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## **The Effects of Property Rights Violations on Economic Independence of Widows in Rarieda Sub-County**

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# The Effects of Property Rights Violations on Economic Independence of Widows in Rarieda Sub-County

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## Abstract

The right of women to possess, enjoy and dispose of their property is a universal human right recognized by international human rights treaties, including the Universal Declaration of Human Rights, among many other regional and national instruments. Even with the enactment of laws protecting women's property rights, widows' deprivation has continued unabated. Most widows live in conditions out of the need to conform to social norms demands and meet the most basic of their needs and that of their children. The study determined a) factors influencing property rights violations b) effects of property rights on the economic independence of widows. This study employed a cross-sectional descriptive research design, and semi-structured and unstructured questionnaires were used to collect data. This design helped collect accurate data on property rights violations faced by the study population and how they influenced their economic independence. The study population consisted of widows in Rarieda Sub County. Systematic random sampling technique was used to obtain the 230 respondents to whom questionnaires were administered to obtain quantitative and qualitative data. The study found that major causes of these violations included customs and traditions, poverty, lack of knowledge of laws governing property ownership, and lack of proper enforcement of these laws by the government. 76.5% (176) of the widows were found to have not gained any property post losing their husbands. These widows indicated to have relied on aid from the government, NGOs, and willing family members to make ends meet. The study findings showed clearly that most widows suffer property rights violations in Rarieda sub-county, Siaya County. This, in turn, affects their economic independence. Cultural norms and traditions were

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found to be among the major factors which influence property rights violations among widows. Traditions do not allow women to inherit their father's or father-in-law's property; hence they are always left at the mercy of the husband's family. The study recommends that the community be encouraged to rethink their customary laws and align this to the provisions of various statutes/laws that grant women the right to inherit property.

**Keywords:** *Economic Independence, Property Rights, Widow, Inheritance*

## 1.0 Introduction

Every year, the number of widows continues to grow globally due to increased mortality attributable to communicable and non-communicable diseases (George, 2012; Women, 2001). According to the Global Widows Report, in 2015, there were approximately 258 million widows compared to the corresponding marital age group of 2.8 billion women worldwide (Foundation, 2016). Sub-Saharan Africa leads with 22 million widows in the African region, followed by the Middle East and North Africa with 14 million widows. Based on the Loomba report, the Kenyan figures translate to 1 million widows (11.7%) within a marital age for the female of 12 million women. According to the Kenya National Bureau of Statistics (KNBS) report '*Women & Men in Kenya, Fact, and figures, 2017*' Kenya has a total of 894,853 widows (estimated from the 2009 Census report) against a total population of 12,595,755 females (KNBS, 2014, 2017) representing women above the age of 15 years. This translates to 7.1% for the Kenyan situation and presents a percentage variance if compared against the 2015 World Widows Report that establishes the widow percentage in Kenya at 11.7%.

Many reports portray the deprivation of widows as completely ignored, with a majority forced to live in conditions of compulsion and social standards that qualify for a humanitarian emergency and prove violations of human rights. Wide-ranging themes emerge as drivers in the continuation of the deprivation of widows, including low levels of socio-economic development that hinder the empowerment of women (Loomba Foundation, 2016). The consequences of widowhood for women include and is not limited to transitioning into poverty and the amplification of existing poverty, increased health risks, certainties of violence and threats for both the widows and their children, scaled-up social marginalization, and the deprivation of social norms (Loomba Foundation, 2016; HRW, 2003).

Globally, land ownership, housing, and access to other properties provide both direct and indirect benefits, including basic safe shelters, a source of livelihoods, and a measure of wealth to leverage additional economic resources (ICRW, 2004). A number of studies also attribute increased access to financial facilities such as loaning services, participation in production processes, household decision-making, and household income management to women's asset ownership (Abbas, 1997; Agarwal, 1997; Arun, 1999). In addition, it has been proven that the distribution of resources within a household affects intra-household negotiations and related socio-economic results.

In sub-Saharan Africa, the greatest obstacle to realizing women's rights is the persistent suppression of woman's right to property inheritance. Across many of the traditional societies within the region, the use and transfer of land and housing from one generation to the other are dictated by customary laws which fundamentally exclude women from property ownership and inheritance (HRW, 2003).

Principles of equality and non-discrimination are enshrined in most global constitutions and legal instruments, which guarantee a range of socio-economic and cultural rights for women. Still, the gender dimension of economic inequality, which remains vigorous, has not been diminished. Many countries continue to operate under weak laws that lack enforcement

frameworks, thereby strengthening discrimination against women and maintaining economic inequality (Techane, 2017). For example, Kenya adopted a robust constitution in 2010 and is a signatory to various regional and international statutes. Women's rights to land and property are protected, while women remain disadvantaged and discriminated against in practice. The main contributing factor in preventing women from owning or inheriting land and other forms of property is the restriction of customary laws and practices (Musangi, 2017). Even though the Laws of Succession Act in Kenya gives widows a life interest in their marriage homes, the government has not guaranteed this Act. It has failed to enforce it, particularly in rural areas (UN Committee on Economic & Clinic, 2008). Women will continue to bear the burden of poverty unreasonably in Kenya merely because of the inappropriate interpretation and application of laws aimed at protecting women's rights to housing and property not only during a marriage but also during the dissolution of a spouse's marriage and in death (UN Committee on Economic & Clinic, 2008) Making laws and enforcing them is not enough, but there is a need for mass education to change the attitude and mindset of the masses to stop discrimination based on gender and hence give equal rights to women (Shastri, 2014)

