coffee pickers tried to organise a boycott on coffee farms in an effort to drive up wages. The coffee estates were exceedingly vulnerable since they had to harvest the beans in a short span of time or have them spoil. The state intervened in the 1934 boycott and thwarted the workers' efforts.[142] Hut tax evasion during the 1930s was another method of resisting the power of chiefs and headmen. In the last three months of 1937, 550 women were prosecuted for not paying the hut taxes, for which they had become responsible.[143] In 1939, a 'strike' of women taxpayers occurred in several locations in Murang'a District, with several being imprisoned as a result.[144] In 1940, 201 women out of 770 people were prosecuted for Hut and Poll tax avoidance and committed to prison and Detention camps.[145]

In the 1940s three riots occurred in which women were the main instigators: Firstly in Iveti in 1940, some 500 women rioted against the use of their labour to build terraces and

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[141] CO 533/388/15/7. Confidential Letter to Passfield. Titled: Re Women on Farms at Night. 31/Oct/1929. p. 6. The Rules alluded to were the Women Workers Protection Rules, which required women who worked on European farms to be sent home to the reserves at night. This involved considerable numbers of women: 33,000 women and children were employed on the coffee estates in 1927–28 (along with 21,000 men), with 6,800 women and children working on the sisal plantations and another 6000 women and children on the maize plantations. CO 533/388/15. East Africa Standard. Monday, February 11th 1929. p. 14.

[142] KNA Central Province Annual Report. 1936. p. 186 and 1937. p. 212.

[143] Mackenzie A. F. D., *Land, Ecology and Resistance in Kenya. 1880–1952*. Edinburgh University Press. Edinburgh. 1998. p. 137.

[144] Ibid. p. 137.

[145] Ibid. p. 137.

grass areas of eroded land. These women were sent out to do this work at the insistence of their local chiefs. It constituted compulsory labour, something the women deeply resented because it required so much of their time. Soil conservation disputes came to a head in 1947 and women again were at the centre of the problem. This time the Kenya African Union held a meeting in Fort Hall chaired by Jomo Kenyatta. The result of the meeting, which was attended by around 10,000 people, was that women were no longer permitted to take part in the soil conservation methods of terracing and grass sowing. The commissioner writes:

> This was unfortunate, since amongst the very considerable bands of persons who dug and conserved their soil, more than 50% were women. On Monday the 21st of July, no women came to work and the men were left to carry on by themselves. It was obvious by the middle of August that not only did the men not wish to do so, but had generally decided that all work would stop.[146]

The only way the administration could get any conservation work done was to move away from communal work and on to individual plots. A carrot and stick method was used. Fines were imposed if land was not dug and £4,330 was made available for the provision of tools, wages, strip cropping and demonstrations. It was however to no avail and more unrest occurred in the Province with a second riot in 1948 at Meru and the third in 1949 at Fort Hall.[147]

> At the beginning of the year only Chief Ndungu had managed to persuade his recalcitrant females to return. At a local Native Council meeting in March [the] Council by a large majority decided that women would return to soil conservation work. This decision had considerable repercussions. On the 14th April, 2,500 women arrived in the station from Chief Peterson's location and danced and sang and informed everyone that they would not take part in soil conservation measures mainly because they felt that they had quite enough to do at home. In this one sympathised, but the plea that the soil could not wait for a few men to terrace it and four hands were better than two and the work was only for two short mornings a week fell on deaf ears. I met their representatives at Chief Peterson's on the 17th and put forth my pleas without result. Early in May the women announced that they were not going to plant grass either. Now this was serious. ... Chief Peterson ... issued orders to certain women to plant grass on their own particular land and they refused. He promptly arrested them on May 4th and they were as quickly released by a large crowd of their own sex brandishing sticks and

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[146] KNA AR/369 Fort Hall/27. 1947. Coutts W. F. pp. 1–2.

[147] KNA/99. Annual Report Central Province 1948. Windley E. H. p. 1.

