

Kenya

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A PRELIMINARY STUDY IN THREE COUNTRIES

KENYA REPORT

Executive Summary

Part I Profile Paper on Women of Kenya

Part II Research Design

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## PREFACE

The Kenya report which has been prepared by the FOPW/ICRW is divided into three sections. First, a profile of Kenyan women drawn from existing sources has been compiled, giving the historical as well as modern perspective of women in various economic and social contexts. Secondly, an extensive digest of literature available on women in Kenya has been produced. This is more than a bibliography in that it highlights the conclusions and major points of each entry. Lastly, the project team has developed a research design specifically for use in a mixed pastoral/agricultural, semi-arid region, an area which is of major importance to Kenya's development plans and to USAID's future programming priorities. The purpose of the design is to obtain the micro-level data on women in that area, data which are not available through macro-level surveys.

These three documents should be useful either separately or as an aggregated report.

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## DEMOGRAPHIC INFORMATION

### National Statistical Summary

Prior to the 1948 Kenya Census which was the first to include Africans, the Kenya demographic record is incomplete and contradictory.<sup>1</sup> Subsequent surveys which include censuses in 1962 and 1969, the Demographic Baseline Survey (DBS) in 1973,<sup>2</sup> and the Integrated Rural Survey (IRS) in 1974,<sup>3</sup> provide a considerable amount of good quality demographic data. In evaluating the available information, it must be remembered that Kenya does not have a comprehensive, nationwide system to record vital statistics (Ominde, 1974: 39) nor are many of the people enumerated literate. Therefore, ages and the number of births and deaths are approximate. In addition, some error must be assumed for enumerator inexperience in the early surveys.

The 1948 Census enumerated an African population of 5.2 million of which 53.3 per cent was female. By 1962, the total population was 8.6 million, indicating a 2.5 to 3.3 per cent rate of natural increase per annum. In 1969, the population, growing at a rate approaching

<sup>1</sup>Cf. Hertz 1974 for a good discussion of pre-1948 trends.

<sup>2</sup> The DBS was carried out by the Demographic Studies Unit of the CBS, Ministry of Finance and Planning, in cooperation with the University of North Carolina under the sponsorship of the United States Agency for International Development. Its purpose was to obtain basic demographic indices to measure changes subsequent to the 1969 Census and to test methods of obtaining such data. Although not a national sample, the study area encompassed about 1/3 of the total population and included representatives of the five major ethnic groups and most geographical areas. The findings largely substantiate estimates from the 1969 Census.

<sup>3</sup>

The IRS material so far available, represents the first stage of the CBS's National Integrated Sample Survey Programme designed to provide essential statistics on rural areas. Respondents were part of a sample of smallholder households drawn from major small farm agricultural areas of Kenya, excluding pastoral, urban, and formerly scheduled areas--i.e., those previously reserved for European settlers during the colonial period.

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3.5 per cent, exceeded 10 million of which 48.9 per cent was female. The fertility rate rose from 6.3 in 1962 to 7.1 in 1973 while infant mortality (0-1 year) decreased from 126 for males and 112 for females in 1962 to 119 and 108 respectively in 1969. Between 1969 and 1973, the DBS estimates a birth rate of 49 to 52 per 1,000 live births and a death rate of 18 to 19 per 1,000 population. Although revealing no change in fertility for these years, at these rates the total population would double every 13 or 19 years. Life expectancy increased from 50.3 for males and 57.7 for females in 1969 to 51.9 for males and 59.2 for females in 1973 (DBS, 1975: 49). Latest figures from the Central Bureau of Statistics (CBS) estimate a total population of 13.85 million which may be growing at the enormous rate of 3.8 per cent per year. Of this population, 50.2 per cent is female.<sup>4</sup> Infant mortality is down to 113 for males and 94 for females. The DBS estimates a total fertility rate between 8.0 and 3.2.

#### Fertility Rate

Kenya's high fertility rate is due to the youthfulness of its population, i.e., the large number of young girls combined with early nuptiality. Ideal family size is high, in excess of six children which approximates the 7.6 average a woman will actually bear in her lifetime. Age-specific fertility rates show high fertility for the 20-34 age group, with the highest rate at ages 25-29. This mode is supported by data from the 1962 and 1969 Censuses as well as DBS figures.<sup>5</sup> The DBS

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<sup>4</sup> The reversal in the proportion of males and females between 1969 and 1973 is probably the result of the inclusion of the primarily male institutional population by the Census and its exclusion by the DBS.

<sup>5</sup> The 1962 Census figures were adjusted to place the mode at 20-24 as the pattern was attributed to age misstatement.

explains the mode as the result of the age distribution of married women--i.e., the proportion of married women rises from 73 per cent in the age group 20-24 to 89 per cent in the 25-29 age group. Thus, the drop in fertility following age 24 is offset by the number of married women (ibid: 28).<sup>6</sup> From unpublished data at CBS, Smock describes an increase in cumulative age-specific fertility--i.e., the average fertility of women aged 35-39 already exceeds that of women over 60. This increase is accompanied by a decrease in child mortality so that more children born to women in the younger age cohorts survive (1977:64-65). Total fertility for urban women is 50 per cent lower than for rural women (DBS, 1975: 40). In fact the average number of children born per woman is lower for all age groups of urban women

#### Age Structure

Kenya's age structure is consistent with other countries experiencing a high birth rate and a decreasing mortality rate--i.e., a large base of children and a low proportion of elderly people.<sup>7</sup> A large ratio of dependents is typical of such a population.<sup>8</sup> Both the 1948 and 1969 Censuses found that approximately 48 per cent of the total population was under the age of 15 years.<sup>9</sup> By 1973, the DBS figure is 50.3 per cent.<sup>10</sup> With half the population under 15 years, only 35-40 per cent is at a productive age. According to the 1969 Census, women comprise 51 per cent of the adult population. Therefore, they make up more

<sup>6</sup>

Cf. Appendix I, Table for age-specific fertility rates based on the 1969 Census.

<sup>7</sup>

Cf Appendix I, Table 2.

<sup>8</sup>Cf Appendix I, Table 3

<sup>9</sup>Herz suggests that while enumerators counted all boys under age 15, only girls under age 13 were enumerated, so the number of underage people was probably higher than reported in the 1948 Census (1974: 273).

<sup>10</sup> The increase in this proportion may be due to the DBS exclusion of the institutional population most of whom are over 15.

than half the productive population. If fertility rates increase with the higher proportion of women approaching child-bearing age, the dependency burden of the working population will also increase. Even at current fertility levels, the dependency ratio could rise to 114 by the year 2000 compared with 106 calculated for 1970 (ILO 1972: 124). The dependency ratio in Nairobi is in sharp contrast to these national figures. At 36.1 per cent, the Nairobi ratio is considerably lower than the national average, indicating either a declining birth rate or the extensive out-migration of children (Ominde, 1974:38). Unfortunately, it is not possible to determine how many children are actually being sent to rural relatives for rearing and how many are listed as Nairobi-born simply because their mothers came here for maternal care (Remple, 1974:68).<sup>11</sup>

#### Rural-Urban Differences

With a non-urban population of 9,862,797, the Kenyan population is overwhelmingly rural. The total urban population--i.e., residents of towns reporting 2,000 or more inhabitants in the 1969 Census--is 1,079,908 or 9.9 per cent of the total population. Between 1948 and 1962, the African population in towns rose from 3.1 per cent to 5.3 per cent of the total population. From 1962 to 1969, the total population increased 26.7 per cent but the number of urban dwellers grew by 65 per cent. Life expectancy is higher in towns--i.e.,

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While no generalizations can be made from her data, Nelson notes that in her Mathare Valley sample, 35 per cent of the urban households with children had one or more children being fostered by relatives in the rural areas. Children were sent away because of disinterest by their mothers, the belief that a rural up-bringing was healthier or for economic reasons (1975: 12-13). Nelson writes that women sending their children to the rural areas is new being a direct out-growth of women raising children without a husband.

59.9 for males and 63.8 for females--and the death rate per 1,000 in Nairobi is 11 for females and 10 for males. In more rural areas, the death rate ranges from 22.2 to 18.5 for males and from 21.6 to 17.4 for females. The average urban growth rate of 7.3 per cent per year could double the number of urban residents each decade. The urban population is presently increasing more than twice as fast as the total population and 70 per cent of the increase is in Nairobi, the capital and largest city in the country. Approximately half the growth rate is due to natural increase with the rest a result of rural-urban migration.

#### Migration and Settlement Patterns

In addition to fertility and mortality rates, particular settlement patterns, including selective rural-urban migration, have greatly influenced population density as well as the age and sex structures of both rural and urban areas.<sup>12</sup>

Of a total land area of 569,000 km<sup>2</sup>, approximately 12 per cent is suitable for crop production under present technology. The remainder, 50 per cent of which is semi-desert--can support livestock to varying degrees. Colonial land policies reserved the majority of the high potential lands in Kenya for European settlers, pushing the indigenous populations onto African reserves. In addition, certain areas which included a measure of good agricultural land, were reserved for particular pastoral peoples or were declared Crown lands and settlement discouraged. Presently, the former European lands and the latter areas remain less densely populated than the former reserves.

<sup>12</sup>

Since the majority of international arrivals and departures are visitors, international migration is not a significant component of population change in Kenya (Uche, 1974:37).

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The 1969 Census indicates that of the population 15 years and older just under 8 per cent of the males and a little more than 5 per cent of the females were enumerated in a district other than their place of birth (Rempel, 1974: 3). Rural to rural migration includes government encouraged resettlement of landless people in the former White Highlands and more spontaneous movements from areas of high population density to available marginal lands.<sup>13</sup> These rural moves tend to be of a permanent nature involving both sexes and an older age of migrant-- i.e., over age 30.

The second type of migration is from major rural population centers to urban centers. Although rural-urban migration involves all categories of people, most urban migrants are young, educated men leaving areas of high population density in search of wage employment. As a result of historical disparities favoring males in education and employment, men are often better employment risks for household investment than women. The lack of opportunity for employment in the rural areas is often complicated by a scarcity of land resulting from a growing population on a small arable land base. Many male urban migrants are married and most of these leave their wives and children in the rural areas. Women often remain on the farm to maintain usufruct land tenure and to continue their primary occupations of farming, trading, and child-rearing. Married males migrate on their own for several reasons including the uncertainty of finding employment, the difficult urban housing situation, and the frequent need for support from home

<sup>13</sup>

This latter group faces the permanent risk of drought or crop failure and increases the marginality of pastoralists by encroaching on their grazing (ICD, 1972: 71).

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until adequate employment is secured. Men tend to perceive urban employment as a temporary condition prior to retirement in the rural areas. Therefore, they may maintain strong rural ties, channelling funds to their homes and providing a logistical base for other wage-seeking men from their home areas.

Although the primarily male character of Kenyan urban centers contrasts sharply with many other continental African towns, women do migrate to urban centers in Kenya. Studies of female migrants in Nairobi indicate that these women are predominantly landless, unemployed, and uneducated. Rather than the more strictly economic motives which attract male migrants, most females come to join their husbands, to escape domestic problems, to gain freedom from male control, or to join female relatives who are already working independently in an urban center (Bujra, 1975: 217; Nelson, 1975: 6-7). The majority are cut off from their rural origins by family conflicts and their lack of access to productive resources in their natal areas. As a result, they are more urban-oriented than most male migrants. ~~These women are not residing in the city temporarily;~~ they must establish secure, socially viable urban relationships to replace those of the rural areas (Bujra, 1975).

The sex and age ratio both of the urban and rural population reveals the influence of selective migration. While the sex ratio for the total population is 98.6 males for every 100 females, the urban ratio is 132.6 males and the rural ratio is 91.7 (DBS, 1975: 14). Thus, even though women comprise approximately half of the population, there are more men than women in the urban areas--i.e., males make up 57 per cent of the urban total-- and more women than men in many of the

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rural areas--i.e., 52 per cent of the rural population is female (ibid: 9). The majority of urban males are between 15 and 44 years of age. Most female urban migrants are between the ages of 15 and 34. There are more men than women in every age group above 20 years with the proportion of males rising to a maximum of 77 per cent in the 40-44 age group. In contrast, in the rural areas females exceed males in all but two of the age groups--i.e., 10-14 and over 60 (ibid:14).<sup>14</sup>

#### Women Heads of Household

In the rural areas, provinces with extensive male out-migration as Central, Eastern, Nyanza, and Western, tend to have a deficiency of males, a high ratio of dependent children and the elderly, and a disproportionate number of women. As a result, women are shouldering new burdens including greater farm labor and management responsibilities coupled with high dependency ratios. A significant number of women are operating smallholder farms on their own with only intermittent aid from their men--e.g., financial assistance from husbands working in urban areas or occasional irregular labor inputs from their own or their husband's family. According to the 1969 Census nearly 12 per cent of all women were heads of household. In urban areas, women were household heads in 16 per cent of the households in Nairobi and 12 per cent in Mombasa. In many of these cases, women are not being assisted by either affinal or own kin. Some are single women with children who have been ostracized by their own families and abandoned by the children's father. Others are women who may form temporary liaisons with men who have legal wives in their natal areas or who are saving money to marry upon their return to their rural homes. Some are widowed or divorced women (Remy, n.d.: 8-9). Significantly greater percentages of female headed households were located in provinces

<sup>14</sup> Cf. Appendix I, Table 4.

of high male out-migration. Winans suggests that 525,000 rural household heads in Kenya may be women. He estimates that 400,000 of these-- i.e., 1/3 of all rural households--may be households in which the male is residing in an urban area. The other households enumerated as female-headed may be the result of polygamous families in which the husband was residing with another wife at the time of the interview or of households where the husband has died or is living elsewhere in a rural area (1972: 6-7).

In 1973, the DBS estimated that 9 per cent of all women in Kenya were heads of households. Their data indicate that nearly 20 per cent of all household heads are female, ranging from 10 per cent in urban areas to 23 per cent in rural areas (1975: 21). The variation between the 1969 Census and the DBS is the result of a different method of determining the household head. While the former requires the household head to be resident, the latter identifies even absent males as the head if they have been away for less than three months (ibid). Of the households enumerated by the IRS, 24 per cent were female headed (1977: 33). However, a recent change in the definition of household head may decrease the number of female heads in future IRS work. With the new definition, resident women will not be considered heads even if their husbands are normally away from the holding if the men are understood to exercise final decision making responsibility (ibid:30-31). Using this definition, the latest figures from the CBS estimate

that the proportion of female heads of household is approximately 15 per cent (Social Perspectives/Vol. 2, No. 1: 7).<sup>15</sup>

### Population Projections

The rapid population growth, high dependency ratio, and patterns of internal migration outlined above have pervasive consequences for Kenya's present and future. Even if the rate of reproduction falls to a replacement level with mortality continuing to decrease moderately, the ILO Report estimates a rapid growth to 15.2 million people in 1990, 17.4 million in 2000, and 20.1 million in 2020 (1972: 122). Population projections prepared by the Government of Kenya range from 24.3 to 34.3 million in the year 2000 depending on the estimated fertility rate. Laurenti estimates that of a population of 24 million in the year 2000, 7.76 million, or 32.3 per cent, would be urban residents representing an eightfold increase in 30 years (1972:23). The high dependency ratio will be an increasing burden since a large proportion of the labor force which will have to support the next generation is already at work to be drawn from

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The determination of household head, particularly in broad one-interview surveys, is a complex problem which is probably amenable only to uneasy compromise. The acceptance by the 1969 Census of de facto residence is inadequate in situations where absent males participate actively in farm decisions or where such decisions are corporate involving a number of family members of both sexes. However, the DBS assumes a male head regardless of the degree of his participation in the household. In this case, a household may be under the daily control of a woman but if her man visits every three months, he is designated the household head. The IRS attempts to clarify the situation by identifying the final decision maker as the head regardless of place of residence. Since the decision making process is often complex and subtle, it is unclear how this information can be elicited adequately. It seems that in all cases, the category 'household' is strongly associated with maleness. It is only in the absence of any male that a woman may be considered to fill this role. The presence of a male, either permanently or intermittently, seems to exclude women from consideration. The IRS redefinition, accompanied by a warning that the number of female heads of household will probably decrease, seems to assume that the existence of a male figure, even if he never visits the household, means that he is the final decision maker for important aspects of that household.

the existing child population (ILO, 1972:123). These are significant considerations in a country in which approximately 12 per cent of the land is suitable for crop production under present technology,<sup>16</sup> and employment opportunities,<sup>17</sup> and urban services and infrastructure are not keeping pace with such growth.

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It has been estimated that Kenya had 4.2 acres of potentially productive land per person in 1965. With a 3.3 per cent increase in the population yearly, this average would decrease to 2.6 in 1980, 1.5 in 1995, and 1.3 by 2000 (Roggen, 1974: 128).

17

Rempel points out that even with a dramatic decrease in fertility rates, economic opportunities would have to increase 50 to 100 per cent to keep employment at the same level (1974:3).

18

Fine notes that as of 1974, 31 to 35 per cent of the annual recurrent budget is allocated to education. While the rate of total government expenditure is increasing at about 10 per cent per annum, the education budget is growing at between 15 to 20 per cent. At this rate, education would absorb the entire budget by 1987 (1974:47). Clearly, this type of expansion cannot continue and the number of spaces available for future children will not keep us with the demand.

### Adult Literacy

Precise figures on adult literacy in Kenya are difficult to obtain. Neither the 1969 Census nor the subsequent DHS or IRS enumerated literacy. However, a rough indication may be derived from the Census figures on level of educational attainment. If the completion of Standard Four in primary school is assumed to represent permanent literacy, 88 per cent of all women and 76.5 per cent of all men enumerated in the 1969 Census were illiterate. These national figures may be compared with those for Nairobi where 64 per cent of the females and 48 per cent of the males enumerated would be classified as illiterate.<sup>19</sup>

The Government of Kenya has attempted to promote literacy through a National Literacy Campaign, implemented through the Ministry of Housing and Social Services. The teaching of literacy and numeracy is provided in self-help literacy classes, classes organized by voluntary agencies, and government sponsored classes. Total enrollment in adult literacy classes for the years 1967-1974 was as follows:

<u>Year</u>	<u>Total Enrollment</u>
1967	22,000
1968	35,000
1969	32,000
1970	33,000
1971	34,000
1972	35,000
1973	32,000
1974	33,000

Source: Social Perspectives Vol. 1, No. 1:7

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<sup>19</sup>

These figures include all age groups so may be a bit inflated.

