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**Moral Authority, Power and Women's Identity in Colonial Kenya**

**Abstract**

The concept of moral authority facilitates a deeper understanding of the fluid interconnections that exist between what are seemingly separate spheres of women's lives. Importantly, moral authority highlights the way in which agency, power, culture and meaning impact on the daily experience of life. This paper examines the gendered notions of moral authority that protect women's political spaces and identity. For women under colonial rule, the use of moral authority provided not only a sense of personal power but also a method of confronting powerful menfolk and undermining the colonial regime. In exploiting the power that came from being a wife, or a mother, or via links with the spirit world, women confronted those who impinged on their rights and livelihoods. In present-day Kenya, does the use of moral authority contribute to women's agency and challenge notions of identity?

**Introduction**

This paper argues that moral authority is an empowering agent interconnecting relational positions, social standing and place. That is, moral authority seems to be incumbent upon the individual's position within the family, workplace, legal status and place within the community. It encompasses an ability to exercise judgement and entitlements about other's lives with which significant relationships are expected. Its fluidity is relational, continuously renegotiated and linked to reputation, which, over time, can be reaffirmed, destroyed and rebuilt.<sup>1</sup>

The question raised therefore, is how does the power that comes from identity, that is, who you are (ethnicity, married, a daughter or a son, for example), help to maintain and exercise the power associated with those identities? Can moral authority and its connections with identity politics promote women's ability to maintain a livelihood, security and agency? Or is the use of moral authority further entrenching what are understood as cultural norms, which may work to the detriment of women?

*Familial Obligation Under Colonial Occupation*

For women in pre-colonial Kenya, marriage conferred security, social relations, status and class.<sup>2</sup> Within those contexts it brought obligations and rights for both parties. For women, marriage entailed the exclusive protection of her husband from the sexual advances of others. Marriage gave men exclusivity over his wife's power of fertility. He in turn had obligations towards her wellbeing. If he failed to fulfil them then he risked experiencing the fear of what a woman's sexuality could purportedly unleash, that is barrenness,

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<sup>1</sup> Moore S. F., Treating Law as Knowledge. Telling Colonial Officers What to Say to Africans about Running "Their own" Native Courts. *Law and Society Review*. Vol. 26, No. 1. 1992. p. 38.

<sup>2</sup> Women were affiliated with their husband's patrilineage through the payment of bridewealth on marriage. This secured a woman's land use rights and, importantly, established lineage membership for her children. O'Laughlin B., 'Myth of the African Family'. In: Bryceson D. F. (ed.), *Women Wielding the Hoe*. Berg Publishers. Oxford. 1995. pp. 71–73.

childlessness and death of one's lineage.<sup>3</sup> Women's farming roles, in particular the production of the family food supply, carried with it responsibilities, obligations and an implied degree of independence. That is, women had control over what they produced on the land allocated to them; they were responsible for the planting, harvesting, storage and distribution of its produce.<sup>4</sup> Farming demanded that men meet the expectations due of them as husbands. That is, to provide wives not only with certain goods, land, etc, but importantly, connections into his clan, social status and protection from the spirit world. Moreover, bridewealth payments bound both the husband's and wife's families together, supporting each other in times of difficulty and forging new opportunities in times of good fortune.

Marriage obligations for men and women changed during the colonial period with the advent of the production for sale of maize and, over time, of the sale of surplus food crops.<sup>5</sup> In the Kikuyu and Luo areas, maize was initially grown on men's land and sold by them into the government controlled market.<sup>6</sup> Women became increasingly involved in its production, as their allocated land began to be utilized to grow it. Further, male out-migration from the family farm pushed women into working on men's land to grow this and other cash crops, (English potatoes for example). 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.<sup>7</sup>

For women 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

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<sup>3</sup> Peristiany J. G., *The Social Institutions of the Kipsigis*. Routledge and Kegan Paul. London. 1964. p. 107. See also 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.

<sup>4</sup> KNA MC/363 DC/FH/3/1 Fisher J., Report on the Kikuyu. 1950–1951. p. 91. See also Driberg who 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.

<sup>5</sup> Department of Agriculture. (DOA) Annual Report. (AR) 1934. p. 72. and DOA AR 1935. p. 84. Maize was the principle crop promoted by the colonial administration to indigenous Kenyans. Its production eclipsed all other crops that were promoted, with the exception for a short period, of the production of wattle. DOA. AR 1937. p. 57.

