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## **Law, Religion, Culture and Slay Queens: A critique of the Kenyan Law of Succession (Amendment) Bill 2019**

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### **Abstract**

Some Old Testament texts suggest that a man's principal heirs are the sons from 'legitimate' wife/wives (Gen. 15:4, Deut. 25:5-10, Jud. 11:2, 1 Kings 21:3, Ruth). Yet in Numbers 27:1-11 and Ruth one encounters the voices and actions of daughters and women who challenged the status quo on inheritance matters. Just like the Jewish religion in the Old Testament, in patriarchal societies like Kenya religious beliefs and negative cultural ideologies inform legal and inheritance matters in ways that are disadvantaging to women and girls. In African traditional society, polygamy and mistresses – here referred to as 'slay-queens' in the Kenyan contemporary street language – netted together the family institution. The wives and 'slay-queens' indirectly benefit from property inheritance through the children. The Kenyan Law of Succession (Amendment) Bill 2019, which is the primary law on inheritance, was reviewed for three years to lock out 'illegitimate' children and slay-queens from inheriting the property of a deceased person. In a Kenyan context, where women have no say over matters related to property inheritance and are seen as a man's property, the bill fails to deliver an equitable approach. From a post-colonial and an afro-feminist approach, it is proposed that there is a need to critique the Kenyan Law of Succession (Amendment) Bill 2019, to challenge legal experts to steer conversations toward a complete overhaul of all the discriminatory sections, and interrogate the religious and cultural foundations on which patriarchy finds ways of legalising discrimination against women and girls.

## Introduction

The voices of Zelophehad's daughters in Numbers 27:1-11 are located within the Old Testament's legal, religious, cultural, and patriarchal context where women's voices were silent when it came to inheritance laws. It is only in the Book of Ruth that the indirect actions of Naomi seem to be linked to the issues of land and inheritance. The voices of Zelophehad's daughters in Numbers 27:1-11 arguably address the issues of law, religion, culture, gender, power, and the right to land ownership (Claassens 2013). According to Giddens and Sutton (2010:30), 'patriarchy is a system of social structures and practices, in which men dominate, oppress and exploit women'. This article uses the concepts of law, religion, culture, and slay-queens (mistresses) to critique the Kenyan Law of Succession (Amendment) Bill 2019. This paper argues that patriarchy characterises the legalisation of the discrimination of women, particularly slay-queens, in the Kenyan Law of Succession (Amendment) Bill 2019.

According to Okoh (Ekundayo and Okoh 2020:256), 'slay-queen' is a trendy coinage for girls who sleep with men to make money in order to survive. In other contexts, *slay-queen* is a term used for women who focus on outward beauty and especially express this on social media platforms. Slay-queens project an image of perfection and accomplishment, and may not necessarily have the negative connotation of sexual manipulation as used within the Kenyan context (Keyhole 2024). But from the Kenyan perspective and in the Kenyan Law of Succession (Amendment) Bill 2019, a slay-queen – sometimes referred to as slay-mama – is said to do anything to get a rich man to have sex with them for money. Slay-queens will dress sexily to arouse the sexual desire of rich men (Ekundayo and Okoh 2020). In contemporary Kenyan society, the term *slay-queen* used in reference to mistresses is a household term. It is street language, a public theology analogy, and is highly mentioned by a number of televangelists in their sermons. In Kenya, the term *slay-queen* stems from slang language where it is used to refer to a person who stands out among a crowd either by their outfits or by their looks. In general and public usage, the term is specifically used for women who are mistresses (Wangare 2018; Okech 2021). Implicit in this categorisation is the fact that religion and culture empower men to categorise women and socialise women to submit to the

categorisation in ways that make women vulnerable to gender discrimination in the name of religion and culture.

In Kenya, patriarchy uses religion and culture to control the lives of women, rendering women very submissive to men (Wangila 2015). In the name of culture, religion continues to elevate the status of men over women. In secular society, patriarchy uses the legal system to legalise the oppression of women, as will be shown from the Kenyan Law of Succession (Amendment) Bill 2019. Since patriarchy uses religion to portray gender within religious doctrines and belief systems, Moyo (2004:74) argues: ‘any efforts for gender justice have to target religio-cultural socialisation for both women and men’. For Moyo (2004:72),

efforts for equal participation of women and men at all levels of influence tend to be frustrated, with much resistance by both men and women.