For the years 1973 and 1974, the CBS has published the following:

	<u>1973</u>	<u>1974</u>
Female, self-help	6,500	7,500
Female, government aided	14,500	14,500
Male, self-help	3,000	4,500
Male, government aided	7,500	8,000

Source: Social Perspectives Vol. 1, No. 1:6

These figures indicate a greater involvement in adult literacy classes by women than by men but little expansion in the program between 1973 and 1974.

#### Formal Education

The development of formal education in Kenya has been uneven, reflecting regional and ethnic disparities. In general, women's access to formal education is positively correlated with the overall level of education in an area. The latter depends upon the extent of missionary contact during the colonial period as well as the degree of present economic development and the political influence of the region (Kinyanjui, 1975). However, even among the most educationally advanced groups, more than 50 per cent of the women over the age of 12 had no education in 1969 and only 3 per cent had any secondary schooling (Smock, 1977: 24). Over 90 per cent of the women above 40 and 75 per cent of the women between 25 and 40 had never attended school. In the 10 to 24 age group, less than 50 per cent had any schooling and less than 25 per cent had completed more than Standard Four (ILO, 1972: 296). In 1969, the national average educational attainment was 2.1 years of schooling for those aged 25 and above. The educational attainment for women was 1.5 years (Kinyanjui, 1975:8).

The elimination of school fees for the first four years announced in the Government of Kenya Development Plan 1974-1978, increased regional parity but did not necessarily equalize opportunity by sex.<sup>20</sup> Drawing on CBS data, Smock argues that during the colonial period men and women shared limited access to educational facilities more equally than they do now (1977: 28). Although the proportion of Kenyans with some exposure to formal education has risen sharply between 1969 and 1973, it is only at the primary level that both sexes have benefitted equally. At the secondary level, the gap between the sexes has widened (CBS, 1975a: 5-6). Between 1963 and 1975, the proportion of women in the total enrollment of primary schools increased from 34 per cent to 46 per cent. However, the proportion of women decreases as the level of schooling increases--e.g., in Form I to IV, women were 32 per cent of the total enrollment in 1963, decreasing to 25 per cent by 1967 and slowly rising to 33 per cent in 1973. The same pattern is apparent in the higher secondary school figures, Form V-VI, where women are 23 per cent of the total in 1963 decreasing to 20 per cent in 1966 and rising again to 24 per cent in 1973.<sup>21</sup>

Similar patterns characterize advanced education. For example, the University of Nairobi had a female enrollment of 14.7 per cent in 1973 which dropped to 10.4 per cent in 1974 before rising to 17.6 per cent in 1975 (Krystall, 1976: 24, Table 14). Enrollment in non-university secondary school teacher's training was 57 per cent female in 1963 but fell to 27 per cent in 1973. In primary school teacher's training colleges, the proportion of females enrolled increased from 32 per cent

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Recently President Jomo Kenyatta announced that school fees for the first five years of primary education in Kenya were to be eliminated. However, parents remain responsible for building fees, uniforms, and equipment funds.

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Cf. Appendix I, Table 5.

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in 1964 to 40 per cent in 1973. However, the Ministry of Education indicates that further increases in female attendance is prevented by lack of appropriate facilities (ibid: 6). Kenya Polytechnics exhibit little involvement of women with a female enrollment of only 6 per cent in 1967 rising to 9 per cent in 1973 (ibid: 25, Table 15).

In comparing the levels of education completed by age and sex in Nairobi with those of Kenya as a whole, it is clear that Nairobi has significantly higher proportions of educated men and women, particularly at the higher levels of secondary education. There are fewer people without any education in Nairobi and a significantly above average proportion of people 25 years of age and older who have at least five years of formal education (Rempel, 1974: 69). Although Nairobi males have higher attainment than Nairobi females, both sexes exhibit higher attainment than the Kenya average. The small proportion of women resident in Nairobi compared to Kenya as a whole makes the degree of their education particularly striking (ibid:12).<sup>22</sup>

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Cf. Appendix I, Tables 6 and 7,

References Cited

- Bujra, Janet M.  
1975 Women "entrepreneurs" of early Nairobi. Canadian Journal of African Studies. Vol. IX, No.2, pp 213-234.
- Fine, Jeffrey  
1974 The financial crisis in Kenyan education: some perspectives on policy. Kenya Education Review. A Journal of the Faculty of Education. Vol.1, No. 3, pp.47-52.
- Herz, Barbara Knapp  
1974 Demographic Pressures and Economic Change: the Case of Kenyan Land Reforms. Washington, D.C.: Office of Policy Development and Analysis, United States Agency for International Development.
- International Labour Office  
1972 Employment Incomes and Equality: a Strategy for Increasing Productive Employment in Kenya. Geneva: International Labour Office.
- Kenya, Colony and Protectorate of  
1950 East African Statistics Department. African Population of Kenya Colony and Protectorate 1948. Nairobi: Government Printer.
- Kenya, Republic of  
1966 Ministry of Finance and Economic Planning. Statistics Division. Kenya Population Census 1962. Nairobi: Government Printer.
- 1970 Ministry of Finance and Economic Planning. Statistics Division. Kenya Population Census 1969. Nairobi: Government Printer.
- 1974 Ministry of Finance and Planning. Development Plan 1974-1978. Nairobi: Government Printer.
- 1975 Ministry of Finance and Planning. Central Bureau of Statistics. Demographic Baseline Survey Report 1973. Nairobi: Government Printer.
- 1976a Ministry of Finance and Planning. Demographic Working Paper No. 3. Educational characteristics and their Relationship to fertility for a selected area of Kenya. Nairobi.
- 1976b Ministry of Finance and Planning. Central Bureau of Statistics. Social Perspectives. Vol. 1, No. 1. Nairobi.
- 1977a Ministry of Finance and Planning. Central Bureau of Statistics. Social Perspectives. Vol. 2, No. 1. Nairobi.

- Kenya, Republic of  
1977b Ministry of Finance and Planning. Central Bureau  
of Statistics. Integrated Rural Survey 1974-1975.  
Nairobi.
- Kinyanjui, Kabiru  
1975 Education and formal employment opportunities for  
women in Kenya: Some preliminary data. Kenya Educa-  
tion Review. A Journal of the Faculty of Education.  
Vol. 2, No. 2, pp. 6-25.
- Krystall, Abigail  
1976 The education of Kenyan women since independence.  
Report for the National Commission on Educational  
Policies and Objectives.
- Laurenti, Luigi  
1972 Urbanization trends and prospects. In Urbaniza-  
tion in Kenya. International Urbanization Survey  
Report. Ford Foundation.
- Nelson, Nici  
1975 Some aspects of informal social organization of  
female migrants in a Nairobi squatter neighborhood:  
Mathare Valley. Paper I: Strategies of female  
migration to Mathare Valley. London University.  
School of Oriental and African Studies 75.1
- Ominde, Simeon H.  
1974 Demography and ethnic groups. In Health and Disease  
in Kenya. L.C. Vogel, A. S. Muller, R. S. Odingo,  
Z. Onyango, and A. DeGeus (eds.). Nairobi: East  
African Literature Bureau, pp. 27-48.
- Rempel, Harry  
1974 An analysis of the information on inter-district  
migration provided in the 1969 Kenya Census. Work-  
ing Paper No. 142, Institute for Development Studies,  
University of Nairobi.
- Remy, Dorothy  
n.d. An alternative to "equal access": an employment  
strategy for women. Washington, D.C.: Federal  
City College, Department of Urban Studies.

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- Roggen, L. G.  
1974 Family Planning. In Health and Disease in Kenya. L.C. Vogel, A. S. Muller, R.S. Odingo, Z. Onyango, and A. DeGeus (eds.). Nairobi: East African Literature Bureau, pp. 127-139.
- Smock, Audrey Chapman  
1977 Women's opportunities for education and its impact on their roles in Kenya. Unpublished manuscript.
- Uche, U. U.  
1974 Law and population growth in Kenya. Background paper for the Workshop on the Teaching of Population Dynamics in Law School. University of Nairobi (Nov. 24-30, 1974).
- Winans, E. Y.  
1972 Migration and the structure of participation: an investigation of the effects of migration on small farms and the role of rural women. Technical Paper prepared for the 1972 ILO Mission to Kenya.

## MARRIAGE LAWS AND CUSTOMS

### National Level

There is little published information regarding marital status at the national level in Kenya. Available statistics must be interpreted with care since marriages and divorces are not systematically recorded and Kenyan family laws and practices are varied. The 1969 Census<sup>1</sup> reports that of all respondents 10 years of age and older, 51 per cent of the males and 31.1 per cent of the females are single. Only 3.5 per cent of the women aged 30 and over have never been married,<sup>2</sup> compared to nearly eight per cent of the males in this category. The later age of males at first marriage is reflected in these figures. Married males comprise 46.2 per cent of the cited population while married females make up 55.6 per cent. In both DBS (1975)<sup>3</sup> and 1969 Census figures, the proportion of married women in the younger age groups is greater than the proportion of married men. Parity is approached at 30-34 and thereafter the proportion of married women in each age category is smaller than that of married men. The DBS attributes this pattern to a higher remarriage rate for widowers than for widows (1975:18), the former composing 1.2 per cent of the population and the latter 8.6 per cent. Both the 1969 Census

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'Single' is restricted to never married respondents. 'Married' includes participation in both formal unions and consensual arrangements. 'Widowed' defines those whose spouse is dead and who have not remarried. 'Divorced or separated' includes official divorces and informal separation.

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According to Uche, most Kenyan women marry before the age of 25. However, education to university or other professional levels increases marital age for both sexes. Most Kenyan university students marry between the ages of 23 and 27 (1974: 21).

3Cf. Appendix II, Table 1 for a comparison of 1969 Census figures with those of the DBS for equivalent categories. Although both sets of figures are similar, the lower proportion of single males enumerated by DBS may be the result of its exclusion of the largely single male institutional population.

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and the IRS (1977) estimate that approximately 21 per cent of the male household heads enumerated were married polygamously (IRS 1977: 33).<sup>4</sup> The proportions divorced or separated are insignificant for all age groups and both sexes--i.e., 1.6 per cent of the males and 2.7 per cent of the females. The DBS mode is 5 per cent for women aged 35-39 and the 1969 Census mode is 4.3 per cent for women 25-29 years of age. These figures are the percentages of individuals divorced or separated at the time of the enumeration and do not indicate the proportion of people who have ever been divorced or separated. It is unclear if the figures reflect a low rate of divorce or separation, a high rate of remarriage or reunion, or an underestimation as the result of poor enumeration or respondent's confusion regarding their status.

Modes of marriage and divorce in Kenya are complex and diverse. The existing variety of indigenous patterns increased with the introduction of Moslem, Hindu, and Christian practices. Although Anglo-Saxon laws embodying Christian British values were instituted during the colonial period, marriage and divorce laws were not unified. Rather, a plural system of family law developed officially recognizing and perpetuating the extant religious and ethnic diversity (Migot-Adholla,

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<sup>4</sup>While indicative of the total population of plural marriage, this composite figure does not reflect the considerable provincial variation--e.g., the proportion of polygamous marriages is about 1/3 higher for the Coast and Nyanza than for the other provinces. Cf. Appendix II, Table 2.

1974: 2). Presently, the judicial system recognizes five forms of marriage--i.e., customary, Moslem, Christian, Hindu, and civil.<sup>5</sup> Each is characterized by particular procedures, rights and obligations informed by specific legal regimes.<sup>6</sup>

#### Customary Marriage

The majority of Kenyans are married under customary law, a flexible set of conventions based on social practices which have acquired the status of law (Gutto 1976: 19). Although customary law is neither standardized nor codified and may vary both inter-ethnically and intra-ethnically, certain general principles can be identified.

Kenya's population is primarily patrilineal--i.e., descent is traced through males--with most wives residing with or near their husband's family. Spinsterhood is rare. Marriage permits a measure of security to women by providing access to land, the opportunity to bear legitimate children, and the assumption of fully adult status.

<sup>5</sup> There are also marriages presumed by law in which unions not initially contracted as legal marriages may assume that status if certain criteria are met. For non-Hindu monogamous unions, marriage may be presumed if there is some form of ceremony followed by long-term cohabitation. Under the Islamic system, marriage is presumed when a man acknowledges a child of the woman with whom he is cohabiting. Cohabitation followed by the payment of marriage gifts to the woman's family constitutes grounds to presume a customary marriage. All of these forms of marriage are extremely insecure since little contrary evidence is necessary to rebut such presumptions (Gutto, 1976: 3).

<sup>6</sup> In addition to a large number of customary laws which govern marriage and divorce for the majority of the African population, there are seven further enactments:

1. Marriage Act. Cap.150
2. African Christian Marriage and Divorce Act. Cap. 151.
3. Matrimonial Causes Act. Cap. 152
4. Subordinate Courts (Separation and Maintenance) Act. Cap.153
5. Mohammedan Marriage and Divorce Registration Act. Cap.155
6. Mohammedan Marriage and Succession Act. Cap. 156.
7. Hindu Marriage and Divorce Act. Cap. 157.

Throughout her marriage a woman remains a member of her own kin group but her degree of active participation depends upon factors such as proximity. Although a minimum age is unspecified, marriage is usually associated with puberty or initiation ceremonies (ibid: 20). Girls tend to marry close to puberty while boys delay to fulfill community obligations and to amass sufficient resources.

Marriage is contracted between two extended families, rather than two individuals, and establishes reciprocal affinal ties necessary for the continuation of the family within the larger pattern of social relationships. Consequently, parental assent to a marriage is more significant than individual choice. This is not to say that individual preferences are ignored or that it is normal to force people to marry against their wills. Rather, free individual choice is uncommon.

The marriage agreement is a process represented by and formalized through verbal negotiations by senior relatives of the prospective spouses; the exchange of visits, gifts, and/or labor; and the performance of certain ceremonies which mark stages of the process. Considerations include the probable fertility of the principals and their willingness to take on appropriate duties and responsibilities. A primary aspect of negotiation is the amount of bridewealth<sup>7</sup> to be given by the groom's family to be shared among the bride's kin. Bridewealth, usually paid in installments of livestock, goods, or cash, is often considered compensation for the loss of the bride's labor

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<sup>7</sup> The term 'bridewealth' is employed here because of its currency in the literature. Because 'bridewealth' is thought to imply that women are bought and sold, some of the recent Kenyan literature substitutes 'dowry'. However, in these instances, 'dowry' has the opposite of its European meaning.

and procreative potential. It functions to finalize the marriage, legitimize the children, and create the relationship of affinity (Dobkin, 1968: 392; Mbilinyi, 1972: 372; Read, 1969: 123; Redlich, 1971: 2). It is argued that payment provides stability since a broken marriage may require the return of the bridewealth. However, this very fact may put the woman securely under the jurisdiction of her husband's family and increase the cost to her of terminating the marriage (Migot-Adholla, 1974:5).

Almost all of the indigenous ethnic groups in Kenya permit unlimited polygamy--i.e., the right of a man to a multiplicity of wives (Migot-Adholla, 1974: 6; Read, 1969: 115). By enlarging a man's labor force, plural wives increase his productivity, wealth, and social prestige (Migot-Adholla, 1974: 6; Mbilinyi, 1972:372). In addition, the sterility of a wife or her failure to produce a son may prompt a man to further marriages. An already married man may also inherit a kinsman's widow. In most polygamous marriages, each co-wife is to be treated equally, having rights to her own house and gardens, to sexual intercourse with the husband, and to a fair share of any gifts he provides (SIDA, 1974: 29). The necessity of furnishing housing and land for each wife and the expense of bride wealth means that relatively few households are polygamous, usually those of elderly well-to-do men (Mbilinyi, 1975: 69).

Common law, determined, monitored, and sanctioned by the community prescribes the duties and obligations of both spouses, the relations between co-wives, and the appropriateness of punitive measures. If

either spouse is dissatisfied with the marital relationship, a general inquiry may be made by a community council. This group attempts to maintain family cohesion by reestablishing a livable relationship through arbitration and conciliation (Gutto, 1976: 23; Pala, 1975: 14). There are no specific grounds for divorce, the traditional basis being the total breakdown of the relationship (Read, 1969: 135; Uche, 1974: 24). A husband can initiate a divorce simply by ordering his wife out of the house and reporting his action to the council. Even though a wife has technical access to the conciliatory council, residence with her husband's family and the necessity of pleading her case before his kin make her situation more difficult.<sup>8</sup> She can appeal to her family for aid but the efficacy of this depends upon their proximity, relative influence, and attitude toward the bridewealth. Nowadays, in addition to community councils, the District Magistrate's court may be petitioned for the dissolution of a customary marriage. However, such courts frequently uphold patrilineal privileges as stringently as the councils. As a response to these obstacles, women often achieve a de facto divorce by running away and successfully avoiding capture.

As a result of patrilocal residence, male ownership of productive resources, the absence of community property, recognized male rights

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For example, for a woman to obtain a de jure divorce among the Pokot of Kenya, her kinsmen must present her case to a council composed of the husband's relatives. Physical or moral injury must be proven. If agreed, the marriage is terminated. If not, the wife is returned to her husband. The authors note that the conditions are almost impossible to meet. Informants could recall only two cases in which women were granted a divorce and both involved impotent husbands (Edgerton and Conant, 1964: 115).

to children, and the payment of bridewealth, the dissolution of a customary marriage is often less disruptive and costly for a man than for a woman. Women may go homeless, landless, and frequently childless with no compensation for their labor and no claim to maintenance. Customary law assumes that a divorced woman will return to her natal family for support. However, a run away wife may not be welcome in her family's home. Her own male kin may even beat her in an attempt to force her to return to her husband and thereby retain their rights to the bridewealth. In addition, land scarcity and inflation have reduced the ability and willingness of families to provide for extra people. Even if she succeeds in leaving her husband and returning home, a divorced woman may find herself an unpaid laborer in the household of her relatives working for food and shelter. Remarriage is possible only for younger, fertile women. Thus, flight offers little social or economic security especially for middle-aged or older women. Consequently, many women prefer to remain unhappily married rather than risk these hardships (Migot-Adholla, 1974:9).