<sup>6</sup> Maize was sold to the Maize Marketing Board. This was done to control the quality of the maize sold and to prevent African grown maize from being exported and therefore competing with Settler grown maize. See Fearn H., *An African Economy: A Study of the Economic Development of The Nyanza Province of Kenya, 1903–1953*. Oxford University Press. London. 1961.

<sup>7</sup> See Hay J. M., '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. 1976. pp. 100–103. 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. 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. 1974. pp. 101–108. For an analysis on Luo trading see: Mss Afr. s. 1672/4 Wilson G., *Luo Customary Law*.

obligations of husbands and wives radically changed. In the case of hut and poll taxes, women became indirectly responsible for men's debt obligations as these tax payments were a male duty, bestowed on men by the men of the colonial administration, 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 in the towns, had the effect of removing men's immediate responsibilities towards their wives' security in providing, for example, labour for hut construction or for clearing new areas for crop production.<sup>8</sup>

The production of cash crops of maize, wattle bark and later, coffee had yet another impact. It caused an inflationary rise in bridewealth costs. Maize prices were particularly high during the 1950s, going from Shs 13/- to Shs 28/- per bag by 1954.<sup>9</sup> 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.<sup>10</sup> 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 the District commissioners office and native ceremony, ... which takes another Sh/-1000 for food.<sup>11</sup>

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 wealthy. As Mutongi 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.<sup>12</sup>

Thus, via the payment of bridewealth, men had demonstrated that they had acted like men and they therefore wanted their wives to act like wives. But how were wives supposed to act, particularly given these production transformations coupled with the changes occurring within the marriage process itself?

We know from the colonial record in Kenya that there are numerous examples of women who, in order to protect their interests, openly challenged the power of both the colonial regime and their menfolk via the use of public protest.<sup>13</sup> 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.<sup>14</sup> In

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<sup>8</sup> Driberg J. H., Op. cit. pp. 404–421.

<sup>9</sup> Fearn H., Op. cit. p. 161.

<sup>10</sup> Shadle Brett. Bridewealth and Female Consent: Marriage Disputes in African Courts, Gusiiland Kenya. *Journal of African History*. Vol. 44, No. 2. 2003. p. 246.

<sup>11</sup> Mss. Afr. s. 1792. Matson. 16/3/41. p. 24.

<sup>12</sup> Mutongi Kenda, *Worries of the Heart*. University of Chicago Press. Chicago. 2007. p. 121.

<sup>13</sup> See KNA AR/369 Fort Hall/27.1947 Coutts W.F., pp. 1–2. KNA/99 Annual Report. Central Province. 1948. Windley E. H., p. 1.

<sup>14</sup> 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*

the last three months of 1937, 550 women were prosecuted for not paying the hut taxes, for which they had become responsible.<sup>15</sup> In the 1940's three riots occurred in which women were the main instigators. In 1940 some 500 women rioted against the use of their labour to build terraces and grass areas of eroded land. Again in 1948 and 1949 women stopped soil conservation work altogether and demonstrated outside the District Commissioners office. They were arrested and as the Commissioner reported; 'were quickly released by a large crowd of their own sex brandishing sticks and shouting Amazonian war-cries'.<sup>16</sup> The women were fined Sh/-10 each.<sup>17</sup>

The majority of women however, negotiated spaces of power utilising the moral authority that existed within positional relationships. That is, in establishing and/or demanding their rights, women, during the colonial period, like their menfolk, forged alliances with significant people in their communities: fathers, their married sons, co-wives, churches and administrative officers. They relied on the importance of reputation and utilized accepted behavioural practices to make their case. For example, the power and prestige that came from being a married woman gave her implied, or otherwise, entitlements to land, to clothes supplied by her husband and a house in which to live.<sup>18</sup> If these things were not supplied then she was reputed to be a *mukoma thi*, someone who sleeps on the ground — a concubine.<sup>19</sup> This was ruinous to her reputation and that of her husband's family. Women made public their problems by telling uncles, or sons, or their husband's brothers of their plight. 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 and respect their wives or mothers and/or their daughters.<sup>20</sup>

By speaking out, perceptions of women changed from attitudes that demanded deference and obedience by women, to a view of them as radical outcasts who would no longer accept the word of fathers and husbands. Importantly, the willingness of women to publicly voice their discontent in a society that demanded female acquiescence and subservient behaviour, shows that women made use of the moral authority that was inherent in the positions that they held. Married women demanded that their recalcitrant husbands respect them and, if they did not, these men risked female censure and the possible loss of respect from important men within their communities. Women's councils had the power to enforce female condemnation, for example, by imposing fines on men who had abused their wives and banning co-wives from cooking for intractable husbands.<sup>21</sup>

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*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.