> shouting Amazonian war-cries. I was in the area and served all the women with summons to appear before the Native Tribunal, Fort Hall on May 7th. The cases were heard on May 8th and despite the fact that the sympathisers had been warned not to come and create a disturbance in the station, nevertheless after a fine of Sh. 10/- had been imposed on each delinquent, a large crowd of angry females descended on the offices.[148]

These tensions were expressed in the increasing numbers of women who ran away to the cities of Nairobi and Mombasa and to religious compounds to get away from the power and control of their husbands, the elders and chiefs and the enormous workload.[149] Indeed so disturbing to the colonial administration was the movement of women away from their villages into the cities and towns that the government, with the consent of the elders and chiefs of the villages, prohibited women's movement, and if women were caught they were taken back to their villages. Thus the administration's need to:

> … get the elders ready to stamp on sexually precocious youths and incentinent young women who encourage youths and boys to have intercourse with them.[150]

The Luo Union made strenuous efforts to keep Luo women out of prostitution and after World War II forcibly sent them home.[151]

> Luo men were recruited by the Luo Union to ask their friends about certain women: sometimes they went with Luo women and informed on them afterwards. Once a woman was identified as a prostitute, Luo men went to physically remove her from her house: she was taken to another woman's house and then escorted to the bus station. Luo Union paid the women's bus fare and paid for the escort. Both single and married women were sent back to their parents. Once at home the Luo Union would alert someone to watch the women there.[152]

This was not however, the end of the process. These women who were forcibly returned to their parental homes would be paraded in burlap bags in front of the members of the homestead.[153] The punishment was of course intended not only to shame and humiliate but to

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[148] KNA/370. Annual Report Fort Hall/28. Jan., 1949. Coutts W. F. pp. 1–2.

[149] The African population of Nairobi in 1938 was estimated to be around 48,500 of whom 15,000 were women. Stichter S., 'Women and the Labour Force in Kenya. 1895–1964.' *Rural Africana*. Vol. 29. 1975–6. p. 56. The first reliable census data for all of Kenya was taken in 1948.

[150] KNA MC 120 KER/54 Kericho District. 1938–1954. p. 7.

[151] Stichter S., Women and the Labour Force in Kenya. Op. cit. p. 56. Stitcher notes that the Kikuyu General Union took similar action to remove Kikuyu women from towns.

[152] White L., The Comforts of Home. Op. cit. p. 194.

[153] Mutongi K., Op. cit. p. 140.

reinforce what were accepted notions of women's behaviour. Luo women who had long been involved in prostitution on the Kowe gold mines were able to control their own labour and generate income.

Such open challenges by women to accepted gender roles and male power, therefore demanded powerful retaliation. Not only were the colonial regime and the co-opted indigenous men's organizations such as the Luo Union just content to control women's movement and labour but they also tried to move Kenyan women into the more socially acceptable roles by the promotion of women's groups. The Government used both punitive and rehabilitation methods to get women to fit their concept of the ideal woman; that is, one who stays at home, looks after the nutrition of her family and 'that ... feels themselves part of the great forward movement and not left behind marooned in the past.'[154] Punitive measures not only included imprisonment for supporting their men folk and fighting in Mau Mau actions, but also compulsory labour on farms. Rehabilitation included coercion to join the newly government established Manendelao ya Wanawake clubs whereby time spent on communal labour was reduced from ten days to six days per month.[155] Manendelao ya Wanawake aimed to teach women the arts of "cooking, laundrt, sewing, knitting, games, dance and singing".[156] The clubs received funding from the government and European women set about training African women in these "arts". In Machakos a site was chosen for a Homecrafts Centre and a donation of £1,000 was made towards it, with the building to be completed in 1955.[157] Women joined them in large numbers no doubt as a way of reducing their workloads, but also as a way of dealing with the repressive colonial regime's in its

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[154] KNA AR 191. DC MKS. 1/1/32. 1954. p. 14.

[155] Mss 753.12.s.27 Federation of Social Services in Kenya Annual Report. 1959–60. Manendelao ya Wanawake means 'Progress for Women'. The clubs were set up in 1954 during the final stages of the Mau Mau civil war. p .88.

[156] KNA AR 191. DC MKS. 1/1/32. 1954. p. 14.