In reflection of the familial nature of customary marriage, the death of a husband does not necessarily terminate the marriage (Hamilton, 1973:7; Read, 1969: 129). If a woman is widowed past her child-bearing years, she may be required to return to her natal kin unless she has an adult son with whom she may remain on her deceased husband's property. For a widow of child-bearing age, several institutions exist to retain her procreative potential (Mullinyi 1975:69; Read, 1969:129). The levirate is a system in which the widow co-habits with the husband's brother or other close relative and bears children to the deceased man. (Hamilton, 1973:7). With widow inheritance the

widow ~~cohabits with a relative of her husband but resultant children~~ belong to their natural father (ibid). Finally, in women to woman marriage, a widow may marry another woman, select a man to cohabit with her and claim any children as her own in the patrilineal line of her deceased husband (ibid). In some cultures, if a widow refuses to stay with one of her husband's relatives and marries elsewhere, subsequent children may be claimed by the deceased husband's family. Since a departing widow may take only the property which she brought to the marriage or gifts from her husband (Mbilinyi, 1975: 69), widow inheritance or levirate may be the only options which allow her access to the resources developed during her marriage (Migot-Adholla, 1974:10).

#### Islamic Marriage

The rights and obligations of an Islamic marriage are dictated by the tenets of the Koran which are adhered to by approximately 4 per cent of the population of Kenya (Uche, 1974: 21). Although based on a written religious document, Islamic law in Kenya is not monolithic, being subject to minor variations in interpretation and practice (Gutto, 1976: 19).

Islamic marriage is a contract between a Moslem and a woman of particular religious beliefs which is intended to last a lifetime.<sup>9</sup> A Moslem man may marry any woman observing the kitabiyya--i.e., any woman who follows recognized religious books which includes Christians while disallowing Hindus or pagans. However, a Moslem woman who marries a non-Moslem must renounce her faith and may not be married under Islamic law (ibid: 22). There is no specified minimum age for

<sup>9</sup>

However, the Moslems of the Ithna-Asheri community recognize mutaa, a temporary marriage of fixed duration (Gutto, 1976: 20; Read, 1969: 115).

marriage. Although child marriages are not forbidden, women usually marry following the onset of puberty (ibid : 20). Men are frequently older at first marriage because of their need to accumulate financial resources. Since the free consent of both parties is required, women have the technical right to refuse a marriage.<sup>10</sup> To be valid the marriage contract must be signed in the presence of two credible witnesses and the man must pay the woman a portion of the mahr, a compulsory gift for the bride's exclusive use. The total amount of the mahr and the proportions to be paid at marriage and to be reserved for payment in the event of the husband's death or a divorce are negotiated prior to the ceremony. If the larger amount is paid at marriage, women have more money to outfit themselves and their new homes. However, a substantial delayed payment provides assistance for widows and may discourage a husband from divorce.

Most Moslem African and Arab men may marry polygamously as long as they do not exceed four concurrent wives. However, most Asian Moslem men<sup>11</sup> (Read, 1969: 116; Uche, 1974: 22) and all Moslem women (Gutto, 1976: 20) are required to be monogamous. A Moslem husband is required to adequately maintain his wife or wives, generally in separate houses, and to treat them equally (ibid: 23). The husband has exclusive rights over his wife's sexual activity and is entitled to a certain degree of obedience.<sup>12</sup>

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<sup>10</sup> However, in addition to informal family pressures, in some Moslem communities the guardian of a minor or unmarried adult woman may arrange a marriage for the ward without seeking her consent (Gutto, 1976: 21).

<sup>11</sup> For example, Shia Imami Ismailis are not permitted to be polygamous (Read, 1969: 116).

<sup>12</sup> The degree of obedience varies from standard deference behavior in public to virtual confinement in the household.

Available methods of divorce differ by sex.<sup>13</sup> A man may unilaterally divorce his wife with impunity on unspecified grounds by pronouncing three talakas--i.e., 'I divorce you'--in front of credible witnesses (ibid: 23). Following a divorce, there is a three month waiting period called 'iddah during which the woman may not marry another man. This lacuna permits reconciliation but also insures paternity if the woman is pregnant. During 'iddah the couple may reconcile without a new marriage contract. However, remarriage following 'iddah requires a new contract. A wife does not have the right to unilaterally divorce her husband unless the latter has contractually delegated that power to her (ibid:24). A woman may divorce by mutual consent following her agreement to compensate her husband (Uche, 1974: 24-25). The only independent means a wife has is to petition a kadhi to dissolve the marriage. This process may be costly and time-consuming<sup>14</sup> and requires adequate grounds--e.g., the husband's inability or unwillingness to maintain her, physical abuse of her, impotence, refusal to engage in sexual intercourse for an extended period of time, long-term imprisonment, or prolonged absence without good reason.<sup>15</sup> Following a divorce, the husband is obligated to support his former wife for 100 days, primarily a safeguard in case she is pregnant. After this period there is no requirement for maintenance. If the woman is pregnant, the man must support her for 40 days after the child's birth.

<sup>13</sup>They may also differ between Moslem communities. For example, Ismailis seeking divorce must present their case before domestic tribunals (Read, 1969: 134).

<sup>14</sup>For example, to seek a divorce from a kadhi a woman must travel to an appropriate court. In Kenya, Kadhi's courts are located only in Garissa, Lamu, Kisumu, Mombasa, and Malindi. The appointment of a kadhi to Nairobi is presently under discussion.

<sup>15</sup>What constitutes a prolong absence varies with the context.

### Hindu Marriage

Hindu marriages are monogamous unions which are frequently arranged along caste lines by the families of the prospective spouses. Family decisions are more significant than individual preferences but consent is usually forthcoming in obedience to the wishes of the family. However, the importance of individual decisions is increasing. The minimum age for marriage is 18 for males and 16 for females (Read, 1969: 119). Typically the bride brings a predetermined dowry to the marriage but the husband is expected to support the family. Divorce is possible under the Matrimonial Causes Act described below.<sup>16</sup>

### Civil Marriage

Legal monogamous marriages may also be performed under the Marriage Act and the African Christian Marriage and Divorce Act. The majority of the marriages solemnized under the latter were originally customary and subsequently converted into monogamous Christian marriages which follow the basic tenets of the Marriage Act. According to the latter, the minimum age for marriage is 18 years for both sexes under own volition and 16 years with the written consent of a legal guardian or the courts (Gutto, 1976: 10)<sup>17</sup>. Ideally, the marital contract represents the lifetime voluntary union of one man and one woman to the exclusion of all others.

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<sup>16</sup> Hindu divorce laws accept additional grounds not included in the Matrimonial Causes Act--e.g., the conversion of the spouse to another religion or the spouse's renunciation of the world signified by entering a religious order and remaining for at least three years (Uche, 1974: 25).

<sup>17</sup> Section 11 of the Marriage Act, as amended by Act No. 7 of 1975.

Jurisdiction over all matrimonial causes of monogamous marriages is the exclusive province of the High Court.<sup>18</sup> If the court finds sufficient irregularities in the marital procedure, a marriage will be declared null and void.<sup>19</sup> Either spouse may initiate a divorce or separation. However, under the provisions of the Subordinate Courts (Separation and Maintenance) Act, only women may pursue judicial separation in the less time-consuming and less expensive Magistrate's Courts (ibid:17). The Matrimonial Causes Act lists four primary grounds for divorce: spouse of petitioner has committed adultery since the marriage, petitioner has been deserted for a period of at least three years at the time of the petition, spouse has treated petitioner with cruelty since the date of the marriage, or the spouse of the petitioner is incurably mentally ill and has been under treatment continually for a period of five years (Uche, 1974: 25). The following additional bases for divorce or separation are available solely to female petitioners: the husband is an habitual drunkard or drug-taker, has contracted a venereal disease, has subjected his wife to prostitution, has been convicted of a crime under the penal code for having caused her actual bodily harm, has failed to provide wife and children with the necessities of life, or has been found guilty since marriage of rape, sodomy, or bestiality (Gutto, 1976: 17-18). In appropriate cases, a wife may be awarded alimony or maintenance. Under the Matrimonial Causes Act,

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With the exception of marriages converted from customary law under the provisions of the African Christian Marriage and Divorce Act which are dissolved by the Subordinate Courts (Gutto, 1976: 17).

<sup>19</sup>However, any children born to such a union are legitimate to the parents (Gutto, 1976: 17).

the wife's financial status is to be considered in the computation of alimony or maintenance. In addition, if a wife has been found guilty of adultery, cruelty, or desertion, the court may order that her property be used to support her husband and children. The Subordinate Courts (Separation and Maintenance) Act, on the other hand, does not require the consideration of such factors. The death of a spouse marks the end of the civil status of marriage under this regime. A widow may choose to remain single or to remarry as she wishes. Any children subsequently produced are those of the natural parents.<sup>20</sup>

#### Plurality and Syncretism

The plurality of Kenyan family laws fosters disunity by sanctioning marital models which are diametrically opposed on crucial issues, by attributing differential status to theoretically equal matrimonial types,<sup>21</sup> and by providing inadequate means to monitor breaches of the law.<sup>22</sup> These institutional weaknesses are exacerbated by rapidly changing socioeconomic circumstances including the increased physical mobility of the population which facilitates marriages between members of different religious and ethnic communities and erodes community control over individual actions; enhanced opportunities for economic independence from kin which contributes to a

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These provisions also apply to widows married under the African Christian Marriage and Divorce Act (Uche, 1974: 22).

<sup>21</sup>

Mogot-Adholla notes that monogamous marriages can be changed to statutory under the provisions of the African Christian Marriage and Divorce Act, but there is no provision to convert polygamous marriages to statutory. In addition, lower tribunals have jurisdiction over customary marriage and divorce while the higher or superior courts deal with statutory cases (1974: 3-4).

<sup>22</sup> For example, the lack of a comprehensive system to register marriages and divorces at the national level deprives the judicial system of an official indicator of an individual's marital status. As a result, a man with customary wives may marry another woman in a monogamous civil ceremony with impunity.

more individualized conception of family obligations; and greater diversity of sexual mores which extend the range of possible relationships.

Within this context, Kenyan marriages are becoming increasingly syncretic, partaking of various aspects of available modes and creating new alternatives. In fact, the primary emerging pattern appears to include the selective exploitation of available modes to assume their benefits while avoiding concomitant obligations (Migot-Adholla, 1974: 10). As a result, expectations regarding procedures, rights, and obligations are becoming unclear and frequently contradictory.

While these confusions affect all marital types, customary and civil marriages seem most influenced. The vagueness and variety of customary laws, the decreasing customary legal expertise among younger generations of Kenyans, and the increasingly heterodox nature of social mores complicate the ready applicability of customary laws to changing conditions. Consequently, misunderstanding and conflict may arise. For example, Migot-Adholla cites the paradoxical position of many educated women who take considerable pride in the prodigious bridewealth they attract while simultaneously rejecting other customary procedures in demanding equality with their husbands and denying the validity of corporal punishment or the levirate (1974:6). Civil marriage procedures, on the other hand, although standardized, codify Anglo-Saxon values which are not widely held. As a result, civilly married individuals may encounter considerable pressure from the conflicting demands of the broader society. A recurring conflict

for men is that between the social prestige accorded a monogamous civil or church wedding versus the status enhancement of multiple wives. The problem may be particularly acute in urban areas where a man previously married by customary law must balance the advantages of a formally educated, sophisticated urban wife, who may be an economic liability, against the illegality of bigamy or the divorce of economically productive rural wives. Although nationwide, these problems seem most pronounced in urban settings where the multiplicity of models is underscored by religious and ethnic heterogeneity and disjunctive social factors are concentrated.

#### Urban Unions

The character of urban unions, which range from ephemeral acts of prostitution to formalized long-term marriage, is heavily influenced by the patterns of rural to urban migration described above. Many men look upon their urban sojourn as temporary with a permanent family proposed or existing in their natal areas. Therefore, they seek transitory liaisons entailing a minimum of responsibility and financial cost. The marital strategies of many urban women, on the other hand, must be understood in terms of their utility in establishing a secure urban base to replace rural ties. While the urban sex ratio results in a considerable demand for the domestic and sexual services of women, lack of appropriate education and technical training restricts most female access to and participation in formal sector employment. As a consequence, the primary cash-earning occupations available to women are prostitution, petty trade, and beer-brewing--all occupations supplying low and uncertain incomes but allowing subsistence without the provision of productive resources

by a male kinsman. Marriage or consensual unions may actually decrease a woman's economic means by barring her from lucrative professions such as prostitution and limiting her to the economic resources of a single man. However, more exclusive unions may provide the companionship lacking in prostitution.

While a few women marry formally anticipating associated rights and obligations, the majority enter consensual unions lasting from a few days to a lifetime.<sup>23</sup> Although legal wives may gain a measure of respect, it is unlikely that the stability of the relationship is increased. However, economic expectations may vary significantly between formal marriages and consensual unions. A man is expected to take greater economic responsibility for his family in the former than in the latter. In a consensual union, the woman buys her own clothes, takes absolute responsibility for the children, and supplies domestic and conjugal services in exchange for housing and food (Nelson, 1975: 13). Therefore, she must have a separate income.

To maximize the positive aspects of independence and interdependence, a number of urban women adopt a pattern of temporary liaisons with particular men interspersed with prostitution (Bujra, 1975: 224). In middle or old age, they may seek more settled relationships with one man. Or, a childless, older independent woman may obtain security for her old age and heirs for her property through an adaptation of the institution of woman to woman marriage--i.e.,

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Even in consensual unions lasting over a decade in which the town woman has the approval of rural wives and the relationship between the couple is good, many women in Nelson's study said that they were not "really" married--i.e., the necessary procedures had not been performed for their relationship to constitute a customary marriage (1975: 13).

she may marry a younger woman, select a man to cohabit with her, and claim the offspring in her own matrilineal line (ibid: 231).

The disparate adaptive strategies of urban men and women coupled with the lack of strong cohesion result in a proliferation of syncretic unions primarily characterized by instability. Further, this lack of norms and strong, unambiguous community sanctions frequently means that effective mediation or redress in time of conflict is rare and most disagreements are ultimately settled by desertion.<sup>24</sup>

#### Commission on Marriage and Divorce

In 1967, the Government of Kenya appointed a Commission on Marriage and Divorce to recommend modifications in the legal code which would reduce problems resulting from the multiplicity of applicable laws and improve judicial procedures. Their final report, submitted in 1968, is an attempt to unify marriage and divorce laws by designing legislation which is uniform at the national level yet still permits individual choice of marital type--i.e., customary, Islamic, Hindu, or civil.<sup>25</sup> According to these proposals, all

<sup>24</sup>In established residential areas with long-term residents, such as Mathare Valley, certain rural institutions may be adapted to this urban situation. For example, the KANU Committee of Elders, an adaptation of the rural Kikuyu elders, whose orders are enforced by the KANU Youth Wing, may hear cases of domestic dispute. If the couple is legally married they do not interfere but if it is a consensual union, they perform some of the functions that kin would in a rural area. Nelson cites a case in which a woman's lover had seriously beaten her a number of times. She complained to the Committee who divided the household effects between the parties, locked the woman's belongings in a safe place, locked the house and told the man to take his property and leave. The woman was escorted to her rural home and advised to stay with relatives until it was safe to return (1975: 12).

<sup>25</sup>However, the judicial system would no longer recognize mutaa, the temporary marriage of the Ithna-Asheri community (Read, 1969:115) and the Islamic form of marriage would remain restricted to marriages in which the husband was a Moslem.

marriages are to be of equal status under the law and to be registered in a common system.<sup>26</sup> The validity of a marriage depends upon prior public notice of intention, the free consent of both parties, two credible witnesses, and a minimum age of 18 for males and 16 for females with parental consent (Read, 1969:119) and 21 for both sexes on their own volition (ibid:121).<sup>27</sup>

The Commission recommends that marriage be of two types--i.e., those intended to be monogamous and those intended to be polygamous or potentially polygamous. The nature of the marriage is to be agreed to in writing by both parties prior to the marriage.<sup>28</sup> Conversion to either type may be made subsequently by a joint written declaration before a registrar that each spouse agrees to the change of their own free will. In a polygamous or potentially polygamous union, the husband must obtain the consent of his existing wife or wives to marry again. The latter may refuse on the grounds of financial hardship or the personal unsuitability of the proposed co-wife. Co-wives are to rank equally before the law but impartial treatment by the husband is a domestic rather than a legal matter.

<sup>25</sup>

Under the proposed system, for example, civil marriages could be polygamous and there are provisions for the conversion of polygamous marriages into monogamous marriages and vice versa.

<sup>27</sup>

While there is no provision for child marriage, at the court's discretion, a marriage may be permitted if both parties are at least 14 years of age and the girl is pregnant (Read, 1969: 119).

<sup>28</sup>

The nature of marriages contracted prior to the adoption of the Act will be determined by their form--i.e., they will be designated polygamous or potentially polygamous if they are customary or Islamic (with the exception of Shia Imami Ismailis) and otherwise monogamous unless the contrary is proven (Uche, 1974:22).

It is a husband's duty to maintain his wife or wives suitably with respect to his means. If maintenance is not forthcoming, a wife has the right to pledge her husband's credit for necessities (ibid:131).