Kenya subscribes to the international treaties that abide by gender equity and equality principles as indicated in the National Gender and Equality Commission (2016). However, women and girls remain the most vulnerable group in Kenya as shown in the report by the United States Agency for International Development (USAID) (2022:1). In order to address the inequality and integrate gender equity in the developmental agenda, the international principles of gender equity and affirmative action should be taken in ways that foster gender mainstreaming in all aspects of life. According to Walsh, Jefferson, and Saunders (2003:32),

there is a complex mix of cultural, legal, and social factors underlying women’s property rights in Kenya based on patriarchal traditions in which men inherited and legally controlled land and other properties.

Kenya is home to African Traditional Religions (ATRs), Christianity, Islam, and Hinduism (Timothy 2023). In Kenya, like in many other African countries, religion and politics are two facets of power that are in constant interaction (Ellis and Haar 2007:390). Notably, in postcolonial Kenya, ATRs have had a high influence on other religions like Christianity and Islam, necessitating the

urgency for interreligious dialogue (Oseje 2018). According to Kevin P. Lines (2018:22),

recent introductions to both interreligious dialogue and the study of World Religions have emphasised the need to evaluate our inherited biases against [African] traditional religions and begin reappraising them as legitimate contemporary belief systems.

Although people have appraised ATRs, there is a need to carry on the work. In secular society also, patriarchy has found a way of using political structures to legalise the discrimination of women through the law of succession and property rights. In patriarchal societies like Kenya, people's interpretation of religion teaches women to be submissive to men, making it difficult for women to challenge the legalising of gender discrimination enshrined in the Law of Succession. In a detailed study on women within religions, Maseno and Mligo (2019) show ways in which religion uses patriarchy to systemically and structurally determine the position, place, and status of women.

African Christianity and Hinduism only allow monogamous marriage (Ignatius 2002:29; Patel and Chaturvedi 2021:81). ATRs allow polygamy and do not restrict the number of women a man can marry. Islamic marriage allows polygamous marriage up to four wives. In pre-colonial Africa, the institution of marriage was well nested through the concept of human sexuality. According to Okechi (2018:1),

before the Eurasian contact with Africa [...] The elderly members of the society initiated the individual members of the society into the concepts and the act of human sexuality through a well-organized and consistent socialization process.

Okechi (2018:1) further notes: 'human sexuality was well recognized as individual [*sic*] right' but 'subject to group norms and values'. In fact, in the traditional African society, sex outside of marriage was so well guarded that there were no labels such as *slay-queens* or *mistresses*. In polygamous marriage, sexual acts among different polygamous marriages would take place but would be done with a notion of sacredness. It is believed that among the

Sabaot people group it is important for a woman to have a child or two with a man other than her husband as disguise in case the angel of death visits the family. This way, it becomes difficult for the angel of death to know which child exactly should be taken. When it came to inheritance matters, no child was discriminated against even when the physical appearance of some children made it obvious that they were not fathered by their mother's husband. In the traditional Sabaot society, the ears, fingernails, and the nose in particular were used as a test to know if a child was an outsider. What was forbidden was that 'people could not marry from closely related people i.e. kinship' (Okoth-Okombo and Masinjila 1998:144).

The issues of gender-based violence, land, and property inheritance among the Sabaot are a community matter and are still part of the education package taught in regard to sexual matters and marriage during circumcision ceremonies. Notably the issue of land inheritance among the Sabaot people is a territorial matter (Médard 2010:24). In the event that a husband or a father died, the community protected women and children by ensuring that there was enough for all the women in a polygamous setting through the children. Among the Sabaot people, property inheritance was done based on the seniority of the wives where the first wife to be married was considered the most senior. Her opinion in regard to property inheritance was highly regarded by the elders. The teachings about the dignity of children were highly emphasised during the circumcision ceremonies. The first wife was entrusted with the wisdom of ensuring that all the children, including those born outside of marriage, were catered for. Unfortunately, 'The interruption of the African traditional system by the Eurasian contact' redefined the 'concept' of the institution of marriage, 'sexuality', and the 'sacredness' of sexuality 'shifting the emphasis from group to individual erroneous perception of sex' (Okechi 2018:1).

In the individualistic approach to sex and marriage, patriarchy has continued to thrive because Eurocentric views often emphasise individual rights and autonomy (Bawa 2012). This can sometimes overlook the importance of collective or communal values prevalent in many African societies. In patriarchal systems, men have power and authority over women. The individualistic approach reinforces power imbalance by prioritising the desires and needs of the individual (often male) over those of the family or

community. That is how patriarchy has found itself legalised in the Kenyan Law of Succession (Amendment) Bill 2019. Additionally, in Kenyan, like in some other African, Christian settings, selective readings of scripture create a fertile ground for polygamy and extra-marital relationships to thrive by empowering men over women through teachings that socialise women to confuse submission and vulnerability with unjust religious and cultural teachings (Falen 2008; Muhumed 2014).