[157] KNA AR 191. DC MKS. 1/1/32. 1954. p. 15.

efforts to control Mau Mau sympathizers.[158] By joining, women found a new way to utilize *Ngwatio*, (women's communal labour arrangements) and give each other moral and physical support. In Kaimbu it was noted that 'the work in the clubs was slowly raising the standards of hygiene, child welfare, and domestic life and has been an essential accompaniment to the beginning of life in villages'.[159] The longed-for Christian ideal of the dutiful wife could at last be endorsed by the government and it would rid men of unruly women. Thus in awarding certificates to women who completed a domestic science course the Mayoress stated:

> I want you to know that the upkeep of your homes depends very much on you. I am now asking you to use the knowledge you have gained from your training in improving you own homes. I shall be visiting you when time permits to see how you are getting on.[160]

Just how long these homes remained examples of modernity remains a question as women's confrontation with their menfolk, missionaries and the administration continued to utilise family relationships, as well as public spheres of influence. Running away to lovers' homes, taking abusive husbands and fathers to court to publicly shame them, or voicing their problems via spirit possession all placed women well within the purview of chiefs, headmen, district commissioners and missionaries. Their actions branded them as conservative and ignorant, beyond the reach of modernity. If they worked as prostitutes they were condemned as sexually uncontrollable and morally destructive. Women's protests took whatever form needed for them to be effective. Sometimes, as the rebellion against soil conservation efforts show, these confrontations were organised on a large scale and on others as the circumcision actions demonstrate, the protests were at an individual level.

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[158] KNA AR. 2551. Kiambu District Annual Report 1956. p. 9. The 107 clubs had a membership of 4,280 women.

[159] KNA AR. 2551. Kiambu District Annual Report 1956. p. 9.

[160] CO 822/1139. Advancement of African Women in Kenya. Press Office Handout No. 1044. 'African Women complete Domestic Science Course.' 12/Aug/1954. For periods varying from three months to twelve months the girls were instructed in simple mothercraft, hygiene, sewing and laundry.

Future Identities

It has been argued that women in colonial Kenya were active participants in the processes of cultural change, utilizing accepted norms of female behaviour, as well as creating and manipulating newly emerging political spaces to protect their varied interests. Women challenged accepted understandings of marriage by airing their views on whom they wished to marry. This action pitted them against the powerful interests of their fathers and brothers who relied on their daughters and sisters to marry those chosen for them in order to facilitate their wealth and the possibility of marriage. By eloping or running away to towns and establishing households outside those of their immediate clans, women withdrew the power of their fertility from their most important menfolk. The act of questioning a father's decision, or eloping with a lover, was both brave and foolhardy, as the consequences for the women involved would often mean social ostracism, maybe violence and destitution. Yet it was not an uncommon act.

These actions by women created moral panic amongst her immediate family and the elders of her community. In an effort to exert control over these "immoral women" the elders formed alliances with District Commissioners, the hybrid court systems, the Native Tribunals and later the Local Native Councils. They invented 'native law and custom' to change the rites of female circumcision ceremonies, in the hope of controlling the immoral behaviour of women.[161] The ban of 1956 on female circumcision had the ultimate aim of preventing girls from becoming women, surely a fundamental attempt to restrain the powers of womanhood. Women however, turned this on its head and circumcised themselves. Such actions clearly reinforced to their menfolk and to the colonial administration, the power that women hold and that it can not be taken away. This places women's power outside of all male control.

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[161] KNA AR/93 Central Province Annual Report. 1934. Vidal M.R.R., p. 112.

In endeavouring to control the spiritual power of women's fertility, missionary societies pitted the Christian spirit world against the spirit worlds of Luo, Kikuyu, Kipsigis and Nandi societies. Women rebelled against this by using spirit possession traditions to cast shame on lazy neglectful men, highlighting the fact that these men had been inattentive and fearful of using the spirit world to hold the colonial administration to account. Women's public condemnation of the ineptitude of their menfolk, caused women to be viewed as rowdy, disobedient women who were no longer controllable and outside the protection afforded by the spirit world. They had broken with a tradition of silence which was used to take power from any who questioned. These women who invoked the power of the spirit world used it to their advantage, to gain some independence in marriages and respect from neglectful husbands.

Yet it was at a cost, as this drew women into a maelstrom of moral chaos that was cultivated by both missionary societies and the colonial administration to further the imperial agenda. Women, according to District Commissioners, were behind all of Kenya's strife, supporting Mau Mau insurgents in the forests, rebelling against chiefs who wanted soil conservation work done, encouraging prostitution with young men and were conservative and ignorant. Women's answer to these accusations was to thwart the government established Manendelao ya Wanawake groups set up to help them become cleaner, modern housewives. By reinstituting communal support networks, women found moral and physical support unforthcoming from their menfolk. They used their networks to help each other establish markets for their produce, or support each other in times of need and lessen the demands of their menfolk on their labour. It appears from these actions that becoming hygienic, domestic housewives was not high on women's lists of priorities.