The payment of bridewealth is recognized as a legitimate contractual obligation for which marriage provides the consideration. With non-payment, the delinquent party can be sued. However, the payment of bridewealth is separate from the validity of marriage and even with non-payment the marriage remains valid. Obligations for payment cease with the death of either spouse (ibid:123). In addition, corporal punishment of spouses is to be abolished officially and adultery made a criminal offense for all parties, damages assessed with regard to the customs of the community.

The death of either spouse terminates a marriage. Termination through divorce is possible only by the decree of a competent court and must be officially registered. An attempt at reconciliation through a recognized conciliatory body<sup>29</sup> must precede the filing of a petition for divorce. The sole grounds for divorce is the irreparable breakdown of the marriage (ibid: 134). Evidence includes, but is not limited to, adultery, cruelty, sexual perversion, wilful neglect, wilful desertion for three years, voluntary separation for five years, triple talakas at 30 day intervals by a Moslem husband, incurable mental illness, change of religion if both share a religion in which conversion is presently grounds for divorce, or imprisonment for five years (ibid: 135). The Commission specifically rejects impotence or sterility as evidence of irreparable breakdown

<sup>29</sup>This body is to be selected by the spouses and may be a religious council, council of elders, a marriage tribunal (i.e., a proposed local body to be appointed by the District Commissioner in each area), or another appropriate body (Read, 1969:134).

even though this is inconsistent with customary law (ibid:136).<sup>30</sup> The court may order a man to pay maintenance to his wife or former wife if he has deserted her, for her support during any marital proceedings, or following a decree of divorce or separation. Similarly a wife may be directed to maintain her husband if she has the means and he is incapacitated and lacks means (ibid:139).

Although neighboring Tanzania incorporated the majority of these proposals into its Marriage Act of 1971, Kenya has yet to adopt the recommended reforms. Each time the proposed Act has been raised in Parliament, the intensity of debate has led to postponement. Both the debates themselves and the discussions they have generated provide useful insights into the substance and implementation of family law legislation in Kenya, particularly with respect to women.

Significantly, dispute has centered on proposed reforms which are perceived to transgress religious or traditional spheres of male privilege, including legislation designed to regulate male rights to multiple wives, obligations to support widowed or divorced women, and freedom to commit adultery or to corporally punish wives. Elements in the Moslem community are vigorously opposed to certain proposals which they argue conflict with Koranic injunctions and restrict their religious freedom. Specifically, they object to laws requiring the court's approval to marry, the permission of an existing wife to take another, grounds for divorce which do not include talakas,<sup>31</sup> and maintenance for divorced women exceeding Koranic specifications.

Disagreement, however, is not confined to the Moslem community.

Even though the incidence of polygamy in Kenya is relatively low, the  
<sup>30</sup>Impotence at the time of marriage--i.e., inability to consummate the marriage is grounds for nullity.

<sup>31</sup>

Under the proposed act, talakas would not be sufficient in themselves to constitute a divorce but could be presented as evidence of irreparable breakdown.

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fervor of debate indicates its ideological import. Supporters argue primarily on the basis of traditional male privilege but also cite possible social benefits such as the protection afforded a barren wife who is less likely to be divorced and abandoned if her husband can take a second wife or a potential decrease in the number of prostitutes with the greater absorption of single women into polygamous unions. The opposition, primarily Christian groups, national women's organizations, and educated young people, assert that children suffer when one wife is favored over another, that polygamy increases the already alarming rate of population growth, and that the traditional basis for the institution with its built-in safeguards for plural wives is gone leaving such women open to exploitation. In addition, it is argued that increasing land scarcity makes it more economical to divorce a barren wife than to take an additional wife (Nelson, 1975: 6). Although corporal punishment is seldom supported publicly by politicians, letters to Kenyan newspapers and informal discussions reveal a widespread belief that it is a husband's right to beat his wife and his decision is a domestic and not a legal matter.<sup>32</sup> With respect to adultery, the Parliament opposed legislation which would make it possible to sentence a husband to six months imprisonment for having sexual intercourse with a woman other than his wife.

<sup>32</sup>

This belief is clearly embodied in the practices of informal judicial groups in urban areas such as Mathare Valley. In Mathare Valley, the KANU Committee of Elders tries local cases within Mathare. Women who have been beaten by their lovers may bring cases to the Committee. If the couple are legally married, the Committee will do nothing. If they are not married the man will be warned not to repeat the offense. If the woman complains again the man will be fined or told to leave the woman's house. (Nelson, 1975:11-12).

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The attitudinal and behavioral patterns underlying these disputes have profound consequences for the content and impact of legislation. This is particularly the case with regard to women who must depend upon strongly male-dominated legislative and judicial bodies to define and protect their legal rights. In the majority of these debates, women are relying on men to decrease their own spheres of power. Women are further disadvantaged by the frequent failure of legislators to recognize the structurally different social positions of men and women. As a consequence, much legislation is insensitive to the socioeconomic context in which women function. Their relative lack of formal education or knowledge regarding legal matters and their economic vulnerability leave women particularly susceptible to parental pressures or to the demands of their often older, more economically-established husbands. It should be noted that the difficulties women face in asserting their legal rights are normative as well as economic. The problems of educated elite women are clearly reflected in the dearth of prosecutions for bigamy and adultery even though the abuses are widespread (Gutto, 1976: 13-14; Migot-Adholla, 1974:8).

Obviously, questions of implementation assume significant proportions in determining the impact on women of any legislation. Although a number of reforms suggested by the Commission would benefit women theoretically, inadequate attention has been given to these practical issues. For example, it is unclear what mechanism would insure a woman's right to withhold her consent to a marriage, to forbid her husband another wife, or to refuse to change the monogamous or polygamous nature of her marriage.

In addition, problems arise from the Commission's response to a basic dilemma-- i.e., how to unify disparate laws while recognizing the rights of various communities. Partially as a result of an underestimation of the tenacity and emotiveness many community beliefs,<sup>33</sup> the Commission attempts to resolve the problem in a curious but significant manner. They decide against the codification of customary laws arguing that it would "impede natural and gradual change" (quoted in Read, 1969: 126), but simultaneously refer significant decisions to local community practices (ibid: 130). As a consequence, a measure of ambiguity is introduced which tends to be disadvantageous for women. For example, according to the Commission, a divorced woman is entitled to maintenance. Realistically, it is unlikely that a rural woman would be aware of such a law, and if she were, it is doubtful that she could successfully insist on her rights against the wishes and expectations of her husband's family (Mbilinyi, 1972: 376). In most cases, customary laws which protect the interests of the husband and his family would be employed. Even if a woman is aware of her rights and successfully presses for maintenance, the court is instructed to take community practices into consideration (Read, 1969:139). Since women are not compensated under customary law,

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<sup>33</sup> This is evidenced by the Commission's relegation of institutions such as bridewealth (Read, 1969:123) and polygamy (ibid:116) to "dying" customs. The ideological import and widespread acceptance of polygamy is clear (Uche, 1974:2). Admittedly, the institution of bridewealth has undergone situational adaptations--e.g., payment may be made exclusively in cash by the groom without the aid of his family to the bride's father who may not distribute it to other kin (Migot-Adholla, 1974:4) or employed by women may pay their own bride-wealth to their fathers to be free to marry as they wish or to their husbands to obtain a divorce without the permission or assistance of their own families (ibid:7). However, the essentiality of bridewealth to the establishment of a recognized marriage and the production of legitimate children remains pervasive (Read, 1969:123).

the situation remains ambiguous and is unlikely to be resolved in the woman's favor.

As a result of such problems of implementation and clarification, Mbilinyi has described the proposals as a positive first step which needs further development (1972:376). However, the difficulties are more than technical problems of drafting or definition. Migot-Adholla's characterization of the reforms as too ambitious is made in recognition of the disjuncture which exists between these proposed state dictated norms and common social beliefs and practices (1974:11). Conflicts of this type cannot be solved by legislation alone. Rather, clear, socially-sensitive legislation, feasible mechanisms of implementation, and adequate dissemination of information must be accompanied by changes in social attitudes and behaviors at the local level. Women's position in marital relationships and their ability to assert their legal rights will remain variable and ambiguous unless changes occur as a result of social factors such as improved access to formal education and to wage employment.

REFERENCES CITED

- Bujra, Janet M.  
1975 Women 'entrepreneurs' of early Nairobi. Canadian Journal of African Studies, Vol. IX, No. 2, pp. 213-234.
- Dobkin, Mariene  
1968 Colonialism and the legal status of women in Francophone Africa. Cahiers d'Etudes Africaines. Vol. 8, pp. 390-405.
- Edgerton, Robert B. and Francis P. Conant  
1964. Kilipat: the 'shaming party' among the Pokot of East Africa. Southwestern Journal of Anthropology. Vol. XX, No. 4, pp. 404-418.
- Gutto, Shadrack B. O.  
1976 The status of women in Kenya: a study of paternalism, inequality, and underprivilege. Discussion Paper No. 235. Institute for Development Studies, University of Nairobi.
- Hamilton, Cecelaine Fleming  
1973 The legal status of women. Ford Foundation. Unpublished paper.
- Kenya, Republic of  
1971 Ministry of Finance and Economic Planning. Statistics Division. Kenya Population Census 1969. Nairobi: Government Printer.
- 1975 Ministry of Finance and Planning. Central Bureau of Statistics. Demographic Baseline Survey Report 1973. Nairobi: Government Printer.
- 1977 Ministry of Finance and Planning. Central Bureau of Statistics. Integrated Rural Survey 1974-1975. Nairobi: Government Printer.
- 1968 Report of the Commission of Inquiry. Commission on the Law of Marriage and Divorce (Spry Commission). Nairobi: Government Printer.
- Mbilinyi, Marjorie  
1972 The state of women in Tanzania. Canadian Journal of African Studies. Vol. 6, No. 2, pp. 371-377
- 1975 Where do we go from here? Kenya Education Review. A Journal of the Faculty of Education. Vol. 2, No. 2, pp. 69-78.

- Migot-Adholla, Shem E.  
1974 Some sociological aspects of family law in Kenya. Paper prepared for the Conference of the Kenya National Council of Women and the University Women's Association, University of Nairobi. (Nairobi, 1 February). Also published in Joliso (Journal of Literature and Society). Vol. 2, No. 1, pp 125-133.
- Nelson, Nici  
1975 Some aspects of informal social organization of female migrants in a Nairobi squatter neighborhood: Mathare Valley. Paper I: Strategies of female migration to Mathare Valley. London University. School of Oriental and African Studies 75.1.
- Pala, Achola O.  
1975 A preliminary survey of the avenues for and constraints on women in the development process in Kenya. Discussion Paper No. 218. Institute for Development Studies, University of Nairobi,
- Read, James S.  
1969 Marriage and divorce: a new look for the law in Kenya? East African Law Journal. Vol. 5, No. 1, pp. 107-140.
- Redlich, Leslie C.  
1971 Preliminary report on the role of women in the Kamba household: a study of comparative behavior in direct relation to variance in social structure. Occasional Paper. Department of Sociology, University of Nairobi.
- Swedish International Development Authority  
1971 Women in the rural areas of Kenya and Tanzania. In Women in Developing Countries: Case Studies of Six Countries. Stockholm: SIDA, pp. 25-37.
- Uche, U.U.  
1974 Law and population growth in Kenya. Background paper for the Workshop on the Teaching of Population Dynamics in Law Schools. Jointly sponsored by the Faculty of Law, University of Nairobi and the Population Programme of the Fletcher School of Law and Diplomacy, Tufts University. (Nairobi, 24-30 November 1974).

### LEGAL RIGHTS

To the extent that it is in the public interest, Section 70 of the Kenya Constitution guarantees certain fundamental rights and freedoms including:

- a. life, liberty, security of the person and the protection of the law;
- b. freedom of conscience, expression, assembly, and association;
- c. protection for the privacy of the home or other property and from deprivation of property without compensation.

As these privileges are insured regardless of race, tribe, place of origin or residence or other local connection, political opinions, color, creed, or sex, both men and women should benefit equally.

However, in defining legal protection against discrimination, Section 82 (3) forbids differential treatment on the basis of every category in Section 70 except sex. Consequently, there is no specific constitutional injunction against legislation which favors one sex to the detriment of the other. Nor is there any explicit assurance of equality before the law regardless of marital status. In addition, according to Section 82 (4), discriminatory legislation may be passed with respect to inheritance, adoption, marriage, divorce, or burial-- i.e., personal laws, like customary and religious laws, are exempt from court challenges based on alleged discrimination (Gutto, 1976:5).

Since differential treatment of the sexes is an institutionalized aspect of both customary and religious legal regimes, the lack of explicit constitutional protection against sexual discrimination is particularly significant. The existence of discriminatory laws and de facto patterns of discrimination strongly influences the socioeconomic possibilities of Kenyan women (Germain and Smock, 1974:18).

### Property Ownership

Like marriage and divorce, property ownership is complicated by the existence of several overlapping legal regimes. Rather than providing a detailed description of each system, the following discussion emphasizes the impact of existing property laws on the present socioeconomic situation of Kenyan women. Since the property rights of the majority of Kenyans are heavily influenced by customary law, particular attention is given to women's changing relationship to property within this system.

#### Customary Property Ownership

Unlike western tradition, customary property law is less concerned with the rights of persons over things than it is with obligations created between persons with respect to things. Consequently, one can rarely speak of absolute ownership in this system. While a limited number of material goods may be considered personal--i.e., property primarily identified with an individual and over which he or she exerts major rights of use, allocation, and transmission--under certain circumstances, even these items may be legitimately appropriated by particular categories of relatives, leaving their former holder with little recourse. Most commonly, individuals or groups have certain rights in property which is itself corporately held--i.e., its ultimate source and control is vested in a kin or local group which allocates rights to particular individuals or families. Thus, most material possessions exist as nexus connecting a broad network of interacting social beings. Individual property rights are both legitimated and qualified by one's structural and spatial position within such a network. Both sexes occupy recognized positions and post-marital residence patterns imply disparate rights

in property. In addition, within a particular sex, a temporal aspect is introduced since specific stages in an individual's life cycle may also influence access to property--e.g., the rights of a young, single girl; a married, but childless, woman; and an elderly grandmother may differ.

Single women may have personal property which includes clothing, Jewelry, pipes, gourds, drinking straws, etc. These may be self-made or the gifts of friends, kin, or suitors. Basic household articles such as cooking pots and utensils or baskets acquired by a woman prior to her marriage also fall into this category. In addition, single, widowed, or divorced women residing with their natal kin may have rights in corporately held property such as land or livestock. At marriage, use rights to property corporately held by the woman's natal group usually revert to them for reallocation. In effect, a married woman gives up certain rights in her own family's resources and enters into new property relationships with her husband's family.

The concept of joint property ownership between husband and wife is not characteristic of customary law in which even the matrimonial home is identified with a particular spouse. Some scholars argue that any property obtained during a marriage belongs to the husband (DAI, 1974:12) while others cite evidence that spouses may maintain separate ownership of such goods (Read, 1969:130). The extent of a married woman's control over the marital estate may be most obvious with divorce. At that time, a woman may retain property which she brought to the marriage and gifts from her husband or own kin. However, any property rights which accrue to her as a result of her

structural position as wife within her husband's family may cease with the termination of the marriage. For example, a wife may exercise full rights of use, allocation, and transmission over food crops, chickens and eggs, dairy products, and small livestock. She may be empowered to sell or trade them and to utilize the returns personally. However, as these rights arise from her structural position within the kin network, they may cease with divorce. Since a wife works land and cares for livestock and houses with ultimate rights vested in her husband and his family, a divorced woman may be severely disadvantaged, lacking compensation for the majority of her subsistence-oriented labor and management (Mbilinyi, 1972:376).

Clearly, women's access to corporately held property which includes the major productive resources of the indigenous economy, has considerable consequence for their socioeconomic position. The import of such property relationships and the magnitude of change arising from recent historical developments is best exemplified in Kenya by women's rights in land.<sup>1</sup> Powers to occupy, allocate, and transmit land are

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<sup>1</sup> Although focusing here on land as the primary example of women's rights in property, a brief mention should be made of women and livestock, the other major productive resource of the indigenous economy. In many communities, a relevant distinction is made between large stock such as cattle and camels and small stock like sheep and goats. Women's relationship to the former is similar to that with land--i.e. through their association with males, women obtain use rights in particular animals. These powers may include the right to sell or trade dairy products and to transmit animals to their children. However, they rarely encompass the right to sell, trade, or bequeath the animals. In general men control the large stock, engaging in trade relationships with other men, slaughtering certain animals, and allocating particular animals to their wives. However, as with land, rights in particular animals are enmeshed in a network of social claims and obligations which seldom permit the free disposal of livestock at individual whim. Women participate to varying degrees in decisions regarding animals which are associated with them--e.g., those allotted to them by their husbands, given as gifts by their natal kin, or received for their daughter's bridewealth. While small stock may be handled in a similar manner, women often have greater discretionary use of them. They may have the same rights to buy, sell, trade, or slaughter as men, or they may have use rights similar to those over food crops.

usually reserved for men. Women obtain use rights for crop production by virtue of their relationship to a particular man--e.g., their father, brother, or husband. The absence of female power to allocate has led some scholars to argue that women's role in the indigenous tenure system is insignificant. However, this position is based on two assumptions which result from a fundamental misunderstanding of that system. First, it assumes that the right of allocation is identical with the western concept of ownership. However, under customary tenure land is held on a corporate kinship or local group basis and the use claims of particular families are qualified by their participation in a wider network of rights and obligations. Since none of the members may alienate the land from the group, ownership as such is not the critical issue it is in western jurisprudence. The significant aspect of land is its usufructory rather than its commercial value. Consequently, male rights to allocate land for the use of women are not obviously more important than women's rights to cultivate that land and allocate its crops. Secondly, there is an erroneous assumption that within such a system women's access to land is precarious. Like men, women have clearly defined rights to land as a consequence of their participation within the landholding corporate group. Women's productive activities are beneficial to society and customary social sanctions function to protect them from male interference. Enough security of tenure results to provide women with an incentive to participate fully in the economy (Gutto, 1975:3; Okoth-Ogendo, 1975:4). However, the degree of security enjoyed is related to the woman's structural position within the relevant corporate group. While male access to land tends to be

legitimated by their relationship to male natal kin--e.g., their father--female access can be mediated by either natal or affinal relationships. Because their rights can be superceded by in-marrying women, single or divorced women who obtain use rights to land from their natal kin are secure only as long as land is plentiful. Greater security of tenure derives from the affinal tie which is further strengthened with the bearing of children, especially boys.