## **Post-Colonial and an Afro-Feminist Approach to the Law of Succession**

According to Kameri-Mbote (2002), in a patriarchal country like Kenya, the laws of succession are in most cases gendered in their application. Kameri-Mbote (2002:380), points out that

any investigation into the issue of the rights of women has to take the woman as the focal point of attention in seeking to unearth the biases that are to be found within the law.

Kameri-Mbote gives an account of the application of inheritance laws in Kenya from colonialism, and its persistence, to the contemporary society underscoring the conflict between introduced English norms and customary norms and the effects of that conflict on the rights of women to inherit. It is from this point of departure that this article uses a post-colonial and an afro-feminist approach to analyse the Law of Succession (Amendment) Bill 2019. Dube (2012:48) defines the term

postcolonial, as an overall analysis of the methods and effects of imperialism and as a continuing reality in global relations.

Imperialism is the process of building an empire through the imposition of political, economic, and social institutions of one nation over a foreign one (Dube 2012:17). Afro-feminism is a liberation discourse, which affirms that to exist is to resist (Glover 2012:181-185; Emejulu and Sobande 2019).

An afro-feminist approach is a tool of liberation within feminism that asserts the specific experiences of black women, historically overshadowed by

complex oppressive systems and structures (Volpp 2001:1182). Thus, patriarchy is oppressive, as is colonialism. Seen this way, it is possible to define post-colonial and afro-feminist approaches as perspectives that are grounded in the understanding of how the power of the colonial times still appears in the production and reproduction of marginalised, racialised, sexed, and gendered others in contemporary times (Davies 2015:1). As used in the context of the Law of Succession (Amendment) Bill 2019, post-colonial and afro-feminist lenses are approaches that investigate the issue of the rights of women, taking Kenyan women as the focal point of attention. The approaches seek to unearth the biases found within the law in order to point out how religion and culture legalise the oppression of women through their sexuality. Post-colonial and afro-feminist approaches to the Law of Succession (Amendment) Bill 2019 recognise that patriarchy is a common thread of both colonial and post-colonial Africa (Wekesa 2013:6). While the post-colonial approach gives the lens through which one can interpret the Law of Succession (Amendment) Bill 2019, an afro-feminist approach focuses on Biblical texts that unmute women's voices in patriarchal settings such as Numbers 27:1-11 and the Book of Ruth. Thus, the approach gives one an opportunity to propose ways of destabilising all the powers that use religion and culture to legalise the marginalisation and oppression of Kenyan women.

## **The Voices of Women in Numbers 27:1-11 and Ruth through an Afro-Feminist Lens**

In Numbers 27:1-11 the voices of the daughters of Zelophehad challenge the laws of land inheritance. Ndekha (2013:49) points out

instead of openly challenging the patriarchal legal system, the daughters cast their request in the language of patriarchy and stuck to issues that mattered in society.

It is important to note that the daughters assert their right to inherit land from their deceased father in a patriarchal society that privileges male descendants. An afro-feminist approach to this text therefore gives one the opportunity to examine the text through the lens of both feminism and the unique socio-cultural context of Africa to centre women's agency by emphasising women's

voices and empowerment within their communities. According to Claassens (2013:332),

the daughters of Zelophehad find themselves in an exceedingly vulnerable situation because they are orphaned and the death of their male relative in the socio-cultural context of their time jeopardises their chances of survival; without land, without a means to make a living.

Yet, the daughters of Zelophehad exemplify the agency for women's voices and empowerment by boldly challenging the existing laws that had disadvantaged them. This they do by refusing to accept their marginalisation and by instead demanding justice and equality within their society. Afro-feminism recognises the interconnected nature of various forms of oppression, including those based on gender, race, class, law, religion, culture, and ethnicity. In the case of the daughters of Zelophehad, their struggle for inheritance rights intersects with broader issues of gender inequality and the marginalisation of women within patriarchal societies (Darko 2020). Their story highlights the importance of addressing multiple layers of oppression simultaneously because all oppression is connected. Additionally, while the daughters of Zelophehad assert their individual rights, their actions also demonstrate a commitment to community solidarity.