Under succession laws and the 1882 Married Women's Property Act, a woman's capacity to rightfully claim her due property rights depends on her ability to establish her marital status. This can be an uphill struggle for rural women in areas like Siaya, a majority whose marriages were consummated through customary laws or by cohabitation. This was corroborated by a study of a women group in Siaya, which established that women mainly gained access to land through marriage, or by associating with a male relative (Chabeda, 2008). To boost food security and significantly increase yields, women must be given the same access and control of productive resources just as it is given to men. This would additionally place extra resources in women's hands, strengthening their decision-making and bargaining influence within their household. A scenario which may have a multiplier effect on the education and health of their children, food security and nutrition (Oranga, 2018).

Human Rights Watch survey conducted in Kenya in 2002 reported an intricate mix of socio-cultural and legal factors that underscore violations of women's property rights (HRW, 2003). Kenya's constitution, on the one hand, prohibits discrimination based on sex. On the other, it allows for discrimination under personal and customary laws. Women are often excluded and evicted from their properties, stripped of the little they own, and forced to engage in risky sexual practices to either keep their properties or provide for their children. Various development agencies have identified property rights violations as a major contributing factor to low agricultural output, insufficient food production, low employment levels, and poverty in rural areas. In Kenya, 72% of the population live in rural areas, while 36.1% live below the poverty line (*World Bank Group - International Development, Poverty, & Sustainability*, n.d.). The agricultural sector, which contributes more than a quarter of Kenya's GDP, depends on women who live mostly in rural areas. To meet its vision 2030 development goals, Kenya must address the property rights disparities drawing women back.

One of the objectives of Kenya's Vision 2030 is to transform Kenya into an industrialized, middle-income country by providing a high-quality life to all citizens. For Kenya to achieve this, it must aggressively pursue through affirmative action the role of women and especially widows in development as well as eliminate all harmful cultural practices that hamper women's full participation in development processes. The government must also formulate inclusive policies and prioritize women and widows in development.

There is very little available documentation on the effects of property rights violations on the economic independence of widows, specifically in Rarieda Sub-County, where widowhood is a major problem due to the high burden of communicable diseases such as HIV/AIDS and



malaria. Therefore, this study will provide a new source of evidence on property rights violations, the level of awareness among widows on their property rights, and the effects of property rights violations on the economic independence of widows in Rarieda Sub-County Siaya County. The findings and recommendations of this study will be useful to development experts, government, and non-governmental agencies in formulating inclusive gender policies and prioritizing their events in development planning rightly. The research findings will form the basis for further research on widowhood and property rights violations and women's place in a patrilineal society and guide the human rights practice.

### **1.1 Problem Statement**

Property ownership remains a key factor in women's economic survival and empowerment, freeing them from exploitative and debilitating relationships as millions of widows across the globe continue to endure extreme deprivation, exclusion, violence, poor health, and discrimination in both laws and custom. Women worldwide suffer from a diverse range of systematic and structural human rights violations just because they are women (Ashworth, 1995). In many regions of Africa, property ownership systems traditionally depend on patriarchy and thus tend to favor men more with existing property laws recognizing men as the heads of households guaranteed full enjoyment and full control of family property (Pandey, 2010).

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### **2.1 Theoretical Review**

#### **2.1.1 Radical Feminist Theory**

Radical feminism philosophy emphasizes the pronounced patriarchal roots of inequality between men and women. It focuses on the social control of women by a male-dominated society. Radical feminism holds that social responsibilities, rights, influences, and control are all divided along sex lines that promote the oppression of women while highlighting male privileges.

Feminist theories advocate for granting equal socio-political and economic rights to women the same as those enjoyed by men. Feminist history has its roots in the ideals of the French revolution, which occurred at the end of the 18th century. This is the revolution that, for the first time, saw women participating in a revolution. This did not achieve women's equal socio-economic and political rights as men despite their active role in this revolution (Kimokoti & Kibera, 2007). From a woman-centered perspective, feminist theory is developed as a wide range of ideas about social life and human experiences. This theory arose in the 1960s in the second wave of feminism. Radical feminism is premised on two fundamental principles: that women are of absolute positive value as women and are violently oppressed everywhere by the patriarchy system (Grant, 2013). Radical feminism considers women constantly oppressed,

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controlled, subordinated, shaped, and abused by men. The oppression against women follows a trend deeply embedded in society's organization by its most basic structure of dominance; patriarchy.