Changes in land tenure particularly those arising from colonial land policies, have had a primarily negative impact on women's economic security. The customary tenure system was seriously disrupted by colonial policies which set aside large tracts of the most fertile lands for European settlers while restricting the indigenous population to areas specified as African reserves (Gutto, 1975:8; Okoth-Ogendo, 1975: 5). As extensive cultivation was not possible in the crowded reserves, the overworked land began to decline in fertility. A kind of de facto private property developed as land scarcity forced farmers to work the same plots each year and to bequeath them to their sons when no other land was available.<sup>2</sup> The latter led to increasing fragmentation and eventual landlessness for those who could no longer be accommodated. In addition, the introduction of perennial cash crops--e.g., sisal, coffee, and tea--which needed to be planted close together and tended for several seasons to be profitable, further encouraged the identification of individuals with particular plots. The colonial government introduced private ownership directly by individual land registration which created the possibility of land

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Cf. Boserup, 1970: 58 for a description of such a process.

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alienation. In the face of these changes, customary land laws began to erode and former social sanctions were no longer effective. In essence, the colonial government's policies negated indigenous property rights without replacing them with functionally equivalent institutions (Gutto, 1975: 13; Mønsted, 1976: 5).

These changes had devastating consequences for women's rights in land and thus to their position in the basically subsistence economy.<sup>3</sup> The colonialists equated the power to allocate land with its ownership. Therefore, in areas of land registration, the power to allocate was accepted as the registrable interest. Thus, more men than women became official title-holders with absolute rights to dispose of the land as they chose. In addition, as the colonial government encouraged men rather than women to grow cash crops, such crops and the revenues they produced were recognized as male domains. As a consequence, a basic change occurred in the structural relationship between men, women, and land. As both crops and land became commodities, for the first time the system in which women had recognized rights to food crops and men to land was detrimental to the former's economic status and security. Even if women were able to grow food crops on their husband's land and to sell the surplus, they now did so at his personal sufferance and not as a consequence of their own individual rights sanctioned by community institutions.<sup>4</sup> Thus, women often found themselves dependent upon men for both land and crops and devoid of the guarantees of corporate ownership with its supporting sanctions against male usurpation of women's cultivation rights.

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<sup>3</sup>Both the colonial and present government have promoted the formation of group ranches which may include group title to grazing land. However, their impact on property ownership is unclear at present (Pala, 1975:10).

<sup>4</sup>It has been suggested that this trend may result in women becoming unpaid labor, producing cash crops which are fully owned by their husbands (Boserup, 1970: 59-60).

Particularly affected are women whose land interests were less secure under the customary system--i.e., divorced women and widows without surviving male children.

Other regimes

Under statutory law, men and unmarried women are equally entitled to obtain, hold, use and dispose of property and to sue in protection of their interests. The right of single women to own property is also recognized by the Islamic and Hindu systems. In 1970, the Kenya courts determined that the property rights of married women come under the provisions of the British enacted Married Women's Property Act of 1882 (Gutto, 1976: 14).<sup>5</sup> It is generally presumed that this Act applies to all married women regardless of the regime under which they were married. Thus both monogamously and polygamously married women have equal property rights. Like Islamic law, the Act grants a married woman the right to acquire property after marriage and to freely dispose of it as her own unless there is evidence of an agreement to the contrary. In addition, a wife may sue to protect these rights.<sup>6</sup>

None of the Kenyan legal regimes presumes a community of property between husband and wife. Without a contract specifying joint ownership, elements of the marital estate are assumed to belong to a particular spouse. When property is jointly owned by contract, the court usually attributes a 50 per cent interest to each spouse regardless of their actual financial input (Uche, 1975:5). Similarly,

<sup>5</sup> Prior to 1970, although it had not been formally established, Kenya courts had assumed that the Act applied as a statute of general application under Section (3) (1) (c) of the Judicature Act No. 16 of 1967 (Read, 1969:130)

<sup>6</sup>Cf. the following legal liabilities section for the court's position regarding spouses suing one another.

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if a married couple maintain a joint bank account, each spouse is legally entitled to an equal share of the balance. If a husband withdraws money from such an account to buy property which he then registers solely in his own name, the court assumes that he is also acting as a trustee for his wife who is entitled to a half share in such property (*ibid*).<sup>7</sup> However, any property purchased by a husband from his personal bank account and registered in his name is exclusively his regardless of his wife's financial contributions.

Moslem wives control any property acquired in their own name before or during marriage and a share of any property jointly owned by contract. They retain these rights with divorce and may be compensated also by the final payment of the mahr. Hindu women primarily control their own clothing and jewelry which may be of considerable value. Unless there are contracts to the contrary, a Hindu wife has few rights in the marital estate which usually belongs to her husband, often in conjunction with his joint family. With divorce, a Hindu wife may keep her personal belongings and a share of contractually owned property. In addition, she may be entitled to maintenance under the Matrimonial Causes Act.

Under civil law, spouses are subject to the presumption of advancement--i.e., if a man or woman transfers ownership of property to their spouse or children, regardless of remuneration, the transferee is entitled to exclusive proprietary rights in the property unless the transferor can clearly prove that the transfer was nominally

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<sup>7</sup> However, it must be kept in mind that either party may withdraw the balance and spend it on services which do not benefit the other spouse. For this reason, some wives prefer to maintain their own bank accounts.

made for legitimate reasons (Gutto, 1976:15). The application of this provision to Hindu and Moslem citizens is unclear. If Benami transactions are recognized as religious rather than non-Kenyan customary practices, there is no presumption of advancement in these religious regimes. Under Benami procedures, if a person gratuitously transfers property to another person without indicating an intention to benefit that other person, the latter only holds the property in trust for the transferor with no personal legal claim (ibid:16).

#### Women's Access to Property

Although civil law permits both sexes to own property, these legal rights are mediated by certain historically influenced socio-economic factors. Of major import are sexual disparities in access to income-generating activities and land title registration resulting from colonial policies which involved men more extensively than women in cash cropping, formal education, and wage employment. These inequities have pervasive effects on patterns of property ownership both at the domestic and national level.

Within the rural household, the major economic contribution of women tends to be labor which increases the material well-being of the family as a whole rather than of the women as an individual. If the woman leaves a household as a result of marriage, divorce, or widowhood, the products of her labor remain with that household. Even among women with cash incomes there is a marked tendency to purchase non-durable consumer items such as kerosene, cooking oil, or sugar rather than to acquire personal property (Hanger and Morris, 1973:227; Kershaw, 1975/1976:187-189). In addition to labor, male

contributions to the household may include capital improvements or the purchase of durable goods such as bicycles, wrist-watches, or radios. While these inputs provide services and support for the family, they are of direct benefit to the men who provide them retaining their personal possessions regardless of changes in marital status.

As a result of early involvement in colonial land registration and the relatively greater access of males to cash, the majority of farm and business property in Kenya is registered in men's names.<sup>8</sup> Although the existence of a land market makes it possible for women to own land without the mediation of a male relative, few title deeds are held by women. In fact, the primary trend seems to be for the control of land and its products to pass from corporate group holdings insuring the rights of women to individual male ownership. Since property which is obtained and held by an individual can exist to some degree outside of the customary network of control and sanction, men are able to usurp the customary rights of women with impunity. As a consequence, male control over property appears to be increasing at the expense of customary female rights.

Some women do own land in their own names. Although national figures are unavailable, investigations in South Nyanza and Kisii Districts indicate that four to five per cent of the land is registered in women's names. It is estimated that the percentages from

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<sup>8</sup>This may be changing at least in urban areas. Pala, reporting on a then on-going study, writes that a number of women own urban property individually or jointly with one another or their husbands (1975:10). In addition, a number of women's groups are beginning to invest their funds in urban properties (Wachtel, 1975/1976: 73 and 75).

Central Province may be higher since land adjudication was carried out during the colonially declared state of Emergency when a number of men were away from the farms fighting or hiding or were incarcerated in British detention camps (Pala, 1975:10). Of these few women land owners, some have been able to purchase their own land individually or to buy corporately as a member of a women's group (Wachtel, 1975/1976: 72). Others have obtained titles as a result of their husband's death, absence at adjudication, or agreement to sub-divide (Pala, 1975:10; Staudt, 1975:13). A few have acquired land as a consequence of their customary legal role as trustees for their male children. Further investigation is necessary to determine the national percentage of female title deed holders, the degree to which male and female land owners obtain land from different sources, and the extent to which they are able to exercise full legal rights.

Civil property law cannot redress existing sex-linked disparities. Although single women may not have access to the resources which men do, the law regarding property ownership is itself equitable. The most obvious area of potential legal reform with respect to women concerns the marital estate. With no presumed community of property between spouses and the weakened nature of religious and customary sanctions in the face of increasing individual ownership of property the primary legal protection afforded a married woman are provisions for the joint ownership of property by contract.<sup>9</sup>

<sup>9</sup>For example, property may be jointly held under Section 102 of the Registered Land Act of 1963, Cap. 300. As with joint bank accounts, such ownership entitles owners to equal shares in returns and equal participation in all transactions.

However, few people seem to be aware of the possibilities of joint ownership or its implications. Even when women are aware of the value of these laws, few are in a position to demand joint ownership with their husbands or to assert other civil legal rights.<sup>10</sup>

The majority of recommendations for the reformation of Kenyan property law deal with the wife's rights in the marital estate. The Commission on the Law of Marriage and Divorce (1968) urges that each spouse retain all property which she or he acquires before or during marriage. Because of the complications which they foresee arising from corporate property and multiple wives, they argue against a community of property between spouses (Read, 1969: 130-131). The only exception would be the matrimonial home which could not be alienated without the consent of each spouse. The Kenya National Seminar on International Women's Year (1975) and the Conference on Assembling and Collecting Data on the Participation of Women in Kenyan Society (1975) both urge joint ownership of property and joint bank accounts facilitated by government incentives such as tax benefits. Recommendations which go beyond the marital bond

<sup>10</sup>For example, it is often alleged that a good deal of property registered to women is the result of title misuse by their husbands who remain the owner in all but name. Men may transfer property to their wives when the latter are citizens and the former are not, when conditions of the man's employment preclude the ownership of certain properties, or for tax purposes (Gutto, 1976:15; Wachtel, 1974:7). In practice the property remains under the control of the man (Migot-Adholla, 1974:10) who may transfer the title back to his own name if the reasons for transfer were temporary. According to the presumption of advancement, such transactions are illegal without a proven legitimate reason for nominal transfers. However, few women know this and those who do may not wish to risk their marriages for the sake of a particular piece of property. In most cases, such questions only arise with the contemplation of divorce.

itself have been made with respect to land ownership. For example, it has been suggested that land title deeds no longer be issued on an individual basis. Rather title holders should be simply trustees for a family's interests. Before land could be sold or rented the case should be presented before a council of elders or the Land Control Board. Decisions should be based on the maintenance of family welfare and cohesion (Gutto, 1975:24).

### Inheritance

Laws of inheritance are presently in a state of transition in Kenya. The Law of Succession Act No. 14 passed in 1972 has yet to be implemented by the Attorney-General. Consequently, inheritance remains heavily influenced by the four systems of succession the Act was meant to unify--i.e, customary, Hindu, Islamic and statutory.

### Customary Inheritance

Under customary law, major productive resources are bequeathed by males to males. With patrilineal inheritance, property passes from a man to his brothers or sons. In matrilineal patterns of inheritance, vestiges of which exist in some Digo and Duruma communities, a man bequeaths his property to his sister's son or his mother's brother. Widows in patrilineal system rarely inherit their husband's property. Rather, the husband's family retains rights to the farm produce, the house, the land, and the livestock.<sup>11</sup> This loss of property is a significant consideration for widows deciding whether to return to their natal families or to marry a kinsman of their deceased husband and remain on his property. In a matrilineal system, a widow's property

<sup>11</sup> Cf. Nyamou, L., 1965 for a detailed account of the deprivation of property which may be suffered by widows.

relations may be less disrupted since many of the household's productive resources may belong to her family rather than to her husband's. Regardless of marital status, daughters are usually excluded from inheriting the property of their deceased father. However, they may inherit the personal possessions of their mother.

The rarity of a direct bequeathing of property by a man to a woman does not imply that women are of no significance in customary succession. As customary law is more concerned with the relationships created between persons as a result of property than it is with absolute rights over the property itself, participation in the network of rights and obligations often assumes greater import than final rights over particular property. Within this context, women often play an active role as transmitters of specific succession rights to their sons. For example, there is a widespread system within East Africa known as the 'house-property complex' in which a husband allocates specific possessions--e.g., land, cattle, houses, etc.-- to each of his wives to hold in trust for their sons. A similar linkage may occur in matrilineal systems in which men assign property to their sisters to administer for their sister's sons. In these cases, even though inheritance is through males, women serve as agents of transmission with use rights of the estate for which they are executor. Within such a system, widows with surviving

but juvenile sons may have considerable authority to accumulate wealth and power through the management of their children's estate. Even when the son reaches maturity, a widow may maintain a lifetime interest in the property allocated to him by her husband. Thus, while a woman may not own the means of production, nor directly inherit from her husband, she may play an active role in controlling such property.

#### Other Regimes

In 1961, the African Wills Act became a statutory law with provisions that bear directly on customary succession. For the first time it was possible for any African over the age of 18 to make a legal will which did not necessarily follow customary law (Nyambu, 1965:22). Thus, wives or daughters could inherit directly along with sons or brothers. In addition, the Married Women's Property Act of 1882, Section 11, provides wives with a channel for direct inheritance of the marital estate. Married women may obtain security of tenure in the matrimonial home and the right to inherit in their own names if the husband so stipulates in his insurance policy. Under such a policy, the property is held in trust by the policy holder and the insurance company for the benefit of the surviving spouse and/or the children (Gutto, 1976:15). The protection afforded women by either of these Acts depends entirely upon voluntary actions by men--i.e., a will must be written or an insurance policy purchased. The relatively insignificant proportion of the Kenyan population possessing either a will or an insurance policy has stimulated a call for a law to make the writing and registering of a will mandatory.

With the exception of these two Acts, civil inheritance has been dictated by the Indian Succession Act of 1865 which is applied to Europeans, Goans, and Parsees and the Probate and Administration Act of 1881 which is employed for all other non-Moslem Asians (Hamilton, 1973:3). Prior to the new Law of Succession Act, the Indian Succession Act was the only inheritance law in Kenya which did not discriminate on the basis of sex--i.e., both sons and daughters inherited equally from either parent. Under Islamic law, a daughter receives half as much as a son. In Hindu and customary law, a daughter rarely receives any share at all (ibid).

Law of Succession Act.

According to the Law of Succession Act, any person with inheritance rights, regardless of sex or marital status, has the right to an equal share in the deceased's estate. If only children survive, both sons and daughters are entitled to inherit equally. In a monogamous marriage in which the deceased has died intestate--i.e., without a will-- the surviving spouse is entitled to all personal and household effects and a life interest in the net estate. However, while a widower may remarry and retain his rights in his deceased wife's estate, a widow loses her rights if she remarries (Uche, 1975:4). If a polygamously married man dies intestate, his personal and household effects and the net value of his estate is to be divided equally among his wives. These portions are then to be divided among

each wife and her children (Uche, 1974:29). Widows of polygamous unions also forfeit their rights in the deceased' estate with remarriage.<sup>12</sup>

Whether or not there is a will, dependents are entitled to a suitable provision--i.e., the courts have the discretion under Section 26 to 28 to order the payment of any "reasonable" amount to the dependents. The welfare of any children is to be the prime consideration in such deliberations. In addition, decisions may be based on the value of the estate, previous disbursements by the deceased, and the nature of the relationship between the deceased and each dependent. (Uche, 1975:4).

The actual significance of this Act will not be known until it officially comes into effect. However, as a number of its provisions are in opposition to customary procedures, particularly those concerning inheritance by wives and daughters, it is doubtful that acceptance will be quick or easy. Therefore, its immediate impact on the majority of Kenyan women is likely to be slight. Regardless of the laws on the books, a woman whose husband dies unexpectedly is in a vulnerable position when his relatives arrive and begin to take what they feel is rightfully theirs.

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While it is clear that widows unlike widowers, are penalized for remarriage, the status of the levirate is ambiguous. It is unclear if this Act will permit leviratic unions as something less than a formal marriage or if such unions will deprive widows of their rights in their deceased husband's estate. Further, if widows are able to gain access to their husband's estate in their own right, it is uncertain if they will continue to follow the levirate.

## Political

### Customary Political Participation

Although indigenous political systems in Kenya vary, the majority are based on agnatic kinship or male age set systems, lacking centralized administrations, elaborate social and economic hierarchies, and hereditary leaders (Gutto, 1975:1). Authority is diffuse and most community decisions are reached by public consensus. Respect is accorded to the aged; the articulate; the learned in local history and tradition; and the gifted in medicine, law, or cosmology. An individual's political influence may be enhanced further by the control of a large labor force and extensive productive resources (Mbilinyi, :1975:69; Migot-Adholla, 1974:6; Okoth-Ogendo, 1975:3).

As a consequence of their differing structural positions within most Kenyan societies, men and women neither experience nor influence the formal power system in the same way. In fact, with the relative absence of hereditary elites, radical differences in wealth, and institutionally fixed patron-client relationships, age and sex are the primary points of social cleavage with respect to political rights, participation, and strategies.