<sup>15</sup> Mackenzie A. F. D., *Land Ecology and Resistance in Kenya. 1880–1952*. Edinburgh University Press. Edinburgh. 1998. p. 137.

<sup>16</sup> KNA/99 Annual Report. Central Province. 1948. Windley E. H., p. 1.

<sup>17</sup> Ibid.

<sup>18</sup> KNA. MC 363 DC/FH Report on the Kikuyu. 1950–52. Fisher J., p. 91.

<sup>19</sup> 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.

<sup>20</sup> Mutongi Kenda, Op. cit. pp. 130–131.

<sup>21</sup> Lambert H. E., *Kikuyu Social and Political Institutions*. Oxford Uni Press. London. 1965, pp. 95–100. In Kikuyu society, there were both women and men's councils which had their own duties and

This could have devastating effects on a man's reputation and restrict his ability to move into the ranks of important men whose role it was to settle disputes within the community, or to negotiate with colonial administrators. He would remain an *atereki*, a silent, timid man, sitting on the wood heap listening to the deliberations of his peers.<sup>22</sup> In this context, the public embarrassment of menfolk by women was a powerful tool.

The strategies that women used to negotiate their rights and entitlements with husbands, brothers and sons were sometimes contradictory. Mothers stood by their daughters and utilized the British legal system to take abusive or negligent husbands to court, despite the fact that these same courts often ruled against them.<sup>23</sup> 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.<sup>24</sup> Strategies to obtain marital rights — perhaps even 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 a future wife. These men threatened the power of their elders by eloping and or abducting a wife with no bridewealth payments forthcoming. Runaway wives and girls who received a mission education and may have been forced out of parental households, went to the towns and mission stations as places of refuge.<sup>25</sup> Here they established for themselves a new sense of security and identity which was beyond the control of their close kin.

These changes impacted on the inherent moral authority and obligations that formed important social conventions surrounding marriage and familial relationships. All of these actions challenged generational politics, gender politics and class relations, as well as dealing with the pressures of a new social order brought about by colonial rule. Importantly, underlying these social relations was an attempt to carve out a new social moral order from which a new moral authority could create some political clout and social respect. Such actions were fraught with high risks as a runaway wife could end up in court with her lover, being accused of adultery, and if convicted she could be forcibly removed back to the marital home, ostracised for her behaviour and, if familial misfortune arose, maybe face accusations of witchcraft.

In an effort to create an economic and political space of their own, women contested the domain of familial obligation, that is, they reinvented or demanded that the reciprocal and implied obligations owed by husbands to wives, by in-laws to in-laws, married sons to their mothers and unmarried sisters, or daughters to their fathers and brothers, be upheld. Women insisted on the interdependence and reciprocity of husband and wife relations, of a reaffirmation of the communal good over the importance of individual gain. Women demanded that husbands, brothers and uncles, respected their womenfolk who held together families, food supplies, and households under increasing agricultural disparities and

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rules that decided on such as when initiation would occur, took care of internal disputes, and educated women and men about proper social behaviour.

<sup>22</sup> Peterson D., Op. cit. p. 473.

<sup>23</sup> Mutongi Kenda, Op. cit. pp. 130–131.

<sup>24</sup> Thomas L., *Politics of the Womb: Women, Reproduction and the State in Kenya*. University of California Press. Berkeley. 2003. pp. 103–134.

<sup>25</sup> CO 847/6/11. Archdeacon Owen. Letters and Articles Concerning the Forced Marriage of Girls in Kenya. No page numbers given.

mounting political pressure from the colonial regime itself. Women pointed out via the use of collective public protest, individual forms of everyday resistance, and public speech, that their menfolk, by their collusion with the colonial regime, had not respected the moral order and had brought about cultural destruction.<sup>26</sup>

So how can the use of moral authority contribute to women's ability to negotiate and maintain their well-being and economic security in the climate of political uncertainty and economic downturn in Kenya today?