The oppression and dominance of others in any society or institution are through participation in patriarchy. People have learned to disdain others and see them as non-human to exercise control over them. In every institution and society, radical feminists see the most basic structures of heterosexuality, class, race, ethnicity, and gender oppression systems in which others dominate. Men have learned to disregard women and reduce their status as human beings by exercising control over them through participation in patriarchy. Patriarchy as a social structure maintains a sense of guilt and subjugation anchored in brutality, manipulation. Radical feminists believe that men create and maintain patriarchy in their interests to reduce and manipulate women. They do this because they have the resources to do so (Grant, 2013; Kimokoti & Kibera, 2007). Men have the means to control women by exercising and acquiring basic power resources, including the use of physical strength, which they have used to maintain patriarchy as an almost universal social norm. This supports the arguments advanced by Patricia & Jill (1993) that with the resources men have and the interest to keep women as compliant tools, they will always create and maintain patriarchy.

Firestone (1970) believes the root of the system of sex classes resides in the biologically assigned procreative roles of men and women on which all forms of oppression against women are based. Sex class puts men in a more privileged position than women. Feminists are convinced that the subjugation and domination of women are chiefly permitted by social structures that are the establishments of men: Family under patriarchy, motherhood, love, sexual intimacy, and religion (Grant, 2013; Kimokoti & Kibera, 2007). These institutions increase men's psychological power to the detriment of women. The theory also postulates that women must be free from the tyranny of their reproductive biology to eliminate their oppression; it calls for full self-determination, incorporation of women and children into all aspects of society, and guaranteeing sexual freedom (Kimokoti & Kibera, 2007).

In relation to this study, radical feminism holds that rites and rituals are part and parcel of a patriarchal system used to oppress women and sanction their actions while exerting full control of all the aspects of their lives. Cultural practices may also act as a source of male power and a tool used to control women while elevating the status of men. The African family, especially among the Luo, is also highly patriarchal, an aspect looked at by radical feminists as a source of gender discrimination, male dominance, and oppression. Despite the application of radical feminism, this researcher is alive to the shortcomings of this theory. The theory is confrontational and revolutionary instance hence keeping away men.

### **2.1.2 Cultural Theory**

Cultural theory studies individuals within a culture to understand or predict how and why they react in a certain way. The cultural theory views norms and cultures within the traditional societies as a source of inequalities and abuse of women. It explains the influence of norms and traditional values within the African culture. This is in a bid to understand the prevalence of violence generally meted on women and property disinheritance suffered by widows, an observation shared by Randall (2003). In many instances, the term "culture" is used to describe the belief patterns and behavior commonly shared by a social group (Alexander & Smith, 2001). According to cultural theorists, there is a direct link between cultural norms and violence against women. They argue wife-beating is a normal occurrence and dispossession and disinheritance are culturally accepted. Randall (2003) observed that *"uneven distribution of power within African marriages, the impact of polygamy, the power of the extended family over the married couple, and the universal institution of bride price as underlying the widespread*

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*of abuse of women.*" From the fact that this theory emphasizes traditional norms and powers, which like in radical feminist theory, are products of patriarchy, this study, therefore, takes it that cultural theory is an outgrowth of radical feminist theory

## 2.2 Empirical Literature Review

### 2.2.1 Factors Perpetuating Property Rights Violations among Widows

In many traditional societies, widows have limited or no rights to inherit land under popular customary laws. Neither can they from their father's estate inherit on an equal basis with their male siblings. This leaves many widows destitute after the death of their husbands' (Women, 2001). Noting that under the prevailing customary laws, women do not inherit property descending the pit of widowhood. Instead, when a man dies, a heir is appointed by the immediate family. Customarily, the firstborn son assumes the inheritance rights to the deceased's properties, including caring for the family needs. Where the sons are younger, the widow will only hold in trust the rights until her sons are adults, and in some instances, her rights to the properties depend on her decision to remarry or not. Therefore, it is easy to conclude that customary laws place women in very unsafe socio-economic positions. She is likely not to inherit any property even if she contributed to the property acquisition through their unpaid house chores and farm work. This, as a result, has extended the marginalization of the widows in terms of property ownership as they are left at the mercy of the heirs (Asiimwe, 2001).

Ntozi (1997) observes widowhood as characterized by bereavement, rites, forced remarriages, persecution, rejection, solitude, deprivation, and relatively high mortality for women (Ntozi, 1997). The country, society, and religion dictate the widow's situation as well as the economic systems in an application. For example, India, with one of the highest numbers of widows in Asia at 37 million (Prasad, 2013), views widowhood as a social institution where widow dispossession and ostracization are aggravated by ritual and religious symbolism. India, like most societies that are patriarchal, women acquire their social status through their husbands. Therefore, when the husband dies, she turns into a non-entity and silently suffers her death.

In Botswana, most traditional leadership positions exclude women, according to Abby (2004), and fathers remain as the family head (Richardson, 2004). The Botswana patrilineal marriage system considers married women as belonging to the ethnic group of their husbands. Here all property rights rest with the men, and upon death, these automatically transfer to the family's eldest son. In this setting, a widow will temporarily preserve the rights to select properties like her farming fields, which will be transferred to her eldest daughter upon her death. Even where a daughter inherits from the mother, she will still be at her brothers' mercy when she finally marries. The men will determine whether she goes with the property into her marriage. These customary laws diminish the place of women and reduce them into baggers in their own homes with very limited and restricted property rights and subsequently dying in poverty.