Within the formal political structure, women have certain well-defined rights of participation which are protected by religious, familial, and community sanctions. As a result of their widely recognized economic importance in agricultural production, child-bearing and socialization, and local level trade, women often control important aspects of production and distribution and are able to establish themselves as respected community figures

on the basis of their skills in these activities. In addition, as integral parts of the kinship network in which most political actions are embedded, women are able to manipulate their own kin status to obtain public and domestic support from both sexes. Further, the respect accorded age and accumulated experience also accrues to women. Even though the production of children is an important aspect of a younger woman's sociopolitical significance the cessation of biological motherhood occasions a shift from the more indirect and private political participation characteristic of a younger woman, to greater entry into the public political domain. For example, it is more common to find older women speaking publicly on community issues, criticizing the decisions and abilities of particular men, and insisting on their traditional rights in the face of male opposition. Finally, although women are usually excluded from formal political offices, they may gain public prominence as a result of special skills in medicine, ritual, or oracular practices.

In addition to individual involvement in the formal political sphere, women also join together in furtherance of their own ends. The groups they form provide a training ground for the development of organizational and leadership skills, mutual assistance in the improvement of member's economic potential and pressure groups for women's interests. Clearly, such organizations enhance women's ability to manipulate their political environment (Stamp, 1975/1976:25). Included among women's organizations primarily concerned with social and economic

welfare are recreational gatherings and mutual aid groups such as community service organizations which provide assistance to the sick or destitute and reciprocal community work parties (Pala et al, 1975: 2; Stamp, 1975/1976:25). Certain groups may concentrate directly on women's political and judicial rights. Frequently, the latter restrict their judicial functions to their own sex--i.e., fining or ostracizing other women for their failures to conform to group or community norms (Stamp, 1975/1976:25). However, there are numerous examples of action taken against men for their infringement of women's rights (Cf. Ardener, 1973: Klima, 1964). For instance, among the Pokot of Kenya, a woman who has been insulted or mistreated by her husband may enlist the aid of other women to bring him to task. Male offenders may suffer verbal or physical abuse, the destruction of their property, or fines. Any fines, whether cattle, cash, or crops, are retained by the women involved. The legitimacy of the women's actions are recognized by the male community which offers no support to the accused (Edgerton and Conant, 1964).

While political channels such as those described are open to women within the formal system, a number of alternatives are closed as a result of women's structural positions. As unmarried persons residing in their natal communities, girls are recognized as essential parts of the kinship group and their participation in community activities is sought. At the same time, they are social and legal minors possessing attenuated rights in the family's productive resources and destined to leave

their natal homes to make their major productive contributions elsewhere. From the standpoint of the patrilineal core, the most significant political actions of such women are the alliances they form with other families through marriage. As newly married women, they are outsiders yet to establish themselves as loyal, productive members of their husband's community. Even after a lifetime of producing children and caring for house, garden, and family, wives remain jural minors under the guardianship of their husbands, lacking the necessary prerequisites to full participation in the formal political structure--i.e., the ability to speak publicly on their own behalf, to obtain independent access to productive resources, or to gain formal positions of leadership within their husband's kin group.

Since the formal political structure cannot be fully exploited by women, they often employ strategies external to that structure. For example, when overt female intervention is precluded, women may exert indirect influence over key male decision-makers (Lamphere, 1974:99). In addition, if the formal system fails to serve their interests, women may attack it directly or circumvent it entirely (ibid:111).

The effects of such strategies are apparent in the internal dynamics of the patrilineal extended households which characterize much of Kenya.<sup>13</sup> Since women are restricted from most overt

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<sup>13</sup>Extended families result when the nuclear family of a married adult joins together with the family of his parents. A patrilineal extended family usually includes a senior man, his wife or wives, his unmarried children of both sexes, and his married sons with their wives and children. These generations live together in a cluster of adjacent buildings (Murdock, 1971:359).

positions of prestige and authority within these households, they often seek to obtain political power through the manipulation of close male kin--i.e., husbands or sons. Typically, mothers attempt to develop a sense of loyalty in their sons strong enough to override subsequent attachments to their wives (Michaelson and Goldschmidt, 1971:339). By advancing a loyal sons' position within the community, mothers enhance their own social, political, and economic control. In this way, women are able to influence and benefit from the distribution of political prizes for which they themselves cannot compete (Collier, 1974:91).

In its emphasis on the advancement of a single individual's interests over those of the household as a whole, this tactic highlights the essential opposition between male political strategies and those of in-marrying women. The former augment political power through their ability to call upon the support of a large, cohesive body of co-resident kin and extensive, corporate economic resources. Women, on the other hand, obtain political power by upsetting the stability of these agnatic coteries.

Male dependence on in-marrying women for the successful functioning of the extended households which provide their political base, leaves them vulnerable to certain power ploys. If denied a voice in family decision making, a woman's refusal to perform her allotted role may serve as a potent weapon. More direct threats to the continuity of the extended household include divorces which break alliances and lower productivity and dissent and mistrust engendered by systematic gossip (Lamphere, 1974:109).

In situations perceived to be desperate, women may threaten to poison affinal kin, to attack their husband's family by supernatural means, or to commit suicide (Edgerton and Conant, 1964: 416). A woman's commitment to the maintenance of a particular extended household, and thus the likelihood of her employment of internally disruptive tactics, is often a function of her structural position within that household. As wife and daughter-in-law she is in an inferior position to both her husband and her mother-in-law. Political advantage is obtained by leaving the household of her mother-in-law and establishing a separate nuclear household with her own husband and sons as its core. By this action, a woman becomes mother and mother-in-law in her own inchoate extended household and begins a struggle against its eventual disintegration as her own daughters-in-law seek similar positions of control (Collier, 1974:94; Michaelson and Goldschmidt, 1971:338).

Common sense suggests that all political actions occur within a social network composed of both sexes. As individuals and groups pursue their own political ends, their choices necessarily constrain the possibilities of others. Why then are males so often defined as the political actors while women are adjudged to be political non-entities or merely pawns in male strategies? The political functioning of women within the patrilineal extended household is instructive in this regard.

As a result of differences both in the nature and arenas of male and female political activity, superficial inquiry may support

the easy dismissal of women as significant political actors. The majority of the formal political offices are occupied by males, men tend to represent their families in interactions with external groups, and political rules are typically couched in the idiom of agnatic kin networks. In other words, in those public spheres generally recognized as political arenas in which actions are overtly dictated by contractual rights and obligations, men predominate.

Women's primary political activities take place in domestic groups where relationships are typically defined in ethical rather than contractual terms. In addition, women's efforts to achieve greater political power occasion competition between close kin and affines often creating hostility between a woman and her husband or his immediate family. As a consequence, women's political tactics are frequently dismissed as domestic quarrels arising from personal conflicts which are particularistic and idiosyncratic, rather than understood as patterned political actions with broad social consequences (Collier, 1974: 90; Michaelson and Goldschmidt, 1971: 341-342). By defining the political in exclusively formal public terms, one may overlook the political advantages which accrue to a woman as a consequence of divorce for a more advantageous remarriage, of splitting up a household to establish her own, or of supporting a son to the detriment of her relationship with her husband. Further, such decisions have repercussions beyond the situation of the individual woman. For example, in the public arena they affect wider political alignments by causing a redistribution of a leader's following, through the creation of new nuclear households or the dissolution of affinal alliances (Collier, 1974: 94).

### Colonial Period

To facilitate indirect rule, the essentially acephalous nature of indigenous political processes was radically altered through the introduction of chiefs and other officials. With these appointments, the colonial government imposed institutionalized individual power. Since the appointed functionaries owed their positions to an external colonial administration rather than to community sociopolitical processes, their constituents retained few customary channels of influence or restraint. Women were particularly affected by these changes. In the first place, many of the social and economic disruptions which accompanied colonial activities reduced women's power in indigenous economic, religious, and political spheres. Their customary political possibilities were further sacrificed to the colonial assumption that men alone were qualified to hold political office. Finally, as a result of colonial policies with respect to formal education, wage employment, and property ownership, as new paths to political power developed, they were less available to women than to their male counterparts.

During the colonial period, women were able to participate politically in a few innovative ways. Rural women's organizations which received financial and technical support from the government, provided the opportunity for a number of women to gain political expertise and to serve as links between rural women and the central government. As a result of the colonial conscription of men for labor and military service, in some areas of Kenya women enlarged their spheres of political influence by

sitting on councils and making community decisions which previously had been restricted to men (Cf. Mutiso, 1971: 9-10; Nelson, 1975: 11-12). In addition, although the actual political and economic returns to women are unclear, during the colonial government's state of Emergency (1952-1960), many women actively supported the colonial opposition by working as messengers, provisioners, spies, and combatants (Mugo, 1975; Stamp, 1975-1976: 29; Wipper, 1971b:466). Further, there are reports that women recognized the importance of broad political participation very early, campaigning energetically in the 1961 elections prior to independence (Carlebach, 1963:12). However, although women held one or two specially elected seats under the colonial administration (Wipper, 1971a:437), such campaigning was typically for male candidates contesting male-defined issues.

The extent to which these aspects of women's political involvement positively integrated them into national political processes remains an open question in need of further research. Presently it can be said that the colonial period did not develop women's political aspirations as women nor did it provide them with a basis for effective political participation at the national or local level. As a reflection of this, at independence few individual women were known politically and the first Kenya national assembly was exclusively male.

#### Present Situation

In 1963 independence brought universal suffrage and the legal right of either sex to stand for office (Hamilton, 1973:1; Njiiri, 1975: 2). Since that time, women have been active voters (Njiiri, 1975:2) but their representation in elective and appointive office

has been less impressive. At independence, the national assembly decreased already minimal female participation by defeating a motion to continue the colonial practice of maintaining specially elected seats specifically for women. Parliament reaffirmed its masculine character, in 1965 when all 12 appointive seats were offered to males (Wipper, 1971a: 437). It was not until November of 1969 that the first woman, Grace Onyango, was elected to the national assembly (Germain and Smock, 1974:24). In 1974, following eleven years of independence, women's representation in Parliament remained token (Njiiri, 1975:3). No women had yet been appointed to the President's cabinet and the only high-ranking female civil servants occupied the few posts which concentrated on women's issues--e.g., the heads of Women's Prisons and the women's branches of the military. (Hamilton, 1973: 18; Wipper, 1971a: 437). However, two of Kenya's largest cities, Nairobi and Kisumu, had elected women as mayors.<sup>14</sup> The situation at present is much the same with few women in national level positions of political power. There are still no female cabinet ministers and few women in the local authorities. Presently, there are four women sitting in Parliament, one of whom has the distinction of serving as Kenya's first female Assistant Minister. A fifth woman held a nominated seat, but resigned in favor of her brother and a sixth woman in this Parliament is serving a prison term and her seat has been filled by a man.

<sup>14</sup>Margaret Kenyatta, the former Mayor of Nairobi, is currently serving as Kenya's Permanent Representative to the United Nations Environment Programme.

At independence, Kenya's political elite publicly supported the equality of the sexes, emphasized the need to integrate both men and women into all public sectors, and urged the equal participation of both sexes in nation-building (Wipper, 1971a: 430-431). However, as the figures above indicate, even though women are not legally barred from political participation, they are not effectively a part of the national political structure. One may have to query further the extent to which this void is due to constraints imposed by Kenya's national political party, a plausible inability of Kenyan women to set up a viable urban-rural political coalition (PBFL, 1972:32), and/or volitional avoidance on the part of Kenyan women to play an effective role in the national political structure.

A successful political campaign requires considerable time free from employment or extensive family obligations, a substantial financial commitment, and adequate education and experience to understand the issues and to speak convincingly in public. Although historical developments tend to favor men in the acquisition of these prerequisites, there are a number of Kenyan women who are qualified to participate meaningfully in national politics. Many such women hold KANU's non-support for female candidates as the primary obstacle to greater political involvement by women.<sup>15</sup>

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<sup>15</sup> Wipper notes the case of Ruth Habwe, a qualified Kenyan woman, who was refused KANU backing in the 1964 elections. She ran unsuccessfully as an independent and was suspended from the party (1971b: 476). In a 1966 by-election, a woman candidate was made to run in a constituency against two strong male opponents. Wipper argues that if KANU had been interested in her success, they would have placed her elsewhere (1971a:437).

While officially affirming women's political rights and their importance to national development, the political elite has, up to now, not actuated an equitable involvement of women in the country's political, social, or economic institutions (ibid: 437). In fact, some have argued that KANU is building institutions which are male-oriented and is treating women as adjunct to modern institutions and processes.<sup>16</sup> In spite of rhetoric to the contrary, it appears to many that KANU values women mainly as auxiliaries to support male candidates rather than as potential candidates themselves (ibid:431).

Wipper argues that the disjuncture between the public rhetoric of government officials regarding sexual equality and their private and public actions is a consequence of their desire both to maintain traditional male prerogatives and to gain the active support of female voters while expending a minimum of resources. She suggests that the primary strategies employed by political elites include: ceremonial affirmation of women or women's projects rather than substantive rewards; token placement of conservative women in public places unaccompanied by any real attempt to integrate women into the national political party; and the promotion of conservatism through official support of women as wives, mothers, and political auxiliaries rather than as equal political participants (1975:99). Further, she alleges that the lack of consensus

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As examples of this, Wipper cites the repeal of the Affiliation Act, National Youth Service (NYS) recruitment of males only, and the still small percentage of women able to obtain formal education (Wipper, 1971a:431). It should be noted that the National Youth Service does recruit women, but at a much lower rate than men. Since 1966, 2,013 women have been offered training by the NYS. This eleven year total is less than the number of males recruited in the single year 1974-1975,

regarding women's political roles strengthens male strategies by stranding women between conflicting norms which permit criticism of any role performance (1971b:478). For example, some women may be defined as unfit for public office because they are timid, naive, or uneducated, while others who are aggressive, experienced, and well-educated are dismissed as too westernized and not representative of the majority of Kenyan women.

Since independence, women's organizations have been a primary channel for women's political activity in both rural and urban areas. These organizations include present-day off-shoots of the indigenous groups mentioned above as well as those which developed during the colonial and post-independence periods. From the mid-1960s to the early 1970s, these organizations had a strongly rural focus, concentrating on decreasing the heavy labor demands on rural women; changing rules of deference which inhibited women's socio-economic participation (1971a:434); and teaching technical skills in agriculture, literacy, and home management (1975/1976:209). In addition, they denounced practices believed to be harmful to women, such as female circumcision, and promoted maternity hospitals and other useful innovations (1971a: 436). Men were publicly criticized for their failure to fulfill family obligations, particularly as a result of unemployment, drunkenness, adultery, or brutality (ibid). The leaders of these groups militantly pursued equal rights and opportunities for the sexes through vigorous lobbying of both the colonial and post-independence governments. Within the groups themselves, women began to develop political expertise

in organization, leadership, and public speaking. These skills were utilized to develop the broadly based rural and urban support necessary to combat institutionalized sexual discrimination.<sup>17</sup>

However, in recent years, this fledgling network of rural and urban women has essentially collapsed as women's groups increasingly diverge into those which are urban based and elite oriented and those with primarily rural roots and concerns. In a series of articles, Audrey Wipper (1971a; 1971b; 1975; 1975/1976) attempts to analyze this trend through a case study of Maendeleo ya Wanawake (MyW), the largest women's voluntary organization in Kenya. MyW was begun in the early 1950's by the colonial government specifically to raise rural living standards through the education of rural women (1975/1976:197). The organization was able to attract a wide following by incorporating existing indigenous women's groups into locally oriented projects (Pala et al, 1975:2). Such projects included instruction in improved agricultural techniques and home management, the establishment of day care centers and clinics, the encouragement of indigenous handicrafts and performing arts, and the provision of adult literacy classes (Wipper, 1975:100). MyW appeared an ideal communication and

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It was during this period that many of the present national level women's leaders emerged. The present leadership is composed of a small number of educated urban women, many of whom attended the same mission schools and are related to the professional and political elite. Following secondary school, the typical women's leader went to a teacher's training course or the former Jeane's School (now the Kenya Institute of Administration) for training in leadership, social work, or technical specialties. Afterwards she received field experience in teaching, social work, or nursing and may have continued her education abroad. Executive experience was gained on the boards of the Girl Guides, YWCA, or Red Cross. In addition to these privileged women, a number of the more militant leaders acquired their own educations, are unrelated to the elite, and are professionally employed by women's organizations rather than working as volunteers (Wipper, 1971a:439-441).

resource conduit between rural women and the central government, providing the women with direct access to design and financial resources and government with an existing structural base for development projects. The rapid climb in membership from 37,000 in 1954 to 90,000 in 1970 seemed indicative of a successful melding of governmental and rural needs.

However, membership fell to 40,000 in 1974 and by 1975 widespread disenchantment with MyW was evident in rural areas (Pala et al, 1975:24). Wipper identifies three major factors contributing to this decline: a change in the bureaucratic relationship between MyW and the central government, a modification in leadership style, and a reordering of priorities. During the colonial period, the government provided MyW with financial support, technical staff, and training for women's leaders (Wipper, 1975:103). At the same time, MyW served as a critical monitor of government policies regarding women. In 1961, MyW became independent of government but received pledges of substantial aid which were reaffirmed by the GOK at independence. However, subsequent support has been more verbal than substantive, leaving MyW with the impossible task of managing more than 300 scattered clubs with an uncertain budget and essentially untrained volunteers. When pressed for resources, government emphasizes the need for an autonomous women's organization. However, MyW is criticized for being too political when it does act independently (ibid:115). As a consequence, the monitoring role of the organization has become increasingly ambiguous. The situation is further confused by the close association of the present national executive with the male political elite.