Kenyan men however, added to the moral chaos of this period, using whispering campaigns or accusations of witchcraft to denounce the virtue of women even if these women remained within the accepted norms of womanhood. Accusations of witchcraft implanted suspicion and doubt and undermined a woman's virtue and status within her family. Attempts at controlling the movement of women, by either passbook laws or by resorting to witchcraft, so that wives remained on the land, away from the corruptions of urban life and trade in Nariobi, were yet again the attempt by husbands to reap the fruits of women's labour.[162] Those women who left for Nairobi or the gold fields of Kakamega rejected this patriarchal and imperial view of women and set up their own households with independent incomes.

The final twenty years of colonial rule in Kenya were certainly those of increasing confrontation. For women it was also a period of uncertainty, with immense change in terms of gender roles and class formation and its associated cultural upheaval. Women's engagement with these confrontations showed that they were active participants in the process of linking ideological changes to shifts in economic and social circumstances. Through the changing understandings of marriage for example, women attempted to link very different ideological views on marriage, Christian/indigenous and their own, with the evolving economy of cash crops and money to social wellbeing. Women understood the costs of not engaging on all levels with the threats that imperialism made. They understood this because they, more than their menfolk, would be dispossessed of the ability not only to earn an income or support their families, but they would be without the full knowledge of their individual and social identity.

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[162] Berman B. & Lonsdale J., *Unhappy Valley*. Book Two. Violence & Ethnicity. James Currey. London. 1992. p. 386.

CHAPTER SEVEN

CONCLUSION

This thesis has argued that the power of identity and moral authority is central to an understanding of gender relations. In Kenya, the colonial regime, as part of its attempt at creating a compliant colony, reshaped existing gender relations by creating moral chaos within the gender division of labour, farming systems, the social structures of marriage, and the processes of communal governance.

Methods used by the colonial administration to undermine the gender division of labour involved the co-option of indigenous menfolk into the colonial economy through enforced changes in agricultural production. The push by the colonial administration to grow commercial crops for the export trade changed men's involvement in cropping production. Men's farming practices prior to British rule were generally aimed at production for ritual consumption and as an adjunct to their wives' food production. It was cattle production in the Kikuyu, Luo, Nandi and Kipsigis communities which provided men with their economic base, with the cultivation of crops being largely left to their wives. The decline of cattle production during the colonial period caused by disease, the criminalization of raiding and a failure to establish a market for indigenous cattle eroded this economic base, so men looked elsewhere to compensate. These changes impacted directly on women, in that men's control over women's livelihoods increased.

The introduction of a waged labour system allowed some men to accumulate enough cash to pay bridewealth costs and to gain a foothold into the colonial administration becoming teachers, policemen and local administrators. For the majority of men however, who laboured on settler farms and plantations, wages barely kept pace with living expenses forcing them to

remain in the waged labour sector of the economy or turn to producing cash crops. Cash cropping, promoted to men as a means of increasing the exports of the colony and as an alternative form of accumulation to cattle ownership, drove male co-option into the colonial project.

It is here, in the production of cash crops and in particular maize, that the clashes occurred about identities, the moral authority of men over women, women's usufruct rights and women's labour. Cash cropping turned women's labour into serfdom, as women could not control the end product of what they produced. Unlike the utilization of their labour on crops for their family's subsistence, women's labour on cash crops subsidized male wealth, and the payment of men's taxes. Importantly this helped coalesce women's role as labourers for men into the rigidity of what became known as customary law. Thus Kenyan women were only ever to be tillers of the soil with reciprocal obligations from men being denied.