### *Agency, Opportunity and Moral Authority Today.*

For the majority of women in Kenya, agriculture forms the basis of their economic security, as, 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 food production and 50 percent of the labour for cash crop production.<sup>27</sup> Agriculture accounts for the largest percentage of Kenya's Gross Domestic Product at 26 percent.<sup>28</sup> Women's wages are, on average, 58 percent lower than men's, and women's literacy rate, at 76 percent, is also lower than men's 89 percent.<sup>29</sup>

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.<sup>30</sup> Land in Kenya is subject to approximately 75 different laws, some of which contradict each other or are subject to particular clan arrangements.<sup>31</sup> 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.<sup>32</sup> 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.<sup>33</sup> The development of land markets which, some have argued, could circumvent customary

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<sup>26</sup> This was evidenced in the loss of clan land due to settler occupation, bans on cattle raiding, the lack of initiation rites, the bans on female circumcision. Without these things civil society fell apart.

<sup>27</sup> *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.

<sup>28</sup> *Kenya Economic Update*. (2<sup>nd</sup> ed). World Bank. Washington. June 2010. p. 13.

<sup>29</sup> *Gender and Economic Growth in Kenya*. Op. cit. p. 76. 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](http://www.hrw.org/reports/2003/kenya0303/kenya0303.pdf). p. 9.

<sup>30</sup> *Gender and Economic Growth in Kenya*. Op. cit. p. 21.

<sup>31</sup> *Ibid.* pp. 23–24. For example, the Transfer of Property Act, the 1892 Married Women's Property Act and the Marriage and Divorce Act all impact on land law in Kenya.

<sup>32</sup> 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. p. 79.

<sup>33</sup> Razavi Shahra, Liberalisation and the Debates on Women's Access to Land. *Third World Quarterly*. Vol. 28, No. 8. 2007. p. 1489. Tsikata Dzodzi, Securing Women's Interests with Land Tenure Reforms: Recent Debates in Tanzania. *Journal of Agrarian Change*. Vol. 3, Nos. 1&2. January 2003. pp. 149–183.

practices in relation to women's land access,<sup>34</sup> 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.<sup>35</sup> Given this situation, the use of the moral authority inherent within the marriage contract may well be a useful strategy available to married women in pursuing their livelihoods.

Marriage 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 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 than 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.<sup>36</sup>

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.<sup>37</sup>

## **Conclusion**

Familial position, social status and class all confer a sense of personal identity, security, solidarity and moral authority. Importantly, such societal positions absolve one from certain expectations and give rise to others, which are seen as innate to that particular gendered role, position or status. Such obligations and moral authorities can be enforced by the use of rumour, ritual, myth, and legends, which dictate social behaviours.<sup>38</sup> By utilising some of

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<sup>34</sup> See Agarwal B., *A field of One's Own: Gender and Land Rights in South Asia*. Cambridge University Press. Cambridge. 1994. 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.

<sup>35</sup> Lastarria-Cornhiel S., *Impact of Privatisation on gender and property rights in Africa*. *World Development*. Vol. 25, No. 8. 1997. p. 1323.

<sup>36</sup> Heyer Amrik, 'Nowadays they can even kill you for that which they feel is theirs'. In: Broch-Due Vigdis, *Violence and Belonging*. Routledge. London. 2005. p. 50.

<sup>37</sup> *Ibid.* p. 77. See also Oyewuni Oyeronke. *Family Bonds/Conceptual Binds: African Notes on Feminist Epistemologies*. *Signs: Journal of Women in Culture and Society*. 2000. Vol. 25, No. 4. pp. 1093-1098.

<sup>38</sup> Yitah Helen, "Fighting with Proverbs": Kasena Women's (Re)Definition of Female Personhood Through Proverbial Jesting. *Research in African Literatures*. Vol. 40, No. 3. Fall 2009. pp. 74-95.

those expectations, women have been able to forcefully argue for their rights to land access, to renegotiate familial responsibilities, marriage contracts and spiritual protection. In so doing, women have brought about changes in personal circumstances and a cultural shift that no longer perceives women as demur minors under the control of their male counterparts.

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