In Kenya, women's property rights remain unequal to that of men. These rights are constantly under attack from dominant customs and laws and from persons, including administrative officials who believe that women do not merit property ownership. This puts women and their children on a devastating path of harm, including unending poverty, disease, violence, and homelessness (HRW, 2003). For instance, among the Luo, widows were simply ostracized and alienated from the rest, their active, productive life was curtailed, and they had no space for social or economic participation in this whole process. According to Ogutu (1994), the Luo foundation rituals are many and begin at birth, naming, marriage, and rituals performed at death and long after burial (Ogutu, 1994) men are at the center of this whole cycle of rituals and form a stable basis for this cultural and social pyramid, which often bears the burden of culture.

Widow “*chi liel*” among the Luo was high esteem, both by fellow women and men (Ogutu, 2007) The attainment of this status was marked with apprehension, fear, and unmatched violations and abuse. This stems from the dehumanizing aspects of the rituals and rites. Despite the enviable status of widows among the Luo, widowhood is a continuous struggle in many African societies, and it occurs through a variety of channels, including tradition and religion. According to Iwobi (2008), rites associated with widowhood habitually distort, deface, disentangle, defile, deny, deprive, displace and disinherit women (Iwobi, 2008).

Widows share two common and pronounced experiences of losing social status and reduced economic circumstances (Shastri, 2014). All this is happening as women continue to fight for their rights throughout the African continent. The debate on how to merge the conflict between human rights and harmful cultural practices continues worldwide (Agunwa, 2011) . Similarly, the plight of Africa's widows has continued to be ignored through deliberate acts of omission with skewed statistical presence in developing countries and a lack of recognition or mention in the huge number of reports targeting women's health, social, political, and economic agenda published in the last two and a half decades (Byrnes, 2013).

Women comprise 52% of the total Kenyan population and significantly contribute towards the development and attainment of Kenya's economic growth. Even with this immense contribution, Kenya's patriarchal structure continues to diminish these gains and promote disparities and injustices predominant in many aspects of women's lives. These inequalities have been further sustained by Kenya's current system of property ownership that victimizes women, perpetually sustaining social inequality and injurious economic drawbacks. Predominantly, customary laws fundamentally limit women from property ownership and inheritance, including their matrimonial properties, in many cases property or land they have tilled/worked for many years and even helped purchase. This discrimination to property ownership and rights is lifelong and manifests throughout women's lives before, during, and after marriage but gets worse at the husband's death (FIDA, 2008; IWHRC, 2008).

### **2.2.2 Effects of Property Right Violations on Women**

Many African cultures and traditions are inherently discriminatory and undermine the status of women through property control. This has resulted in women's continued marginalization by stripping them of their property ownership rights and attaching these rights, if any, to be dependent on men's decisions (Asimwe, 2001). Orphans and widows in the absence of protective mechanisms always bear the brunt of skewed customary norms. For example, in Uganda, about 22 percent of widows surveyed reported having experienced grabbing of property, disinheritance, and evictions by their kin after the passing on of their spouses (Wakhweya et al., 2002) .

In the background of gender injustice, detrimental widowhood rites and disinheritance will highly exacerbate women's poverty and social disempowerment (Ayodele, 2016). They, therefore, remain excluded from the possibilities of accumulating wealth through inheritance, and neither do they enjoy secure property rights (Cooper, 2012). Disinheritance or hijacking of inheritance seriously undermines women's economic security and independence and impairs their access to disposable household incomes and property rights. In extreme situations, these actions of denial of property rights lead to the feminization of poverty and socio-economic underdevelopment in countries with the widespread practice of harmful cultural practices that devalue and demean the place of women (Richardson, 2004).

The Human Rights Watch's property rights discriminations brief in Kenya provides a basis to view the widespread violation matted on widows who are forced to undergo cleansing rituals against their will and stripped of their assets, including land and livestock, upon death of their



husbands (HRW, 2003). Sadly, these practices remain rampant throughout Southern and Eastern Africa and are always performed in the full glare of the law and by persons known to the widow and sometimes in defense of their property, and some women have lost their lives. Women are affected most by property disinheritance. They are, in many instances, forced to seek alternatives by moving from rural areas to informal urban settlements. This denies women the right to decent work and shelter and robs them of their self-esteem (Izumi, 2007). Restoring women's rights to property affords them security, peace, independence, and autonomy of choice (Izumi, 2007).