The gendered division of labour existent in colonial Kenya was not simply a way of organising labour for family food production or commercial cropping. It was integral to the exercise of the power within communities. The thesis has argued that the colonial administration utilized these divisions to create a moral chaos, embedding itself in the powerful politics of identity found in family and clan life. As the colonial period progressed the Kikuyu, Kigsigis, Luo and Nandi questioned who they were: men sowing and digging on settler farms, or carrying head-loads like women: women demanding a choice of husband, or leaving husbands to live in the towns earning money for themselves. What threat were these new roles to the stability of family life? Perhaps the lasting impact of the colonial period is not the establishment of the market system, or waged labour, statutory law and ultimately a new State, but a crushing impact on gender identity, its expression and control. For Kenyan women this experience of moral chaos hardened the somewhat fluid preconceptions about

women's identity into a straightjacket of male prejudice which forced on women the new roles of virtuous wives, hygienic, modern mothers and obedient daughters. Women in colonial Kenya rejected it. Confronting their menfolk, their families and the colonial administration. Women's dismissal of these striated roles was costly, leading to divorce and sometimes, social ostracism in the case of married women and disobedient daughters, and destitution in the case of widows. For the women who challenged the right of the colonial government to rule during the Mau Mau independence war, they paid with their lives.

The establishment of land titling and a land market controlled by men, increasingly overruled community understandings or conventions on usufruct rights, of the responsibilities towards those whose land access was dependent on patronage, such as the *ahoi*, and on women's levirate marriage arrangements. Land titling allowed men to protect their individual wealth by utilising statutory laws that equated title deeds with sole ownership and sole use rights. Thus men remade customary land laws allowing them to ignore the usufruct rights of women and those dependent on the deliberations of powerful elders.

The discussion on land, how it was owned, the many rights of access to what it produced and the dominance of the male voice on how these things were negotiated leaves open the question of how true the picture is. Settled communities certainly knew of the costs of losing cultivated land to others. But negotiation between parties facilitated numerous user rights, inheritance procedures, boundary allocations and therefore many voices participated in decision making about land allocation and use. The question which should be asked is whether the literature, and in particular the evidence given at the numerous governmental inquiries concerning land during the colonial period, has created a myth of male authority over land and its use? This authority was then transferred into rigid ownership rights, via the Swynnerton Plan, when in reality land was an intensely negotiated space between many

individuals, all of whom were dependent on each other for their livelihoods and power. Were the appeals to elders and to the spirit worlds really attempts to shore up one's claims or rights to land using accepted forms of negotiation and ritual? Did the British imposition of the exclusivity of ownership, granted via a title deed, further enhance and entrench these appeals? Did the adoption of the notion of outright ownership of land form the vehicle for powerful men, chiefs, elders, and those in the pay of the administration, to negate such voices and practices, to establish individual rights of disposal and control and in doing so, rename these processes as 'customary'? If for example, the accepted explanations of traditional land allocation practices in Kenya are erroneous is what we observe or deduce merely a 'house of cards' legitimating patriarchal authority and identity? The continued unrest within modern day Kenya concerning land access rights, ownership and allocation certainly points to this conclusion.

The constructed image of Kenyan women as sexually immoral, uncontrollable, and backward in both thought and action by the colonial administration and Kenyan men, was aimed at reinforcing patriarchal control in a time of social and cultural upheaval. Women and their livelihoods were to bear the cost of male power struggles within households, communities and ethnic groups. So successful was this construction that it has become an accepted paradigm that has strongly influenced not only current academic research but also development policy and practice. It is not surprising then, that it is a view that Kenyan women activists, academics and researchers reject, pointing instead to women's critical involvement in securing the majority of the internal Kenyan food supply, their trading activities, their use of community networks and women's groups to create political spaces with which to press for changes in discriminatory laws and demand repect for their rights. In short, women today, as they did in the past, know their collective historical experience and attempt to use it to reinforce their moral and political authority. This is an important agent of

change that needs further investigation as it offers another way for women to gain what is rightfully theirs.

Expressions of moral authority seem to have a basis within cultural traditions. It is relational, gendered and within families, dependent upon the power that comes from those relational identities. In a household being a mother or husband, for example, grants one more entitlements than being an unmarried son or daughter within that same household. Importantly, such positions deliver the power to decide for example the marriage relations or inheritance relations of family members. Whether or not a woman in Kenya obtains access to land not only depends on being a wife, but on the relationships she utilises, including that of giving birth to sons. On many occasions it is these relationships that are indicative of whether or not a woman's usufruct rights are upheld, despite the existence of statutory laws which maintain that both men and women in Kenya can own land in their own right. For women, land security is linked to the identities bound up in these relationships as well as their ability to negotiate the political spaces found within them. This research reveals some of the pressures which arise from the exercise of moral authority. When identities change, so too does the power of moral authority. What needs to be ascertained in further research is how and why both women and men use the conventions of gender identity not only to reinforce those identities but also to enforce the relations of power that stems from them.