While Kenya is a patriarchal society, the *Ubuntu* aspect of community solidarity still exists (Shamala 2006). Thus, the voice of advocacy from the daughters of Zelophehad in Numbers 27:1-11 is a collective action embedded in mutual support that aligns with afro-feminist principles of communal empowerment and resistance against systemic oppression. Afro-feminism encourages the reinterpretation of cultural and religious texts in ways that challenge oppressive norms and promote gender equality. A re-reading of Numbers 27:1-11 through an afro-feminist lens underscores the courage and resilience of the daughters of Zelophehad. This is an embodiment of the strength and agency of African women throughout history. An afro-feminist lens to re-interpret Numbers 27:1-11 within the context of the Kenyan Law of Succession (Amendment) Bill 2019 seeks to dismantle systems of oppression and achieve justice and liberation for all marginalised groups, including women. The story of the daughters of Zelophehad serves as a reminder of the ongoing struggle



for gender equality and the importance of challenging patriarchal norms and structures in pursuit of a more just and equitable society.

Examining the Book of Ruth through an afro-feminist lens in the context of the Kenyan Law of Succession Amendment Bill 2019 provides an opportunity to explore themes of gender justice, inheritance rights, and empowerment within both the Biblical narrative and a contemporary legal framework. Read together with Numbers 27:1-11, one gets the opportunity to challenge traditional notions of inheritance. The decision of Ruth to glean in the fields of Boaz symbolises her agency in securing her and Naomi's economic livelihood. Additionally, throughout the story of Ruth, community support and solidarity play a crucial role in her journey towards empowerment and inclusion. The solidarity shown by Boaz and the wider community in recognising Ruth's worth and contributions highlight the importance of collective action in challenging patriarchal norms and advocating for women's rights (Yap 2024). The story of Ruth, understood within the context of the voices of Zelophehad's daughters in Numbers 27:1-11, subverts traditional gender roles and challenges patriarchal norms by highlighting the agency and resilience of women. Applying an afro-feminist lens to Numbers 27:1-11 and the Book of Ruth through the Kenyan Law of Succession Amendment Bill 2019 shows the intersections between Biblical narratives and contemporary legal frameworks. This paves the way for promoting gender justice, economic empowerment, community solidarity, and the need to continue challenging patriarchal norms. Via an afro-feminist lens, one can say that both narratives emphasise the agency and resilience of women in advocating for their rights and reshaping societal norms to create more inclusive and equitable communities.

## **The Role of Women in Naming, Exposing, and Criticising Contexts of Oppression**

It is important to note that Kenyan women played a key role in the fight against colonialism, as co-liberators alongside their male counterparts (Gathogo 2017:6-13). In the same spirit, the Federation of Women Lawyers in Kenya continues to undertake comprehensive work in the community to address gender discrimination against women on issues of land and property inheritance (Kirui 2019; Ayodo 2023). Following the same path, African women theologians have courageously challenged cultural, religious, political, and

patriarchal forms of oppression that are harmful to women. Nomatter Sande and Sophia Chirongoma (2021:8) point out how African women theologians employ a gender-sensitive hermeneutics to analyse culture in ways that are pro women's life and dignity. This shows that women play a key role in naming, exposing, and criticising contexts of oppression that are conducive to institutional and structural inequality, where women are the first casualties. In order to see the importance of using a post-colonial and an afro-feminist approach to the Law of Succession, it is important to analyse the Law of Succession (Amendment) Bill 2019.

## **A Gendered Synthesis of the Law of Succession (Amendment) Bill 2019**

Article 27, Clauses 3, 4, 5, and 6 of Kenya's 'progressive' 2010 constitution indicate that every person is equal before the law and should not be discriminated against on any grounds (Kenya Law Reform Commission 2023). However, according to Ngugi – a judge on the High Court of Kenya – there still exists discrimination against women in matters of land and property inheritance because of religious and cultural norms that govern marital relationships (2021:xi). It seems that retrogressive religious and customary norms that discriminate against women have found a way of being legalised through the Kenyan Law of Succession (Amendment) Bill 2019. For a period of approximately three years, the Law of Succession, which is the primary law on inheritance, went through review. The main aim was to realign rights clearly espoused in the constitution of Kenya and other relevant laws (Kigata, Kithinji, and Muia 2021). The bill was sponsored by Hon. George Peter Kaluma, Member of Parliament for the Homa Bay Town constituency, and on 17 November 2021 President Uhuru Kenyatta assented to the Law of Succession (Amendment) Bill 2019 – now referred to as the Law of Succession (Amendment) Act 2021 (Okoth 2023b). The guiding question is: what is new in the bill? Notably, the bill introduced in Section 2 (1) the term 'spouse'. According to the bill, *spouse* means a husband, a wife, or wives recognised under the Marriage Act (Mujuzi 2023).