Widowhood practices, ceremonies, rites, or rituals are common cultural practices that deny widows their fundamental human rights. These practices have seen widows evicted from their matrimonial homes, their children made homeless, and their livelihoods disrupted. The majority of women are discriminated against, stigmatized and many are left suffering from severe psychological stress and trauma (Codjoe, 2007; Women, 2001). According to '*Gender and Land Rights: Understanding Complexities, Adjusting Policies,*' *Economic and Social Perspectives Policy Brief 8, 2010*, women's rights to land and property in many parts of the world are systematically denied. The established laws offer womenfolk lesser and lesser-protected rights compared to those accessed by men. This is coupled with discriminatory attitudes and practices that further undermine the place of women. Therefore, many women are entirely left dependent on men for basic survival, exposing them to potential violations, insufficiencies of food and security, especially if widowed. Globally, an estimated 250 million widows struggle with abuses, neglect, and social exclusion. In 2015 alone, the *Global Widows Report* estimated that 38,261,345 million widows were living in extreme poverty.

National laws and policies are quite limited in their provisions to effectively resolve inheritance and land ownership issues conclusively for widows. These national legislations and international charters and declarations fail to significantly address the marginalization of widows in the societies they live in or try to lessen the impacts of the discriminatory customs (ICRW, 2009). The increasing need for widows to be supported is evident, but apparently, social support systems at the community and family level are not adequate as effective safety nets. Consequently, the call to action is towards marshaling local, national, regional, and international governments and non-governmental organizations to act resolutely to better the circumstances of widows in developing countries (Sossou, 2007).

### **3.0 Materials and Models**

A cross-sectional descriptive research design was employed in this study, and semi-structured and unstructured questionnaires were used to collect data. This design helped collect accurate data on property rights violations faced by the study population and how they influenced their economic independence. A random sample of households with widows in the Rarieda Sub-County was determined using Cohen's sampling formula. Currently, there is no available data on the number of widows by sub-county and wards, therefore given the national proportion of widows as 7.1% and assuming that this proportion applies to all the regions in Kenya, 95% confidence level and 80% power, we required sample size of at least 207 widows. Putting into consideration a 10% margin to cater for non-response gives a total of 228 widows who were to be interviewed. The 228 households with widows were randomly selected systematically from all the wards in Rarieda sub-county depending on the proportion of women population in each of the wards, as shown in the Table 1.

**Table 1: Household’s Selection Process**

Ward	Women Population	Selection probability	Required Size	Sample	The actual number of widows to be interviewed
East Asembo West	17,225	0.248	56.544		57
Asembo North	16,921	0.244	55.632		56
Uyoma South	10,697	0.154	35.112		36
Uyoma West	10,166	0.147	33.516		34
Uyoma	14,341	0.207	47.196		48
<b>Total</b>	<b>69,350</b>	<b>1</b>			<b>231</b>

The study adopted one-stage cluster sampling in the five wards of Rarieda Sub County. These are 1) East Asembo, 2) West Asembo, 3) North Uyoma, 4) South Uyoma, and 5) West Uyoma. The households to be visited during the identification of widows who were interviewed were selected through systematic random sampling, where a starting point in each of the wards was identified with the help of the local administrators. Through right-hand rule guidance, the research assistants chose every 5<sup>th</sup> household clustered by wards to find a widow for interview. This sampling approach takes note of the fact that households are likely to be sparse. In each selected household, the research assistants profiled all the widows for interview after obtaining signed consent. If a selected household does not have a widow or is not at home at the time of the visit, the research assistants must move to the next household until the required sample size is obtained.

The key informants in the study were purposively sampled due to their capacity to provide informed, detailed, and vital and in-depth information on widowhood practices among the Luo of East Uyoma Location. Purposive sampling ensured that only subject matter experts were selected for interviews.

Data collection for this study involved both qualitative and quantitative techniques (triangulation). This helped validate the study and ensure that the strengths of a different method make up for weaknesses in one method. Questionnaires were used to collect the data from the 231 respondents. The questionnaire contained a mixture of both open and closed-ended questions. The questionnaire was divided into sections, with each of the sections addressing key areas of the research. Trained research assistants administered these questionnaires.