MyW's present non-political, urban focus, reflected in its de-emphasis of sexual equality and concentration on charity rather than the promotion of rural self-help, is destroying its unique position as a bridge between rural and urban women. MyW now serves much the same urban-oriented, charity functions as the other major national women's voluntary organizations--i.e., the Young Women's Christian Association (YWCA), the Girl Guides, the Red Cross, numerous church committees, and the National Council of Women of Kenya (NCWK).<sup>18</sup> Although providing a number of useful services, these organizations have slight political impact. They do provide the opportunity for women to gain administrative experience and a number of women who have distinguished themselves as capable leaders within these organizations have gone on to enter national politics (Hamilton, 1973:21).<sup>19</sup> In addition, the NCWK which is a federation representing 30 member organizations, serves as a liaison

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The YWCA does work in rural areas, particularly in leadership training. However, its major emphasis appears to be on the integration of women with primary school educations into wage employment through the provision of vocational training and hostels (Hamilton, 1973:22-23). The NCWK also engages in a few rural projects, but their primary thrust remains urban. Women's leaders from these and other Kenyan organizations worked together to encourage the establishment of a Women's Bureau within the Ministry of Housing and Social Services.

<sup>19</sup> As an example, Edda Gachukia, the chairwoman of the NCWK, is presently a nominated Member of Parliament.

between women and the government. Either on their own initiative or at the request of the government, committees within the NCWK study proposed and extant legislation and provide position papers which evaluate its impact on women. However, these papers are purely advisory and the NCWK has neither a formal position within the parliamentary structure nor legal recourse if their advice is rejected (ibid:25). None of these organizations are primarily political, dedicated to strong public lobbying on rural and urban issues of import to women. None are structurally placed within government to do more than advise on policy issues.

From a rural perspective, many of the interests and activities of urban women's organizations seem irrelevant. As a consequence, in rural Kenya there is a renewed emphasis on local, independent, self-help groups without formal connection to national organizations (Pala et al, 1975:24; Wipper, 1975:99). While a number of these groups have been successful in improving women's lives and opportunities (Pala et al, 1975:15-17), there is little sense of regional or national cohesion (Germain and Smock, 1974:27)<sup>20</sup> and scant

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One exception to this is the Kiletat Women's Association in West Pokot District which is serving as an umbrella organization for a number of district's women's groups, combining resources and expertise to undertake more ambitious projects (Reynolds, 1975:43). Stamp also describes Kirimo Vgenda Women's Cooperative, Limited, a very successful locationwide organization, incorporating a number of Kikuyu women's groups (1975/1976:33-34).

capacity to provide rural women with a direct channel to national government and its resources.<sup>21</sup>

Through the Women's Group Programme of the Special Rural Development Programme (SRDP), the GOK with the assistance of several foreign donors, has attempted to facilitate the integration of rural women into national development by improving the viability and usefulness of these fragmented groups. The Women's Group Programme has experimented with the provision of leadership training to women's group leaders in several pilot areas. The intention is to develop indigenous institutions and to train a limited number of women's leaders to provide extension services in their local areas. While this program is providing some women's groups with access to government resources, it is not nationwide. In addition, its primary function is extension and not political education or organization (Cf. Berger and Krystall, 1975; Pala et al, 1975; PBFL, 1972; 1974a; 1974b; 1977). However, as women develop their capabilities as leaders and improve their levels of living, their potential for meaningful political participation may also increase (PBFL, 1972:22).

For women to participate effectively in national politics, they need to join together to build an adequate economic base, to share the knowledge and experience gained by a few with the majority, and to vote in blocs for legislation and individuals which respond to women's needs. If this is the goal there must be a considerable commitment of resources--e.g., competent and committed technical and

<sup>21</sup> There are isolated examples of women's groups which have assumed strong political and economic roles at the local level, among them is Mbai sya Eitu begun in Machakos District in 1961 (Mutiso, 1971). These Akamba women organized on the basis of their own clans of origin and played a leading role in soliciting funds for self-help projects in areas they chose to support for political reasons (Pala et al, 1975: 7). In gaining control of local level politics, they also obtained access to national resources.

supervisory staff; adequate coordination and direction from experienced, committed leaders with strong rural ties; and active support of KANU. At present, there are few efforts being made to organize rural women. Consequently, their tremendous organizational ability, energy, and voting power has not been tapped nor have their particular needs received an adequate national response (Hamilton, 1973: 25; ILO, 1972:296-300; Pala et al, 1975:3-4).

### Business

As a result of differential access to financial and educational resources, men are often able to engage in larger-scale business ventures than women. However, Kenyan business laws themselves are sexually equitable, and women are found at all levels of enterprise from directorships in large multinational corporations to rag picking in urban centers. However, the vast majority engage in small-scale, retail trade, primarily in vegetables, processed foods, local beer, charcoal, or used clothing. As all of these occupations require trade licenses or permits, it is this body of business law which is of most significance to the majority of Kenyan businesswomen.<sup>22</sup> Unfortunately, many women are unaware of licensing requirements while others either do not know how to obtain appropriate documents or are unable to pay associated fees.

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There are two licensing systems within Kenya--i.e., the Trade Licensing Act of 1968 empowering the Ministry of Commerce and Industry to control and regulate business activities and the Local Government Regulations Act of 1963 which permits County and Urban Councils to prohibit, control, or regulate trades and occupations in areas of local authority. While the former Act is primarily concerned with the control of non-citizen owned businesses (ILO, 1972:90), the latter covers peddling, hawking, street trading, hairdressing and barbering, selling second hand clothing, noxious industries, and offensive trades.

As a consequence, licensing and permit requirements may be a significant constraint on women's economic participation.

The pervasiveness of this problem is apparent in both urban and rural areas. Carlebach notes that from 1959-1963, nearly all of the convictions of female offenders in Nairobi were for offenses against the Liquor Ordinance which applies to the illegal brewing of beer, the Trader's Licensing Ordinance which deals with illegal hawking, and the Vagrancy Ordinance which affects the inadequately employed (1963:11). At present, trading without a license remains one of the most frequent causes of female arrest in Nairobi. In addition, the marginality of small-scale trade is increased for unlicensed traders who are unable to obtain stalls in city markets and must trade under makeshift conditions in peripheral areas of urban and rural centers (Remy, n.d.:4). With respect to rural trade, a permit is required for the movement of produce within or between districts. Pala reports that all of the 60 women traders she interviewed in Kisumu and South Nyanza Districts had been arrested or fined for permit violations (1975:15).

The primary purpose of licensing by local authorities is to protect the public from health hazards. However, at present, most economic activities in both the formal and informal sector require trade licensing regardless of the scale of enterprise. Noting that only eight of the 35 licensed occupations in Nairobi are potential health hazards, the ILO Report suggests that commercial licenses for the most of these occupations be replaced by health and safety inspections (1972:229). This would protect the public without placing an undue burden on small-scale and informal enterprises.

### Legal Liability

In customary law, women are legal minors under the guardianship of their fathers or husbands. As such they seldom plead their own cases or accept full economic or legal responsibility for their actions--i.e., male kinsmen serve as intermediaries, appearing before judicial bodies, paying their fines, etc. (Baker and Bird, 1959; 101-102; Migot-Adholla, 1974: 4; SIDA, 1974:27). Under statutory law, according to the Age of Majority Act, (No. 1) of 1974, all persons regardless of sex or marital status attain their majority at 18 years of age and may be held legally responsible for their actions (Gutto, 1976:5). The Law of Contracts Act Cap. 23, 1963 gives married women the same right to make contracts as men and single women. In addition, in particular cases women may contract on behalf of men without their consent--i.e., a woman can pledge her husband's or lover's credit for the necessities of life commensurate with their normal standards of living. However, husbands or lovers do not have rediprocal rights (ibid:6). According to the Married Women's Property Act of 1882, like a man or a single woman, a married woman has full propriety capacity and can sue in protection of her property. However, spouses may not sue each other in tort--i.e., civil action without contract--and have no civil recourse if one spouse destroys the property of the other. A husband and wife may sue one another only if there is a breach of contract or the state institutes criminal proceedings on behalf of one of the spouses (ibid:14).

While most criminal laws are equitable regardless of sex or marital status,<sup>23</sup> Section 19 of the Penal Code, Chap. 63, Laws of

<sup>23</sup> . Although as Gutto points out women cannot be prosecuted for rape, defilement, or fraudulent pretense of marriage (1976:33-35).

Kenya, holds that a husband is criminally responsible for any crimes but treason or murder committed by his wife if the crime took place in his presence and under his coercion (Gutto, 1976: 33; Read, 1969:133). Although marital partners may be convicted of conspiracy, they do not become accessories to an offense simply by receiving or assisting their spouse (Read, 1969:133). Both men and women, married or single, are competent to bear witness in court. In civil cases, spouses are competent witnesses for either the prosecution or the defense. However, in criminal cases, a spouse may only testify for the defense (ibid:132).

#### Tax Liability

Although income tax rates are identical for both sexes, in effect they discriminate against married, employed women. To compute taxes, the income of husband and wife are aggregated and treated as the income of the husband. When both spouses are well-paid, the difference in taxes may be substantial.<sup>24</sup> For example, a single man or woman earning K£ 2,400 (\$6,000) per year would pay KShs 6,500/= (\$825) in income tax. If two such people married one another, their salaries would total K£ 4,800 (\$12,000) per year but their tax would increase to Ksh 22,200/= (\$2,775) rather than simply doubling to KShs 13,300/= (\$1,650).<sup>25</sup>

The Income Tax Act, 1973 allows for deductions for single and married individuals as well as for children. However, the amounts are low, consisting of a per annum deduction of KShs 720/= (\$90) for

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<sup>24</sup>

Cf. Hamilton 1973, footnote 18.

<sup>25</sup>

Cf. Appendix III, Table 1 for the rate of taxation.

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for married couples, KShs 360/= (\$45) for single persons, and KShs 180/= (\$22.50) for up to four children (Uche, 1974:27). Since the marriage allowance is actually granted to the husband, in polygamous marriages men are permitted only one allowance. Employed women who are the sole support of children do not receive further tax relief.

#### Access to Credit

Although men and women legally have equal access to credit facilities, certain historical, socioeconomic, and institutional factors mediate against the acquisition of credit by most women. Women face special problems in obtaining loans whether for residential, commercial, or agricultural purposes.

One of the primary loan and mortgage institutions in Kenya is the Housing Finance Company of Kenya, Limited (HFCK) which provides long-term loans for the purchase of residential buildings in municipalities. Of the 4,119 loans disbursed by HFCK between November 1965 and March 1976, 15 per cent were received by women, singly or in partnership with members of either sex, while 94 per cent went to similarly categorized males. Of these successful applicants, women applying separately were allotted 3.5 per cent of the loans while individual male applicants accounted for 82 per cent (Gutto, 1976: 69-70). Clearly, the HFCK selection process systematically favors males over females. This bias is apparent in the sex ratio of both initial and successful applicants. Women fail to apply or are unsuccessful for a number of reasons. Since salary scale is the primary basis for HFCK selection, women's relatively low wage scale and high

unemployment in wage labor coupled with their lack of access to agricultural land to augment their incomes are significant barriers to the acquisition of credit. In addition, overt discrimination occurs as HFCK requires married women, regardless of their personal financial resources, to obtain their husband's permission to apply for loans. They do not require the consent of a man's wife before processing his application (ibid: 71). Finally, HFCK's policy regarding salary aggregation is often disadvantageous to women. Spouses' salaries may be totaled to meet minimum requirements for a loan. Although wives must agree to co-guarantee, there is no requirement of joint ownership of property purchased with such a loan. Therefore, if the husband registers the property solely in his name, the wife as co-guarantor is liable if he defaults but has no rights of ownership herself (ibid:70-71).

The Industrial and Commercial Development Corporation (ICDC), a parastatal, provides loans for small- and industrial-scale businesses. Although only 3 percent of the 1,280 applicants for small industrial loans between June 1966 and September 1974 were female, 3.5 per cent of the total disbursement was made to women (Cf. ibid:73, Table 7). Of the 7,643 commercial loan applicants from February 1966 to June 1974, 5 per cent were female with slightly over 5 per cent of the total allocation going to women (Cf. ibid: 74, Table 3). Although the percentage of women applying for ICDC loans is small, over half of the female applicants have been successful. These figures indicate that while women as women are not discriminated against,

ICDC's criteria of selection are disadvantageous to women (ibid: 73).<sup>26</sup> Although salary scale and social status--e.g., educational attainment--are considered, the primary criterion for loan acceptance is the possession of a title deed which can be auctioned with default (ibid:72). As the majority of Kenyan women are not property owners and are less educated and less integrated into wage employment than men, fewer qualify for ICDC loans.

In agricultural areas, the major sources of credit are the Agricultural Finance Corporation (AFC) a parastatal, and certain cooperative societies. Depending upon the district of application, AFC loans require a minimum landholding, a title deed, or a regular salary. The few women who meet these prerequisites may obtain loans in their own right. However, more males than females have access to the necessary resources. As cooperative membership is predominantly male, credit from these societies is less available to women as well (Pala, 1975:15; SIDA, 1974:33). If women require credit and are neither land owners nor cooperative society members, they must persuade their husbands to guarantee the loan. If the husband is generally absent from the farm or lacks interest in its functioning, gaining his cooperation can be a major obstacle (Staudt, 1975/1976:87). Husbands may take out loans without their wives' knowledge nor permission. This is a serious situation as default may lead to the loss of the house and farm and thus to the woman's primary means of livelihood for herself and her children.

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<sup>26</sup> Wachtel's research also indicates that there is no discrimination against businesswomen in Nakuru who can meet the requirements of the loan agencies (1974:11).

In addition to problems qualifying for loans, women are further disadvantaged as they are less well-informed than men regarding credit possibilities and procedures. Such information is often delivered in a non-vernacular which many women do not understand, in written pamphlets which they cannot read, in visits by agricultural officers who speak only to men, and in public meetings to which they are not invited.<sup>27</sup>

As Staudt points out, only exceptional women get loans (1975/1976:88). This will remain the case as long as sexual access to education, employment, and property ownership is unequal and such access serves as the basis for credit acquisition. Although these problems have extensive socioeconomic roots, certain steps have been suggested to alleviate some of their symptoms--e.g., when spouses co-guarantee a loan by combining their salaries, the property should be jointly owned (Gutto, 1976: 71); spouses should be consulted before loans are taken out on the marital estate (Read, 1969:131); and new loan schemes should be developed which do not require the ownership of substantial property for collateral (Pala, 1975:25).

#### Child Custody

Under customary law, although children maintain ties with their mother's family, their primary affiliation is with their father's kin group. Unless the father officially repudiates the children, this remains the case regardless of physical separation from him, his death, or his divorce from their mother (Baker and Bird, 1959:101). With the death of a parent, children are usually cared for by the surviving spouse. However, children may be sent

<sup>27</sup> In Staudt's sample of farms managed by females and those jointly managed by both sexes, only 1 per cent of the former were aware of loan procedures compared to 12 per cent of the latter (1975/1976:86).

to live with either maternal or paternal relatives if the remaining parent is unable to care for them or marries a person who mistreats or neglects them. If both parents die, typically, the children will be cared for by a member of their father's family although they may be taken in by their mother's relatives. In the case of divorce, the father retains major legal rights in the children. However, young children usually stay with their mother (Read, 1969: 140) while older children may live with either parent. The latter decision may be based on the child's preference or the resources or labor needs of individual parents. Children born to unmarried women are usually legitimated pre-natally. The father may marry the mother or pay compensation to the woman's family and claim the child for his kin group without marriage. Alternatively, the mother's kin group may take the child (Gutto, 1976:27). If a married woman bears a child from an adulterous relationship, the husband usually accepts the child as his own, though he may seek compensation for the adulterous union (Butler, 1973:9; Gutto, 1976:27). If the husband does refuse the child, it may be taken by the mother's family or that of its natural father. As a consequence of such patterns, children are rarely illegitimate in the sense of western jurisprudence.

Within civil law there are two types of child custody--i.e., guardianship in which there is formal and legal authority unaccompanied by physical control and custodianship which confers physical control and the responsibility of daily maintenance (ibid: 25). In legal terms, both parents of legitimate children have equal rights and responsibilities as guardians and custodians. If a parent dies, the surviving spouse automatically assumes full

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custody. With the death of both parents, responsibility is passed on to an individual or individuals formally designated by the parents or to a person or persons appointed by the courts. Statutory guidelines for court appointed guardians for orphans or the children of divorced parents, are provided in the Guardianship of Infants Act which applies to all children under the age of 18 who are unmarried. According to this Act both the mother and father of legitimate children are to be treated equally in questions of custody. In addition, the children's welfare should be the major concern in custody decisions even to the extent of removing the children from the custody of both parents. Finally, this Act in combination with other legislation, permits the court to change custodial arrangements at any time if it seems in the children's best interests (ibid:25-26). Gutto notes that decisions regarding the selection of custodians for minor children tend to be discretionary with some courts following customary practices giving preference to fathers while others decide purely on the basis of the children's welfare (ibid:26). Under statutory law, the custodial rights and responsibilities of the father and mother of illegitimate children are radically different. <sup>28</sup> Legally, all obligations for an illegitimate child are the responsibility of the mother who has no legal means of obtaining financial aid or recognition for the child from its genitor (ibid:23-29). In the past, limited assistance was available to unwed mothers through the Affiliation Act, instituted by the colonial government in 1959

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<sup>28</sup> According to the Legitimacy Act, there is a rebuttable presumption that a child born within a valid marriage or within 280 days of the dissolution of the marriage is a legitimate child. Islam assumes as legitimate any child born within six months of a marriage or ten months following a divorce (Gutto, 1976:29).

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and repealed by the independent Parliament in 1969. This Act allowed a single woman to petition for affiliation proceedings against the alleged father of her child. If granted, the court could award the woman a monthly sum not to exceed KShs 200/= (ca \$23 in 1969) for the maintenance and education of the child until the age of 16, birth expenses, funeral costs if the child died, and court costs (Gutto, 1976:30; Hamilton, 1973:8). The Act was repealed because of alleged abuses--e.g., women claiming support from more than one man for a single child or blackmailing influential men with threats of action. While the Act had several weaknesses--e.g., it required no blood test to help establish paternity-- many feel that the accusations of abuse were exaggerated. Since the repeal, there have been numerous calls for an amended Bill to provide illegitimate children with equal rights of inheritance with the legal children of their fathers and to alleviate the problems of women who are unable to support their children on their own (Gutto, 1976:30; Hamilton, 1973: 8; Wipper, 1971b: 466; 1975:113).