Sections 2, 3, and 6 of the Marriage Act No. 4 of 2014 allow a man to have more than one wife. In Section 2 polygamy is interpreted to mean 'the state or practice of a man having more than one wife simultaneously' (Kigata., Kithinji,

and Muia 2021). The Kenyan Marriage Act recognises five kinds of marriage: Christian, civil, customary, Hindu, and Muslim (Ngugi 2021:xiii). All these marriages require registration. A certificate is subsequently issued as proof of marriage. Without registration and a certificate, the relationship falls under the slay-queen (or mistress) category (Nyambane 2014:36). Section 29 of the Law of Succession (Amendment) Bill 2019 categorises dependents as:

1. Primary Dependents (Section 29,1,a): These are the spouse and children of the deceased, whether they were maintained by the deceased at the time of his death or not. This category of persons does not need to prove that the deceased maintained them. Without the necessary documents of proof, the above provision as an amendment locks out former spouses from being recognised as dependents. Even with proof as primary dependents, widows in Kenya are still disadvantaged. They quite often are ‘disinherited, including being evicted from family homes and land, with serious consequences for them and their children’ (Mkongo 2019). Yet many women in the rural areas of Kenya live with dependent children and the women depend on land to earn a living and to better standards of the lives of their children (Selin 2022:75).

2. Secondary dependents (Section 29,1,b) include parents, step-parents, grandparents, grandchildren, step-children, children whom the deceased had taken into his family as his own, brothers and sisters, and half-brothers and half-sisters who were being maintained by the deceased prior to his death. The Kenyan Law of Succession has evolved over the years. In postcolonial Kenya, many families have been going to court seeking determination on the persons who are rightfully entitled to inherit the deceased person’s property. It is important to note that the Kenyan postcolonial review of the Law of Succession was based on the English system and statutory provisions of the Law of Succession. In exceptional cases, the African customary law was adopted (Kigata, Kithinji, and Muia 2021).

3. Other dependents (Section 29,2) are those who must prove that they were being maintained by the deceased for a period of two years prior to the deceased’s death. Unfortunately, because of gender inequality, it has continuously been very difficult for women to prove that they were being maintained together with the children of the deceased. According to Kameri-Mbote (2002), the Kenyan Law of Succession is gender neutral in its provisions

but gender biased in its application since it does not reflect the current values and needs of the modern society where many married men have normalised the culture of having extramarital affairs, justifying it with the African culture of polygamy. The Law of Succession (Amendment) Bill 2019 disenfranchises legitimate beneficiaries of a deceased person, thus giving the impetus for law reform to respond to these concerns (Kigata., Kithinji, and Muia 2021). It is important to note that the sub-section is a complete overhaul of the previous position that provided for the third group of dependents to include a husband, as long as the deceased was maintaining him prior to her death. The purpose of the amendment is that husbands now fall under Section 29,1,a and need not prove maintenance (Kigata, Kithinji, and Muia 2021). The implication of the amendments is that

only a spouse i.e., a husband or a wife or wives recognised under the Marriage Act is recognised as dependents for purposes of succession under section 29 of the Act. (Kigata, Kithinji, and Muia 2021)

In light of the Marriage Act, this then means that a spouse is one who has registered their marriage.

In Kenya, like many other African countries, many husbands are afraid to write a will, fearing that when you write a will you invite death (Bett-Kinyati 2022). In the absence of a will, the description of a spouse as one that has registered marriage discriminates against women. In a post-colonial and afro-feminist approach to the Law of Succession (Amendment) Bill 2019, it is possible to argue that the law is gender biased. The Kenyan Law of Succession (Amendment) Bill 2019 contains provisions that disproportionately benefit men over women in matters of inheritance and succession as discussed above. It is therefore possible to argue that the bill perpetuates existing inequalities and reinforces traditional gender roles and stereotypes. The bill also undermines efforts to promote gender equality and women's empowerment in society. The bill unfairly advantages men, fails to adequately address the rights and interests of women in matters of succession, and requires that experts in law raise concerns and advocate for amendments to rectify these biases. Addressing gender bias in legislation requires careful consideration of the specific provisions and their potential impacts on both genders. It is

essential for policymakers to engage in dialogue with relevant stakeholders, including women's rights organisations, to ensure that the law promotes fairness and equality for all so that all can enjoy life in its fullness (see John 10:10).