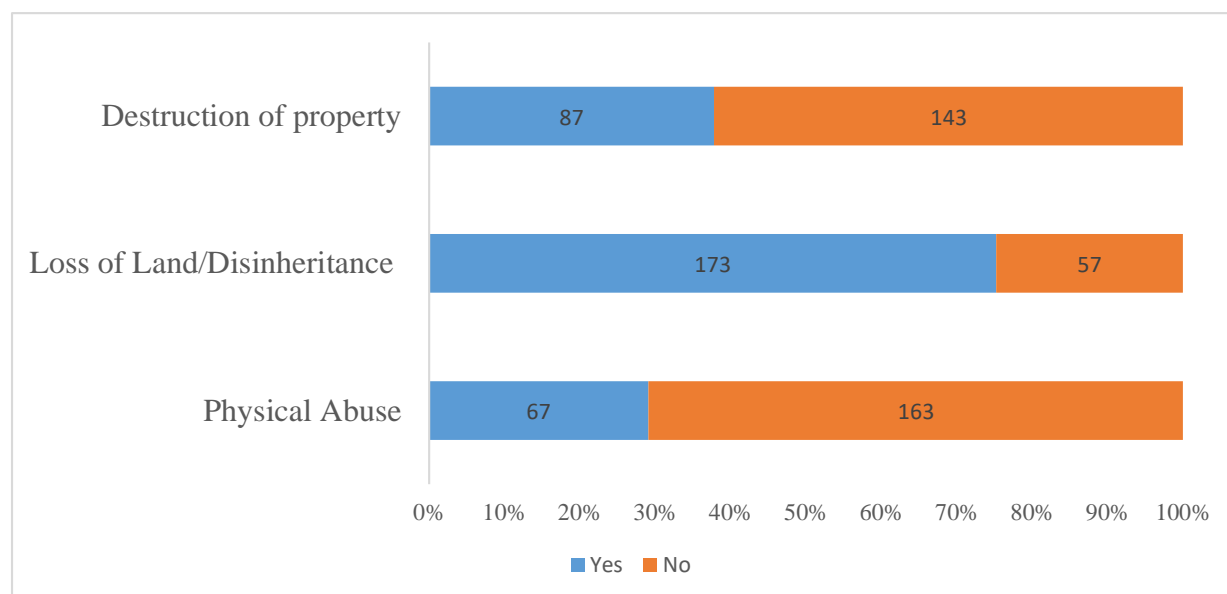
Key informant interviews were also conducted to understand the state of property ownership in the community deeply. Through purposive sampling, a total of 20 KIIs were conducted with five women leaders, five clan elders, five religious leaders, and five chiefs. With their particular knowledge and understanding, these individuals provided insight into the nature of problems and provided recommendations.

Descriptive statistics was used to analyze quantitative data, which was presented in graphs, tables, and charts with the aid of Statistical Package for Social Sciences (SPSS) software (version 20). Qualitative data were analyzed using framework analysis which involves a five-step process: familiarization; identifying a thematic framework; indexing; charting; and mapping and interpretation (Ritchie & Spencer, 2002).

## 4.0 Findings and Discussion

### 4.1 Types of violations experienced

The study sought to determine the types of violations widows in Rarieda sub-county had experienced. The results are visualized in Figure 1.



**Figure 1: Common Violations Experienced by Widows**

The most common type of violations experienced by widows 173 (75.2%) was disinheritance /loss of land since land is viewed as the most important asset possessed. 87 (37.8%) respondents indicated they had suffered property destruction by their in-laws or husband's family. A total of 67 (29.1%) of the widows interviewed indicated that they had experienced some form of physical abuse by their in-laws or the late husband's relatives.

### 4.2 Determinants of property rights violations

The study sought to determine whether age, level of education, source of livelihood, feeling of less protection, knowledge of empowerment institutions, awareness of existing laws, and rights to own husband's property influenced property rights violations. The Chi-square test was done at a 95% confidence interval to determine whether there was a significant relationship between the independent and dependent variables. Table 2 shows the results.

**Table 2: Relationship between Property Rights Violations and Other Predictors**

Property rights violations predictors	Category	Property rights violated		P-Value
		No n (%)	Yes n (%)	
Age	Under 18	1(100)	0(0)	0.072
	18-28	5(71.4)	2(28.6)	
	29-38	14(45.2)	17(54.8)	
	39-48	24(49)	25(51)	
	49-58	43(57.3)	32(42.7)	
	59 and Above	48(71.6)	19(28.4)	
Level of Education	No Education	19(59.4)	13(40.6)	0.663
	Basic	87(59.2)	60(40.8)	
	Secondary	24(53.3)	21(46.7)	
	Graduate	2(100)	0(0)	
	Tertiary	3(75)	1(25)	
Source of Livelihood	Employed	4(50)	4(50)	0.37
	Subsistence			
	Farming	78(64.5)	43(35.5)	
	Petty Trading	31(56.4)	24(43.6)	
	Fishing	1(50)	1(50)	
	None	21(147.7)	23(52.3)	
Feel less protected	No	18(29)	44(71)	0.022
	Yes	77(45.8)	91(54.2)	
Empowerment Institutions	No	97(59.1)	67(40.9)	0.827
	Yes	38(57.6)	28(42.4)	
Existing laws and policies	No	106(58.9)	74(41.1)	0.91
	Yes	29(58)	21(42)	
Awareness of Property Rights	No	64(37)	109(63)	0.03
	Yes	31(54.4)	26(45.6)	

**Source: Author (2021)**

Among the variables analyzed, age did not significantly influence property rights violation ( $P=0.72$ ). This shows that all the respondents had an equal chance of suffering or not suffering property rights violation; hence all the interventions, if any, should be directed towards widows of all ages. The level of education did not significantly influence property rights violations. A total of 87 (59.2%) widows who had basic education did not experience any form of property rights violation, while only 3 (75%) of the respondents who had tertiary education did not experience any property rights violation. While on the other hand, 60(48%) of the respondents who had basic education experienced property rights violations, and only 1 (25%) of the respondents who had tertiary education did experience property rights violations. Source of livelihood did not significantly influence property rights violations ( $P=0.37$ ).

Feeling less protected due to the absence of the husband significantly influenced the occurrence of property rights violations ( $P=0.022$ ). Out of those interviewed, 91 (54.2%) reported feeling less protected and reported having experienced some form of property rights violation. On the



other hand, 18 (29%) of the respondents who indicated they do not feel less protected also indicated that they had not experienced property rights violations. This shows that widows who felt less protected after their husband's death were likely to suffer property rights violations.

