



# Assessment of the Influence of the Local Culture on Land Administration and its Effects on Farming Competitiveness in Chepyuk Ward of Bungoma County

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## ABSTRACT

The unresolved land issue in Chepyuk ward for decades had adversely affected farming competitiveness in spite of the region being fertile and viable for competitive farm production. Lack of security of tenure on the untitled land had a direct bearing on investment (farm inputs) and therefore to a large extent affected farm output. Despite many researches that had been undertaken on Chepyuk land issue, land and conflict had been widely studied rather than farming competitiveness. The studies on farming competitiveness in Chepyuk ward remains scanty and therefore justify more research on the aspect of farming competitiveness. The main objective of this study was to assess the influence of the local culture on land administration and its effects on farming competitiveness in Chepyuk Ward of Bungoma County. A descriptive survey research design was used in this study. The study was guided by theory of land ownership in a free society advanced by Ingalls (2012). The target population was 3120, households, 10 land officers and 10 agricultural officers located at the county level. Multistage sampling technique was used in this study where Simple random sampling was employed when selecting 312 respondents among the households. Five Land officers and Five Agricultural officers were respectively and purposefully sampled for this study. The researcher used questionnaires, interviews and document analysis as the main tools for collecting data. The data from the questionnaires, interviews and document analysis was analyzed using descriptive statistics. The researcher used frequencies and percentages in summarizing data. Information obtained through interviews was discussed to support or dispute the findings from the questionnaires. Tables were used to present the data for purposes of interpretation. The study informs Ministry of lands on the existing gaps in the fight against irregular allocation of land. The study also enables land policy experts in the government review existing mechanisms and systems set to support the Chepyuk area residents in dealing with cases that bring about land conflicts in the area and entire nation. Cultural norms of the community also denied women land ownership rights. The Land officers and Agricultural officers gave similar opinion. Lack of land documentation denied people opportunity to seriously venture into farming with sole aim of attaining food security and profit negatively affecting livelihood of the residents. The government should reposes illegally acquired plots and re-issue to the rightful owners, it should also process land titles for the scheme. The community should also be sensitized to embrace gender equity on land allocations. This will enable residents to actively engage in farming activities hence enhance farming competitiveness in Chepyuk ward.

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## Introduction

Land is a cultural artifact that holds a very significant position for one's orientation towards his or her social and economic wellbeing. Indeed land provides space, in which society exists, by providing the space on which humans live. Moreover, it is on land that housing and infrastructure such as hospitals, schools and roads are built. In Kenya, it is also of remarkable and diverse cultural significance since a number of cultures are land-based and because it is a cultural heritage that is passed on from one generation to the subsequent one through inheritance. This is especially because most communities in the region have strong inclinations to

traditional cultures (Kimaiyo, 2004), a Kenyan authority notes that in indigenous communities, land is not only part of people's culture as the locus where those activities that characterize people's culture take place but is also a means through which a community preserves its cultural heritage to pass it on to future generations.

In many traditional societies in the country, land was communally owned by clans and kinship groups. Moreover, some communities in the country have sacred and cultural sites used for rituals and worship. Besides its cultural and religious significance, land is also of spiritual significance since it is also on land that people bury their dead, hence

being the medium where lies the spirits of ancestors and the ones we loved. As such it means a lot for those whose people lie beneath. Land is associated with continuity between generations and that an individual's ancestral spirit haunts regions where his or her ancestors are buried, hence establishing continuity in one's destiny. Apart from that, land is, in most local communities, a symbol of status in that the more land one owns, the more respect that person elicits from society. Such communities consider landlessness to be an anathema and regard the landless as 'lesser beings' (Kimaiyo, 2004).

Notably, parents in many traditional communities were reluctant to allow their daughters to marry men who were landless. As such persons were considered vagabonds having nowhere to take wives or raise families. In sedentary communities especially, land was perhaps the most treasured property and symbol of communion for families, clans and villages throughout the country (Kimaiyo, 2004).