## **Religion and Culture in the Kenyan Context**

The concept of polygamy and slay-queens in Kenya today is highly informed by a combination of African traditional culture, ATR, the Old Testament tradition, Islam, Asian religions, Western Christianity, and a complex element of contemporary Pentecostalism (Robbins 2004:122). Before the coming of Western Christianity to Kenya, Islam – a religion in which polygamy is practised – had already found its way to the Kenyan coast (Mombo and Mwaluda 2000:36-37). The Islamic legal tradition allows a man to marry up to four wives (Shah 2006:890). For Lukito (2013:83),

there is no legal requirement for a Muslim man to seek the permission of the court or his existing wife or wives to enter into a polygamous marriage.

Islam finds fertile ground in ATRs and in a culture where women are totally under the control of the headship of a man through the marriage institution. As part of the larger African society, ATRs unite Kenya with other African countries through patriarchal ideologies that use religion, culture, and sacred texts to empower men over women (Juma 2022:206). In African societies, a woman cannot marry more than one husband. In the Old Testament, the Jewish religion and culture did not allow women to marry more than one husband either. According to Toh (2014:705),

the Hebrew Bible prohibits polyandry a case where one woman would have more than one husband because such an arrangement would constitute adultery.

Unfortunately, the Hebrew Bible finds a fertile ground in the Kenyan context where there is constant reference to the Hebrew religion and culture. Because of a biased interpretation of the Hebrew Bible, women and children continue

to be vulnerable to patriarchal ideologies that use socio-economic stratification to control and dominate women.

Government legal rules concerning marriage stem from religious traditions and cultural values (Ghai 2013:292). In the Old Testament legal tradition polygamy was not condemned. It was, however, associated with strife among wives, the fight for inheritance among sons, and the prevention of women from inheriting land and property unless it were done through wife inheritance as in the case of Naomi through the marriage of Ruth to Boaz. Some African Christians use Genesis 2:24:

that is why a man leaves his father and mother and is united to his wife, and they become one flesh (NIV)

to argue that God is against polygamy. However, after the Fall in Genesis 3, the son of Cain, Lamech, married two wives, Adah and Zillah (Gen. 4:23). Moses himself had two wives. The Mosaic law also accommodated the practice of marrying more than one wife, including captured female prisoners from foreign conquests (Deut. 21:1-17). Exodus 21:10 emphasises the importance of a man being socio-economically able to cater for all his wives if he must marry more than one wife. In Kenya, ATR and culture blend with Islam and Old Testament religion and culture through Christianity to empower men in ways that have enabled some men to be legal absentee fathers who impregnate women and run away from the responsibilities of providing basic needs for them (Nduati et al. 2020:47).

## **Polygamy Vis-à-vis African Women and the Slay-Queens**

While the term *slay-queen* is a new concept in a Kenyan societal setting, religion, culture, and polygamy have long been the way of life. As a concept,

polygamy is defined as religio-culturally determined, socially acceptable and a legally recognized form of permanent marriage where a man has more than one wife at a time. (Lamanna, Riedmann, and Stewart 2016:168)

In the Book of Ruth, the initiation of women and girls into polygamous and wife inheritance cultural practices is done in such a way that the socio-economic needs of women are well catered for. According to Anderson (2009:60), 'the story of Ruth can be a positive one for women'. In the Book of Ruth,

Naomi and Ruth both inherited the same right, each from her own deceased husband and in respect of the same piece of land. (De Vaal-Stanton 2015:686)

As indicated by the voices of Zelophehad's daughters in Numbers 27:1-11 and the inquiry of Moses from the Lord, women and girls have the right to inherit land and property generally. Even though the story of inheritance in the Book of Ruth seems to show that women did not inherit property, Naomi initiated the process of inheritance that saw both Naomi and Ruth inherit land indirectly. Additionally, even though Zelophehad's daughters in Numbers 27:1-11 are not children from a mistress, their voice and the actions of Naomi in the Book of Ruth show that women have a great role to play in criticising and challenging discriminating laws in patriarchal societies.