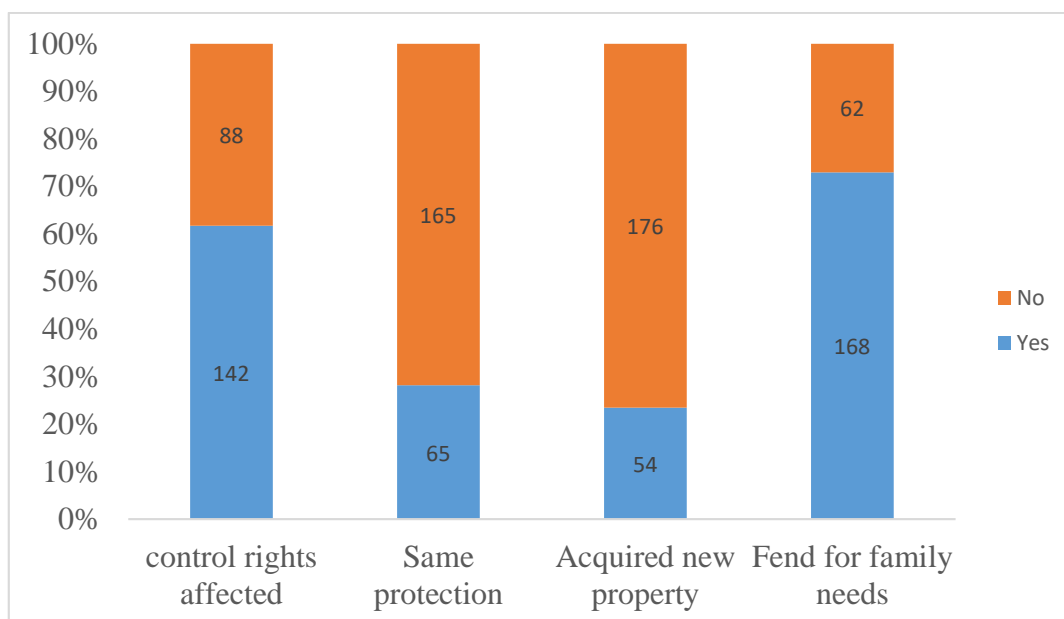
The presence of empowerment institutions did not significantly influence property rights violations among the widows ( $P=0.827$ ). Thirty-eight (57.6%) of the respondents indicated that they were not aware of the empowerment institutions and did not suffer property rights violations. In comparison, 28 (42.4%) indicated that they were aware of the empowerment institutions and again suffered property rights violations. This means that those aware of empowerment institutions and those who were not aware of the institutions had the same chances of experiencing property rights violations.

Awareness of existing laws regarding property ownership did not significantly influence property rights violations ( $P=0.91$ ). Twenty-nine (58%) of the respondents who had indicated to be aware of existing laws and policies on property rights also did not suffer property rights violations, while 21 (42%) of the respondents who indicated that they were aware of existing laws and policies suffered some form of property rights violations.

Awareness of property rights significantly influenced property rights violations among the widows interviewed ( $P=0.03$ ). The majority of the respondents were not aware of property rights 173 (75.2%), of these, 109 (63%) reported to have had their rights violated, while only 64 (37%) did not experience any property rights violations. On the other hand, 31 (54.4%) of the respondents who indicated to be aware of their property rights did not suffer property rights violations compared to 26 (45.6%) who suffered property rights violations. This shows that most women who were not aware of their property rights, 109 (63%), were more likely to suffer property rights violations than those not aware of their property rights 26 (45.6%).

#### **4.3 Effects of Property Rights Violations on Economic Independence**

The widows interviewed were asked whether the loss of their spouses had affected their right to control their property, whether they enjoy the same protection on assets as when their husbands were still alive, whether they have acquired new properties in the absence of their husbands and whether they have been able to fend for their family needs as adequately as their husbands would. The results are summarized in Figure 2.



**Figure 2: Property Rights Violations on Economic Development**

The majority of the respondents 142 (61.7%) indicated that the loss of their husbands affected their right to own property, with only 88 (38.3%) of the respondents saying that control rights over property have not been affected. This shows that if a woman becomes a widow in the study region, there is a higher chance that her rights to control the husband's property will be affected. The majority of the respondents also indicated that they did not have the same protection over their property compared to when their husbands were still alive 164 (71.7%). Only 65 (28.3%) of the respondents still had the same protection over their property the same way while their husbands were still alive. One hundred and six (76.5%) respondents indicated that they had not acquired any property post losing their husbands. They explained that this hampered their access to financial services and collateral to acquire or purchase new properties. Significantly, 168 (73%) of the widows interviewed indicated that they were at least able to fend for their immediate family needs, such as a meal a day, despite the challenges of widowhood. This can be attributed to the fact that most widows engaged in subsistence farming 121 (52.61%) and petty trading 55 (23.91%). A total of 62 (27%) of the respondents indicated that they could not meet their most basic needs after they were widowed and would majorly rely on aid from friends or other organizations.