During a recent conference on Community Land Laws held in Kenya that convened participants from around the globe, it emerged that women continue to be side-lined when it comes to land ownership. The situation is complicated by the fact that women operate in a patriarchal society, where men hold sway. For women, membership to society is not as straight forward as that of men. While women are expected to move from their parents' home to the matrimonial homes, men are looked at differently and accorded many of the rights to ownership of property. Men's position in relation to land ownership remains constant compared to that of women and children. An orphaned child or one born out of wedlock is much more vulnerable. The same case applies to the divorced, separated or widowed women, said Judy Adoko, Executive Director, Land and Equity Movement in Uganda (LEMU) during the conference. Further, a woman with no male child is also discriminated against when it comes to land ownership. "While the economy of most African countries is dependent on women, they are still deprived the right to own land. They toil all day on land that they have negligible control over, they sustain the breadbasket regions of many countries that are dependent on agriculture but their labour is unacknowledged and they are poorly remunerated, says Salimu, who advocates for women's rights to land under OXFAM, Uganda.

This is in spite of the fact that African countries that are dependent on agriculture rely on the female population to keep the significant agricultural sector afloat. A sufficient food base is an undisputed prerequisite for development with many African countries perceiving agriculture to be more or less at par with industry and other sectors. Nonetheless despite the massive contribution that women invest in this sector in terms of labour, they remain marginalized in relation to controlling and profiting from this critical resource. The situation, therefore, becomes complicated when a married couple separates because in most African countries, the law is silent on how land should be divided upon dissolution of marriage. This silence makes land an exclusive reserve for the man in question (Salimu, 2011).

Access to land is compromised when the male head of household, who is also the land owner, dies. In most cases, the woman gets disinherited often in a move that is accompanied with violence. The Community Land Law Conference brought into fore the fact that women still hold a negligible percentage of land title deeds. In Kenya, the host country, only a paltry five per cent of women hold land title

deeds. In Tanzania the situation is not any different, with only about one per cent of women having title deeds. This means that the rest of the female population which forms the bulk of the labour force in the agricultural sector break their backs but have no say on the proceeds from the farm, Salimu expounds. She notes that the situation is worse among conservative tribes such as the Chagga where land is exclusively allocated to men and this has had grave cultural implications. Says Salimu: The piece of land is also a burial place; if a woman dies unmarried she is buried in the public cemetery which basically means she will be forgotten. It is because of this that most Chagga women will do anything to avoid including getting married for it and withstanding unimaginable levels of abuse from their husbands. Participants in the land mark conference decried the fact that individual ownership of land and patriarchal norms have progressively compromised women's rights to land tenure (Salimu, 2011).

Challenges regarding the African land rights systems were also discussed and their discriminatory nature towards women. For instance, it emerged that whereas the national constitutions acknowledge that women have a right to own land, they are not fully protected when this right is compromised, or in some instances, fully taken away. As a result, it was agreed that Community Land Law must establish mechanisms for ensuring women's rights to not only access land, but to control and even own it. Kenya's Constitution as well as the National Land Policy provides the much required legal framework to enhance security for women's rights to land. In the face of the devolved system of governance, it also emerged that effective engagement of women in county and community land governance levels should be encouraged. While it was important to have the law speak explicitly in regard to women's land rights, there is also need for capacity building to enable women to fully participate in the ongoing land reforms. This is due to the fact that land rights are not merely about women owning land; it is also about them being able to manage the land they own, effectively and productively (Bernstein, 2005).

Women constitute the biggest group of the landless in both Uganda and Kenya. Even though the constitutions of both countries grant them equality with men, this has not translated into concrete action in land tenure and land transactions. There are several issues related to land transactions which lead to women being sidelined. In Kenya, when land was converted from the customary land tenure into freehold, it was by default the household head whose customary right was transformed into freehold. This transformation from customary to freehold deprived many other individuals of rights to a land parcel they had enjoyed under the customary tenure.