In traditional African society, polygamy and wife inheritance was structured in ways so that women and children would not lack (Egboh 1972). However, in contemporary Kenyan society, extra-marital sexual relationships with slay-queens are creating safe havens for men to escape financial responsibilities towards the women they impregnate. A number of well-respected men, some politicians, clergy, and senior citizens, are having extra-marital affairs with slay-queens (Pala 2018). It seems that the most affected category of Kenyan men on matters of slay-queens and childcare support are Kenyan politicians. Some have fathered children with slay-queens, yet they have tried many ways to escape the financial responsibilities that come with it. Former Kenyan senate speaker Mr Ken Lusaka was sued by a lady who was labelled *Mpango-wakando* (slay-queen or side chick). She wanted the court to compel the former senate speaker to take responsibility for their unborn child. Notably, they had been in a sexual relationship for three years (Wambulwa 2021). In the recent past, there have been increased incidences of men, some of them being politicians, losing their lives in hotels while indulging in clandestine affairs (Greenblatt 2011). The death of the late Homa Bay senator Otieno Kajwang in 2014 was attributed to a 'heart attack'. However, it has been pointed out, that

Due to Kajwang's political stature, It was decided that the death be couched as 'heart attack' to avoid anything shameful. (Standard Digital 2018)

Yet, medical reports revealed that Viagra killed Otieno Kajwang (Owinda 2015). Viagra is a brand-name prescription drug approved to treat erectile dysfunction (Muhammod 2017).

These deaths associated with the deceased being sexually engaged with a slay-queen are a possible indicator that extra-marital affairs are thriving in Kenya. This is happening in the context of Kenyan politicians trying to use their legislative powers to silence women on matters of sex in the name of the Law of Succession (Amendment) Bill 2019. There has also been an increase in the number of cases of women showing up with children after a prominent politician or societal leader dies to fight for a share of the property of the deceased (Kameri-Mbote 2002:388). It is said that this issue in particular provoked the Law of Succession (Amendment) Bill 2019. In fact, when the president assented to the Law of Succession (Amendment) Bill 2019, it was celebrated with the words 'slay-queens and woman-eaters have fallen, MP Kaluma [who sponsored the bill] says after Uhuru signs Bill' (Okoth 2023a). In the discussion of polygamy *vis-à-vis* African women and the slay-queens, it is possible to see how religion and culture have found ways of legalising the oppression of women. According to Njiiri (2011:24),

the socialisation of girls and women often curtails their autonomy and undermines their ability to negotiate [on matters of sex] with men.

Thus, while men continue to view women as objects of sexual desire using religion and culture, women continue to be the custodians of the very oppressive patriarchal systems (Kanyoro 2001:159).

## **Problematising the Law of Succession (Amendment) Bill 2019**

The Transparency International (2010) report shows that Kenya is one of the most corrupt countries in East Africa. Unfortunately, corruption has infiltrated



issues of human sexuality. Legislators want to have sex with slay-queens and are not ready to take the responsibilities that come with sexual relationships. The main argument for proposing the bill claims that the bill aims at avoiding situations where 'opportunistic schemers successfully claim a stake in a deceased person's estate hence disenfranchising the legitimate heirs of the deceased' (Otieno 2019). The question is why a person in his right mind would not stay within the so-called legitimate relationship but opt for a relationship with the 'opportunistic schemers'. The bill is arguably gender biased and patriarchal in nature. While the bill is said to seek to provide clarity on whom dependents are, the application is biased since it targets women directly. Kenyan legislators have constantly reviewed the Law of Succession in the name of protecting the rightful beneficiaries. Yet, the customary law has continued to weigh heavily on the application of the laws. According to Okello (2007:4-7), 'Kenya has about 40 indigenous ethnic groups with variation of customary laws'. 'Although the systems are different,' she observes,

customary law is enforced by traditional leaders such as elders in ways that the principle decision making power is allocated to men so that men inherit and control land and property. (Okello 2007:4-7)

In the Law of Succession Act, the inheritance rights of a widow – but not a widower! – are terminated upon remarrying.

Patriarchal systems will continue to remind women that they should know that they are women. What's more, a father's rights are prioritised before a mother's in estate succession so that women's right to own property, inherit, and manage or dispose of property remain under attack (Mbugua 2018). Former wives are no longer recognised as dependents. They have to prove that the deceased was maintaining them for a period of two years prior to the deceased's death (Section 29,2). Widowers are now recognised as primary dependents and need not prove that the deceased were maintaining them immediately prior to their death. Notably, the bill was a one-man show and was based on just one amendment. Women parliamentarians are very few in number (Musila 2019). Thus it is very difficult to challenge such a bill since men are the majority in parliament and are the beneficiaries of the bill. The bill takes a moral position yet men continue to be free to indulge in extra-marital

affairs. In contemporary Kenyan society, women in a patriarchal context in which men are supposed to be the heads of the family are heading many households. In fact, women are financially responsible for children born out of marriage. Because patriarchal societies give power to men, men are not automatically responsible for children they sire in extramarital sexual affairs unless a man acknowledges that he is the father.