Customary practices are both helpful and limiting when women negotiate gendered political spaces. They are helpful in that, as the thesis outlines, women can and do utilize existing preconceptions of women's rights, or understandings of the power of witchcraft, or the public shaming of their menfolk and the importance of women's groups and networks to gain access to those rights. However it appears that the commercialisation of products, such as maize, bananas, wood used as firewood, or access to land used to grow cash crops, allowed

existing norms concerning the gendered division of labour, land ownership and authority to weaken women's ability to negotiate a positive outcome in their favour. Thus we see the double edged sword of customary experience.

The concept and use of marriage as protection for women in the colonial period meant male protection from unwanted sexual advances; it meant protection from the malevolent spirit world and protection from destitution by granting usufruct rights. However, this male protection has been translated into reducing women to the status of minors, limiting women's legal rights, denying their ability to access statutory processes such as their own bank accounts, or being given title deeds in their own name. Research examining the intersections of moral authority and identity, could well address the protective nature of marriage for women in Kenya or Africa generally. This is important given that for women in Kenya, marriage forms the conduit to well being. Whilst western feminists have long viewed marriage as the site of patriarchal oppression, we need to re-theorize how marriage can enable women more permanent access to resources whilst at the same time using it to reduce male control over women.

Bridewealth survives as a statement concerning the distinctiveness of Kenyan marriage. It is what defines marriage. Courts in colonial Kenya and today, use the payment or non-payment of bridewealth to declare marriages valid or otherwise and then determine such things as divorce and inheritance disputes. Bridewealth may once have been about the unlocking of a son or brothers life, that is affording him the opportunity to marry, but it was also about interfamily relations and responsibilities. This component of bridewealth would be an interesting site of further research because it may well hold some influence over the ability of wives and widows to retain marital resources and demand the obligations from husbands and their families that were implied by the transfer of bride wealth.

Beliefs that the spirits of ancestors influenced life, paying careful attention to the demands of those who addressed this world, and adherence to rituals, formed part of the process of communal governance, for all of Kenya's indigenous communities. Structures of social control: age-sets, initiation, councils of elders, warrior-hood, were the public expressions of the rule of law. Appeals to the spirit world formed powerful warnings to people who defied the rulings of those in power and ignored the supernatural. Whispering campaigns concerning for example, the sexual conduct of women, whose husbands engaged in waged labour on distant settler farms, or were drafted into the army, served to control women and their powerful sexualities when their absent husbands could not. Such campaigns drew on the threat of retribution from the spirit world, in that 'uncontrolled' sexuality would bring failure to crops, to cattle and therefore sterility to men. Efforts by the colonial administration to both utilize and destroy the practice of witchcraft shows that it understood the connections between men's moral authority within communities over both younger men and women and how relations with the spirit world underpinned it. Witchcraft threatened the fragile control that British law had over its subjects. Similarly, the efforts of missionary societies to offer the moral certainty of the Christian spirit world aimed to create a system of social control over the sexual activities of young unmarried women, polygamy, and the moral right of customary expression in particular female circumcision. The common link is that everyone needed the support of the spirit world to maintain their authority. Thus women used their links with the spirits, by either joining churches or making use of accepted notions of witchcraft to confront those who impinged their rights and livelihoods. They actively engaged in re-creating gendered notions of moral authority that protected their own political spaces and identity. This raises further questions such as how do women currently use the institutions of witchcraft, its practice and its affects, to obtain justice for themselves and entitlements to resources as opposed to making use of formal institutions such as the courts,

or other state agencies. Furthermore, how do such informal institutions legitimise women's agency and help promote equality?

Research must examine the links between women's authority and its influence on markets for their goods. Given that markets are gendered entities – both labour markets and commodity markets – and in Kenya in particular, as some crops sold have long associations as being either men or women's crops — it seems that research in this area would further unpack how markets reinforce these gendered divisions, further legitimising identities. Such research may also point to ways in which women may strengthen their economic positions within such constraints.

Clearly further research cannot remain entrapped within an analysis that confines Kenyan women's lives to their sexualities or as tillers of the soil. Moral authority enables a deeper understanding of the fluid interconnections that exist between what are seemingly separate spheres of women's lives. It is a concept which highlights agency and power, culture and meaning and impacts on the daily experience of lives.

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