Coldham (1978) states that land adjudication often has the effect of depriving some people of their rights while conferring on others greater rights than they were entitled to under customary law. He further argues that the provisions governing the preparation of the adjudication record rest on two questionable assumptions. They assume that it is possible to equate rights to land recognized by customary law with rights recognized by the Registered Land Act 1963 and they assume that the office charged with preparing the adjudication record has the time and the expertise necessary to secure the protection of customary rights (Coldham, 1978) and (Ogoth, 2004) concludes that it is virtually impossible to

bring to the adjudication register all the multiple rights claimable under customary law.

In Uganda, the guiding principle is as follows: “Any decision taken in respect of land held under customary tenure whether in respect of land held individually or communally should be in accordance with the custom, traditions and practices of the individual or group concerned; except that a decision which denies females or children access to ownership or use of land shall be null and void”. Under these guidelines, even though women’s rights are mentioned, the customary tenure which is dictated by patrilinear practices with many other rights attached will result in men being legitimized as owners (UWONET, 1998). As there is now also an opportunity to change leaseholds into freeholds, and as people who currently own leases are predominantly men, men have again an advantage over women to become permanent owners of land in perpetuity. For instance, women were not granted equal rights as men hence sidelined because of culture when land vetting committees were constituted and actual allocation of land to area residents during the resettlement exercise in Chepyuk ward.

### Research Design

A research design can be thought of as the structure of research. It is the ‘glue’ that holds all of the elements in a research project together (Kombo and Tromp, 2006). Kothari (2008) defines research design as the conceptual structure within which research is conducted; it constitutes the blueprint for the collection, measurement and analysis of data. Descriptive survey research design was used in this study. Specifically, this study used a survey study design. A survey collects data about variables as they are found in a social system such as a village (Koul, 1990). The descriptive survey research design enabled the researcher to extensively describe, analyze and explore effects of land administration on farming competitiveness in Chepyuk Ward of Bungoma County. It also allowed for standardization of data, and comparison. Creswell (2003) describes methodology as the overall paradigm/approach to research design. It is a strategy or a plan of action that links methods to outcomes. It governs choice and use of methods.

### Data Analysis, Presentation, Results and Discussions

The objective of the study sought to assess the influence of the local culture on land administration and its effects on farming competitiveness in Chepyuk ward of Bungoma County. To achieve this objective, the residents were asked to respond to several items that the researcher felt constituted of the said objective which dealt with the cultural norms of the people such as gender of the respondents who owned land, how they acquired the said land, whether women were allowed to own land and the question whether the cultural norms of the community affected land ownership. Table 1 and 2 summarizes the result of the findings.

**Table 1. Gender and how land was acquired**

| Characteristics              | F   | %    |
|------------------------------|-----|------|
| <u>Gender of land owner</u>  |     |      |
| Male                         | 211 | 67.6 |
| Female                       | 101 | 32.4 |
| TOTAL                        | 312 | 100  |
| <u>How land was acquired</u> |     |      |
| Inherited                    | 249 | 79.8 |
| No response                  | 63  | 20.2 |
| Total                        | 312 | 100  |

Source: Field Data, (2015)

**Table 2. Cultural norms on Land Ownership**

| Item  | Agreed |      | Undecided |      | Disagreed |     | Total |     |
|---|--------|------|-----------|------|-----------|-----|-------|-----|
|   | F      | %    | F         | %    | F         | %   | F     | %   |
| Women are allowed to own land                     | 0      | 0    | 0         | 0    | 312       | 100 | 79    | 100 |
| Believe that cultural norms affect land ownership | 267    | 85.6 | 45        | 14.4 | 0         | 0   | 79    | 100 |

Source: Field Data, (2015)

Table 1 shows that a majority 249(79.8%) of the people who own land are males, while a few 63(20.2%) females also own some land. This perhaps reflects the culture norms of the area residents where it is only men who are supposed to inherit land from their parents. These views are further supported by (Kimaiyo 2004) who argues that land inheritance is only for male children in most African communities. The few women who own land are those perhaps who might have bought or their husbands have so far died or further still those who had no male siblings to inherit land and so their parents had no option but to pass it down to the girls. These views are further supported by (Salimu, 2011) who argues that in cases where a man has not sired boys, then one of the girls becomes a heir to the father’s property.