It is therefore proposed that:

First, Numbers 27:1-11 and the Book of Ruth can offer a redemptive religious and cultural interpretation to land and inheritance matters for the law of succession in Kenya. In Numbers 27:1-11, the voices of women show the power of women's voices to confront the status quo and overturn the norm on matters of inheritance. Some Old Testament texts (Gen. 15:4, Deut. 25:5-10, Judg. 11:2, 1 Kings 21:3, Ruth 4) suggest that a man's principal heirs were the sons born to him by his 'legitimate' wife or wives. However, the decision of Zelophehad's daughters signifies that the voices of women in biased legal systems on succession matters are very important. Additionally, the phrase 'Tent of Meeting' is used in the Old Testament to refer to the place where God would meet with God's people, Israel. Thus, it is possible to argue that Zelophehad's daughters summoned the courage not just to appear before Moses, Eleazar the priest, the leaders, and the whole assembly, but also to stand in the presence of God. When Moses inquired from God, the Lord instructed Moses to give them the inheritance of their father and to say to the Israelites that if a man dies and leaves no son, his inheritance is to be given to his daughter.

The Book of Ruth is set within the context of a polygamous marriage, widowhood, and wife inheritance. The words of Boaz to the guardian-redeemer are significant:

On the day you buy the land *from Naomi and from Ruth the Moabite*, you acquire the dead man's widow. (Ruth 4:5, emphasis added)

In the words of Boaz, both Naomi and Ruth are given significance in the process of inheritance. The property being inherited is not negotiated independently

the way it is usually in Kenyan patriarchal contexts. Implicit in this is the fact that the indirect role played by Naomi in the inheritance of land cannot be ignored. Thus, women's voices and role in challenging legalised structures that discriminate women and girls on matters of succession are very important.

Second, there is a need for organised discussion about the Law of Succession (Amendment) Bill 2019. Notably,

when Kenya passed the Matrimonial Property Act five years ago, it joined a series of laws protecting women's access to their property. (Mbugua 2018)

However, the main concern remains that

patriarchal traditions and lack of awareness about their rights that continue to leave many women fighting to keep land that is legally theirs. (Mbugua 2018)

Organised talks can pave the way for an overhaul of all the discriminatory sections. Some of the observations include:

1. Amplifying public education and awareness efforts on the provisions of the Marriage Act and especially on the need to formalise marriages
2. Amplifying public education and awareness efforts on the provisions of the Matrimonial Property Act and especially on the acquisition and ownership of property within marriage and the division of property upon dissolution of marriage
3. Researching on the aspect of 'other dependents', especially regarding proving dependence (Kemei 2020).

Organised talks on the Law of Succession (Amendment) Bill 2019 should focus on grassroots activism. This is an important and effective social force in Kenya, especially for women. Not many women especially at the grassroots level know how to seek legal action against the men who evict them from their husband's property after the husband dies. A number of Kenyan women have received several prizes for their activism, which target gendered poverty

alleviation (see Wangari Maathai in Sen et al. 2007:86). Thus, the Federation of Women Lawyers – Kenya should guide the way on talks on the Law of Succession (Amendment) Bill 2019. All women regardless of class should be enlightened, educated, and armed with correct information on property rights and inheritance matters.

## **Conclusion**

It is difficult to speak about gender equity and sustainable development in contemporary Kenyan society without addressing ways in which religion and culture continue to deprive women of their right to land and property inheritance using the legal system. Unfortunately, not many women know that the Kenyan Constitution 2010 places great emphasis on the equality of both genders and on their participation in the country's development agenda. Religion and culture has continued to maintain the status quo through patriarchal ideologies that empower men and disempower women through women's sexuality. Even with the categorisation of women as slay-queens, it is important for Kenyan women to be sensitised to know that women's property rights and inheritance rights are supposed to be enjoyed by women as a category within a society. Thus the Law of Succession (Amendment) Bill 2019 should be scrutinised in ways that allow legal experts and friends of women to name, expose, criticise, and overhaul all the discriminatory sections. For example, the amendment bill discriminates against those married under polygamous systems who do not automatically get marriage certificates (Standing Committee on Justice, Legal Affairs and Human Rights 2021:9). At the centre of women's ability to contribute to sustainable development is the issue of land, property acquisition, and ownership. While religion and culture have found a way of legalising the discrimination of women, talks and liberating Biblical interpretations can transform oppressive gendered structures in patriarchal societies like Kenya.

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