## 5.0 Conclusions

The study concludes that land disinheritance is the most common property rights violation experienced by widows in Rarieda Sub County. In-laws start claiming the late husband's land and property as soon as the husband is buried. Access to and control over land ownership is a key determinant for secure livelihoods in rural areas. Land provides a place to live, a site to farm, realize economic security, and serve as collateral for credit and other important resources. Loss of this asset leaves these widows very desperate and highly dependent on aid from the government and other well-wishers, which is always insufficient or unavailable. This is consistent with Human Rights Watch (HRW, 2003) report on the Kenyan situation, which found that widowed women suffer injustices that hinder them from retaining their property. Unwritten customary laws are liable to skewed interpretation and traditions in which men inherit and control land fuel this injustice.

On factors that perpetuate property rights violations, the study concluded that feeling less protected since the husband's demise and awareness of laws protecting the widows against

property rights violations influenced property rights violations significantly. Most of the women who indicated that they felt less protected also experienced property rights violations; further, most of those who indicated that they were aware of property rights were less likely to experience any form of violations. Cultural norms and traditions were also major factors that influenced property rights violations. Widows interviewed indicated that according to customs, they were not allowed to inherit their father's property and their in-law's property, leaving them at the mercy of their husbands and their male relatives. In the husband's absence, they are left without any property they can confidently claim as theirs. This is consistent with research by (Codjoe, 2007), which found that in sub-Saharan Africa, women are affected by severe discrimination in terms of inheritance and property ownership due to discriminatory laws, traditions, and customs regarding access and control of land and other properties.

Poverty was also found to be among the major causes of property rights violations. Widows indicated that following up on court causes was too expensive; hence many resorted to suffering in silence. They also asserted that many of the property violation cases drag for years in court and, in the end, deplete their little available resources. This is consistent with (HRW, 2003; Techane, 2017), which found various obstacles to women claiming rights to property in Kenya. These included inadequate knowledge of women's rights, cost and time property ownership cases take in courts, social stigma, violence on those who dare report their violations, poverty, and harassment of women's rights NGOs.

The study also concluded that the majority of widows lacked proper education on property rights violations. The majority of them are unemployed and rely on subsistence farming and petty trading as the main source of livelihood. This generated very little income, which could not purchase any relevant property after losing their husbands. Without any property, uneducated and unemployed, these widows are always dependent on aid from their children, government, or well-wishers. It, therefore, becomes very difficult for these women to acquire loans from banks or microfinance institutions to start businesses, and neither can they confidently till their land without fear of their property being destroyed by the in-laws. Studies have shown that land ownership, housing, and access to other properties provide direct and indirect benefits, including safe shelters and a place to live, a source of livelihoods, and a measure of wealth to leverage additional economic resources (Richardson, 2004). A number of studies have also associated increased ownership of various assets such as land by women to increased access to financial services such as credit, increase in economic participation, production efficiency, household income, and bargaining power (Abbas, 1997; Agarwal, 1997; Arun, 1999). Land is generally considered an important asset and determinant for sustainable living conditions throughout human history. It is the most predominant resource for major human economic activities such as agriculture, forestry, settlement, and recreation (Codjoe, 2007).

## **6.0 Recommendations**

It was established that land disinheritance was the most common type of violation experienced by widows in Rarieda Sub County. The study recommends that widows and those who still have their husbands should be educated on inheritance and division of family property, writing wills when they are still healthy and co-registering property. This may ensure that the other partner can smoothly take control of the remaining property when one partner dies or is incapacitated. Public announcements on property rights violations should be aired through various local radio stations and televisions with outstanding reach to the entire population.

The study established that cultural norms, traditions, and poverty were the major factors that perpetuate property rights violations among widows. The study recommends limiting socio-cultural practices based on the idea that women are inferior and gender stereotypes should be

addressed. Local leaders in conjunction with traditional leaders should help transform customary laws relating to property rights as enablers that promote women's right to property inheritance. Women should also be encouraged to participate in decision-making at the community level. Harmful practices such as forceful wife inheritance that promote property violations should be strongly discouraged. The government should set aside funds and shelters for women who have suffered property rights violations and ensure that women/ widows in these shelters have access to counseling and legal services. Various donors such as the UN and World Bank should work with the Kenyan Government to ensure policies are designed and implemented to help advance widow's property rights. Civil societies and organizations that help promote women's property rights should get additional funding. In addition, funding should be provided for institutions and organizations that provide knowledge and technical support, such as civic education programs, shelter, legal services, and educational services, among others.

The study also found that most widows and relevant authorities lacked proper education on property rights violations. The study recommends the provision of training for widows, police, local and national administration, and magistrates on property rights. Women's rights should be incorporated in school and police training curriculum to ensure the law enforcement is well equipped to tackle property rights violation cases. The Kenya National Commission on Human Rights should have experts on human rights who are tasked with monitoring property rights violations, educating men and women about their rights, and solving property disputes.

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