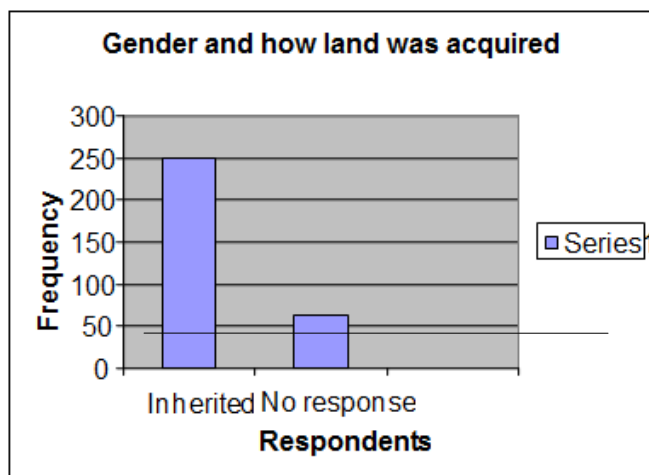
Asked how they acquired the land, a majority 249(79.8%) indicated that they inherited the land, while 63(20.2%) had no response. This further depicts the cultural norms prevalent among the area residents where inheritance to property is still practiced.

When Chepyuk residents were asked if women are allowed to own land, all 312(100%) of the respondents disagreed that women are allowed to own land. None agreed and none were undecided. This agrees with the views of (Salimu, 2011) that in most African traditions it is only men who are entitled to own land.

The residents were further asked if it was the culture norms that affected the land ownership, a majority 267(85.6%) agreed, none disagreed, while only 45(14.4%) were undecided. This again confirms the fact that ownership of land in most African communities was a preserve of the males only as espoused by (UWONET, 1998).

### Summary of the Findings

The objective of the study was to assess the influence of the local culture on land administration and its effects on farming competitiveness in Chepyuk ward of Bungoma County. It was evident that a majority of the people who owned land were males and a few were females. In most Africa cultures, it is men who are supposed to own land. These views are supported by (Salimu, 2011) who argues that in spite of the fact that African countries that are dependent on agriculture rely on female population to keep the significant agricultural sector afloat, women remain marginalized in relation to controlling and profiting from this critical resource despite their massive contribution. The situation becomes complicated when a married couple separates because in most African countries, the law is silent on how land should be divided upon dissolution of marriage. This silence makes land an exclusive reserve for the man in question. A majority also 249(79.8.3%) had inherited the land they owned. This further confirms that the area residents are still tied to their cultural norms where inheritance to property is still practiced as viewed by Kimaiyo (2004).



**Figure 1. Influence of local culture on land administration on farming competitiveness**

When Chepyuk residents were asked if women were allowed to own land, all 312(100%) disagreed that women are allowed to own land. This agrees with the ideas of (UWONET, 1998) that according to most Africa traditions, it is only men who are supposed to own land. A majority 68(86%) also agreed that it was the cultural norms that affected land ownership. Women constitute the biggest bulk in provision of labor in farms. Success in farming activities is heavily dependent on them. Despite all their immense contribution to the sector, men continue to enjoy an overruling privilege in regard to profiting from the final farm products. This aspect is also attributed to widows who also lack express lands rights concerning management of their inherited farms, end up demoralized because of cultural norms and practices that hamper their land rights, therefore, negatively affecting farming competitiveness.

#### Conclusion

It was also noted that the local culture had greatly influenced land administration and this had an effect on farming competitiveness in the area. It was noted that more men owned land than women and most of the land that was owned by women was inherited. The residents of the area concurred that women were not supposed to own land

according to their cultural norms. They argued that it is this cultural norm that had affected women as far as land ownership was concerned and this affected farming competitiveness.

#### Recommendation

The residents should be educated to abandon outdated cultures that prevented women from owning land. They should be informed that the constitution of Kenya 2010 allows land ownership for both genders. This would increase farming competitiveness in the area.

#### Suggestions for further Study

This study can be replicated in other settlement schemes in Kenya that have similar characteristics. A study to find out the influence of Culture on Land allocations.

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