#### Emigration

The Immigration Act of 1967 requires that all emigrants receive tax and foreign exchange clearances prior to departure while all immigrants obtain resident permits. However, total arrival and departure figures indicate that the overwhelming majority of people passing into or out of Kenya are visitors who are unaffected by such regulations (Uche, 1974:37). The primary movement of people into the country in the past few years has been refugees from Uganda, Ethiopia, and Rwanda. The major exodus has been by non-citizens who have left since independence. While a few Kenyan citizens may

remain abroad following advanced studies, emigration to other countries is relatively rare. As the majority of Kenyan's studying abroad are male, the percentage of Kenyan women who do not return from foreign studies is miniscule.

Within Kenya, the movement of either sex to urban areas is affected by the Vagrancy Act, originally enacted during the colonial period in an attempt to decrease migration to towns (Gutto, 1976:50; Uche, 1974:36). This Act permits the arrest without warrant of any person who is "apparently a vagrant"--i.e., a person lacking lawful employment or means of subsistence. If convicted, vagrants can be repatriated to their home districts and restricted there for a period of three years. It is often noted that women are the most frequent victims of vagrancy arrests both because of illegal employment as prostitutes or unlicensed traders and because of unemployment (Gutto, 1976:52).

#### Women's Ability to Exercise Legal Rights

In each of the preceeding legal sections, an attempt is made both to place legislation within historical and cultural context and to indicate its particular implications for women. In general, women's legal possibilities are constrained by the structure of the legal system itself; women's restricted access to formal education, wage employment, and productive resources; and normative expectations regarding appropriate female behavior.

Although varying in degree, all Kenyan legal regimes institutionalize sexual inequality--e.g., customary, Islamic, and Hindu inheritance patterns favor males, civil law shifts the entire burden for the upbringing of illegitimate children onto the mothers;

and customary law does not compensate widows and divorced women to the extent it does their male counterparts. Further, the coexistence of several systems, each of which may treat women differently, introduces a measure of confusion and ambiguity which seldom works to the advantage of women. For example, under the civil regime, decisions such as those regarding child custody or the payment of maintenance to divorced women are discretionary. To the extent that such judgments are informed by customary, rather than civil, practices, women are disadvantaged.

Women's low level of involvement in western education and the formal economic sector constrains their legal participation in a number of ways. The majority are ill-informed of their rights. Therefore, the possibility of joint property ownership with their husbands or of inheritance of the marital estate through wills or insurance policies is effectively unavailable to them. Women who are aware of such legislation often lack the financial means to take advantage of it, either to obtain credit or trade permits or to pursue their rights in court. Because of their dependence on men for productive resources, even women able to go to court may be virtually deprived of this option by economic considerations--e.g., a woman may obtain a bigamy conviction against her husband while losing access to his farm and the fruits of her labor in his household. Educated, urban women who are fully aware of their legal rights suffer many of these same economic constraints. Those who are not wage-earners themselves may be more financially dependent on their husbands than rural women. But even wage earning women are reluctant to utilize their legal rights fully. This is evidenced by the dearth of prosecutions for adultery or bigamy

although the offenses are widespread and by the number of women who co-guarantee loans with their husbands without demanding joint ownership. Clearly, many urban women also feel that an insistence on certain legal rights might jeopardize their marriage which they value above a particular legal disadvantage. Finally, women's political lobbying power is weak and few individual women possess the national political support coupled with the educational, economic, and experiential prerequisites necessary to become a major legislative or judicial figure. Therefore, their impact on the content of legislation is limited.

Attitudinal factors also influence women's ability to exercise their legal rights. At a national level, women must depend upon male-dominated legislative and judicial bodies to define and protect their legal privileges. In the majority of cases, women are relying on men to reduce their own spheres of power. Women are further disadvantaged by the frequent failure of legislators to take into consideration the structurally different positions of men and women within Kenyan society. As a consequence, much legislation is insensitive to the socioeconomic contexts in which women function and to the particular normative conflicts they experience. Women are often defined as wives, co-wives, and mothers, dependent upon men for access to productive resources and protected by community sanctions. Women who deviate from this pattern by attempting to obtain property on their own or jointly with their husbands, by insisting on a monogamous marriage, or by refusing to marry at all, may face community disapprobation. In fact, the exercise of certain legal rights may be tantamount to demanding a divorce--e.g.,

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a woman only needs her own property if she intends to divorce her husband--or to declaring oneself outside of the community structure--e.g., a woman who refuses to marry lacks full adult status and denies the authority of the kinship system and her obligations within it. In addition, under customary law women are jural minors who usually pursue legal matters through male intermediaries. Consequently, women are inexperienced in court matters and community members may feel that public legal action by women is inappropriate. Thus, women may be intimidated by the formal court structure and discriminated against by magistrates, police, or community elders.

While there is a clear need to design socially sensitive legislation, to disseminate legal information adequately, to assure that authorities assist women to assert their legal rights, and to keep court proceedings within women's financial means, adequate implementation of equitable legislation requires more than technical solutions. To be effective, such legislation must be accompanied by changes in socioeconomic possibilities which allow women de facto as well as de jure equality and by commitment at the local level. As long as there is a disjuncture between state dictated norms and social beliefs and practices, women will remain legally disadvantaged.

References Cited

- Ardener, Shirley  
1973 Sexual insult and female militancy. *Man*. Vol. 8, No. 3, pp. 422-440.
- Baker, Tanya and Mary Bird  
1959 Urbanisation and the position of women. *Sociological Review*, new series. Vol. 7, No.1, pp. 93-122.
- Berger, Jennifer and Abigail Krystall  
1975 The Women's Group Programme: a strategy for education and rural development. *Kenya Education Review. A Journal of the Faculty of Education*. Vol. 2, No. 2, pp.53-61.
- Boserup, Ester  
1970 *Women's Role in Economic Development*. Aberdeen: Aberdeen University Press.
- Butler, Lorna M.  
1973 Research needs concerning the role of women in African rural development. Paper No.18. Presented at the Annual Social Sciences Conference of the East African Universities. (Dar-es-Salaam, 18-20, December).
- Carlebach, Julius  
1963 The position of women in Kenya. Paper prepared for the Economic Commission for Africa. Workshop on Urban Problems: the Role of Women in Urban Development, E/CN.14/URB/9. 4-14 September.
- Collier, Jane Fishburne  
1974 *Women in Politics*. In Michelle Zimbalist Rosaldo and Louise Lamphere, (eds.) *Woman, Culture, and Society*. California: Stanford University Press pp. 89-96.
- Development Alternatives, Incorporated  
1974 A seven country survey of the roles of women in rural development. A report prepared for the United States Agency for International Development.
- Egerton, Robert B. and Francis P. Conant  
1964 *Kilibat: the 'shaming party' among the Pokot of East Africa*. *Southwestern Journal of Anthropology*. Vol. XX, No.4, pp. 404-418.

- Germain, Adrienne and Audrey Chapman Smock  
1974 The status and roles of Ghanaian and Kenyan women: implications for fertility behavior. Paper presented at the Annual Meeting of the American Psychological Association. 1 September.
- Gutto, Shadrack B.O.  
1975 Legal constraints on female participation in the economy. Conference on Assembling and Collecting Data on the Participation of Women in Kenyan Society (Nairobi, 11-15 August).
- 1976 The status of women in Kenya: a study of paternalism, inequality, and underprivilege. Discussion Paper No. 235, Institute for Development Studies, University of Nairobi.
- Hamilton, Jacqueline Fleming  
1973 The legal status of women. Ford Foundation. Unpublished paper.
- Hanger, Jane and Jon Moris  
1973 Women and the household economy. In Robert Chambers and Jon Moris, (Eds.) Mwea: an Irrigated Rice Settlement in Kenya. Weltforum Verlag Munchen, Afrikan Studies No. 83, pp.209-244
- International Labour Office  
1972 Employment, Incomes and Equality: a Strategy for increasing Productive Employment in Kenya. Geneva: International Labour Office.
- Kershaw, Greet  
1975/  
1976 The changing roles of men and women in the Kikuyu family by socioeconomic strata. Rural Africana. No. 29, pp. 173-194.
- Klima, George  
1964 Rural Relations between the sexes among the Barabaig. Africa. Vol. 34, No. 1, pp. 9-20.
- Lamphere, Louise  
1974 Strategies, cooperation, and conflict among women in domestic groups. In Michelle Zimbalist Rosaldo and Louise Lamphere (eds.). Woman, Culture, and Society. California: Stanford University Press pp. 97-112.
- Mbilinyi, Marjorie  
1972 The state of women in Tanzania. Canadian Journal of African Studies, Vol. 6, No. 2, pp. 371-377
- 1975 Where do we go from here? Kenya Education Review. A Journal of the Faculty of Education. Vol. 2, No. 2, pp. 69-78.

- Michaelson, Evalyn Jacobson and Walter Goldschmidt  
1971 Female roles and male dominance among peasants.  
Southwestern Journal of Anthropology. Vol.27  
No. 4, pp. 330-352.
- Migot-Adholla, Shem  
1974 Some sociological aspects of family law in Kenya.  
Paper prepared for the Conference of the Kenya  
National Council of women and the University  
Women's Association of the Kenyatta Conference  
Centre (Nairobi, 1 February).
- Mønsted, Mette  
1976 The changing division of labour within rural  
families in Kenya. Centre for Development  
Research Project Paper. Rural Families in  
Kenya, D 76.1
- Mugo, Micere Githae  
1975 The role of women in the struggle for freedom.  
Conference on Assembling and collecting data  
on the Participation of Women in Kenyan Society  
(Nairobi, 11-15 August).
- Murdock, George Peter  
1971 The nuclear family. In Nelson Graburn (ed.).  
Readings in Kinship and Social Structure. New  
York: Harper and Row, pp. 358-365.
- Mutiso, G.C.  
1971 Mbai sya Eitu: a low status group in centre-  
periphery relations. Paper presented at the  
Fourteenth Annual Meeting of the African Studies  
Association (Denver, Colorado, 3-6 November)
- Nelson, Nici  
1975 Some aspects of informal social organization of  
female migrants in a Nairobi squatter neighbor-  
hood: Mathare Valley. Paper I: Strategies of  
female migration to Mathare Valley. London Uni-  
versity, School of Oriental and African Studies, 75.1.
- Njiiri, Ruth S.  
1975 New roles for women in modern Africa. Paper pre-  
sented to the African-American Scholars Council  
(Washington, D.C., May)
- Nyambu, Gabriel H.M.  
1965 When an African husband dies. East Africa Journal  
July, pp. 20-22.
- Okoth-Ogendo, H.W.O.  
1975 The changing system of land tenure and the rights  
of women. Paper presented at the International  
Women's Year Tribune's Panel on The Family  
(Mexico City, 27 June).

- Read, James S.  
1968 Marriage and divorce: a new look for the law in Kenya? East African Law Journal. Vol.5 No. 1, pp. 107-140
- Remy, Dorothy  
n.d. An alternative to "equal access": an employment strategy for women. Department of Urban Studies, Federal City College. Unpublished paper.
- Reynolds, J. Eric  
1975 Case study: Kapenguria, In A.O. Pala, J.E. Reynolds, M.A.H. Wallis and D.L. Browne, Occasional Paper No. 13, Institute for Development Studies, University of Nairobi, pp.29-51.
- Pala, Achola O,  
1975 A preliminary survey of the avenues for and constraints on women in the development process in Kenya. Discussion Paper No. 218. Institute for Development Studies, University of Nairobi.
- Pala, Achola O., J. E., Reynolds, and M.A.H. Wallis  
1975 The Women's Group Programme in the S.R.D.P. In Occasional Paper No. 13. Institute for Development Studies, University of Nairobi, pp. 1-28.
- Programme for Better Family Living/FAO  
1972 Training women's leaders. Report on the workshop for Trainers of Women's Leaders. (Adult Studies Centre, Kikuyu, 2-8 October). PSFL Report No. 4.
- 1974a Women's leadership in rural development. Report on a National Workshop to Coordinate and Plan for the Women's Group Programme. PSFL Report No. 14.
- 1974b Women's groups in rural development. PSFL Report No. 15.
- 1977 Group extension through women's groups. Report prepared by the National Interagency Working Group on the Pilot Women's Group Programme. PSFL Report No. 25.
- Stamp, Patricia  
1975/  
1976 Perceptions of change and economic strategy among Kikuyu women of Mitero, Kenya. Rural Africana No. 29, pp. 19-43.

## PUBLIC SERVICES AND EMPLOYMENT

### School Enrollments

In simple terms, education may be divided into three basic types: formal, including structured western or indigenous schooling; non-formal, consisting of systematic instruction outside of the formal system and informal or socialization. When Kenyan women are categorized as uneducated or less educated than Kenyan men, these evaluations refer to their participation within the narrowly defined system of introduced formal schooling and not to education in its broader sense. Certainly, Kenyan women who have never attended primary school have developed the conceptual and practical skills necessary for survival within their particular socioeconomic contexts. Consequently, they are neither ignorant nor unaccomplished. A discussion of women's expertise in skills usually acquired outside of the formal structure is presented in later sections. Here, the focus is women's participation in Kenyan's national formal education system. Consideration is given to the influence of historical, sociocultural, and structural factors on patterns of female access and equity.

### Indigenous Education

Rather than detail the variation and complexity of indigenous education systems, the brief discussion following emphasizes those general characteristics which are most directly relevant to female involvement in national education. Some indigenous societies institutionalize learning situations through age-set systems and initiation ceremonies in which children are given formal instruction

in critical spheres prior to their assumption of new responsibilities within the community (Mutua, 1975: 26; Stamp, 1975/1976: 24-25).<sup>1</sup> However, indigenous education systems tend to be informal. Instruction is indirect and pragmatic--i.e., the child learns through participant observation in everyday events.<sup>2</sup> Physical activities are supplemented by riddles, folk tales, proverbs, and songs which embody cultural history and social and moral maxims (Dobson, 1954: 455; Fisher, 1954:100; van der Meeren-Yeld, 1972: 203). Mothers, grandmothers, and elder siblings of both sexes have primary responsibility for the teaching of young children. As boys and girls grow older, culturally appropriate and complementary social and manual skills are taught by the same sex elders. Thus, both sexes serve as apprentices in their youth and as expert instructors in adulthood. By the age of 10 to 14 years, most girls have acquired the basic knowledge and abilities to respect community values, to fulfill social obligations, to procure food for their families, and to manage a domestic unit. In fact, such girls often do the majority of the cleaning, cooking, fetching, and child-tending in their natal homes, permitting their mothers to reallocate their time for longer hours in the fields, greater involvement in trading or crafts, or more leisure. After mastering basic tasks, girls may begin to specialize

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<sup>1</sup> The similarities of this type of training to western formal education were noted frequently by colonial educators, many of whom felt that children from such backgrounds adapted more readily to colonial schooling practices (cf. Dobson, 1954: 151-155).

<sup>2</sup> The concept of learning through participation is well-developed within many Kenyan societies. For example, Kikuyu families may allocate gardens to young girls who exert full control over them with respect to planning, planting, cultivating, harvesting, and allocation. Such gardens are provided consciously as an educational device for the acquisition and application of agricultural management and marketing skills (Fisher, 1954:96-97).

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in particular activities--e.g., pottery, thatching, basketry, etc. In societies in which women practice as herbalists, healers, or mediums, specialized training may continue into adulthood.

In summary, the final goal of indigenous education is the development of an individual who is well-integrated into the socio-cultural system and is able to perform all tasks necessary to the continuation of the social group. The training generally takes place in a naturally occurring setting within the community under the informal guidance of close relatives or others well known to the child. Each learning experience is connected directly to the child's life and is clearly necessary to the achievement of full adult status in the community.

#### Colonial Education

Schooling financed by the colonial government emphasized formal training and the development of skills to support the new European establishment. To this end, government schools provided certain Kenyans with enough training to serve the colonial administration as low level functionaries--e.g., tax collectors, clerks, or primary school teachers. Missionaries, the other source of western education, had come principally to convert indigenous peoples to their religious beliefs. To facilitate this, missions required local persons with sufficient education to spread Christian influence by serving as teachers and evangelists. Thus, for both the government and the missions, western formal education functioned primarily as a tool preparing selected Africans to maintain and disseminate European institutions rather than as source of manual and conceptual skills relevant to the on-going lives of most Kenyans.

The majority of the limited number of Africans educated in the colonial system were men (Mutua, 1975: 27; Smock, 1977: 4). A Victorian heritage which devalued the intellectual and economic capabilities of women<sup>3</sup> coupled with a demand for low paid male labor which required the subsidization of wages by female subsistence farmers (Stichter, 1975/1976:53) mediated against a vigorous colonial campaign to educate women. It was missionary, rather than government, institutions which initiated women's formal schooling. Their action was motivated by the belief that women, as wives and mothers, were essential to the institutionalization of Christianity and its perpetuation through the family.<sup>4</sup> Thus, to a certain extent female education was supported by European stereotypes which recognized women as the mainstay of the family, identifying them with both its spiritual and physical well-being. However, European prejudices had a deleterious effect on the definition of appropriate training for women. Women's education was envisioned as complementary to but separate from that of men.<sup>5</sup> While the

<sup>3</sup> Examples of colonial prejudices regarding the appropriate place of women abound in the literature of the time. Hilde Thrunwald questions women's aptitude to become, "fully reliable teachers without being exposed to error" (1935:191). Barbara Dobson describes women's involvement in the non-domestic sphere as a "distant goal" which is irrelevant to present planning (1954:457). Cf. Bullough for a discussion of the derivation and substance of Victorian beliefs regarding women (1974:276-294).

<sup>4</sup> The early missionary emphasis on the education of males resulted in a growing number of young, literate, Christian converts in need of wives. This situation underscored the necessity for women of complementary background to form the nuclei of Christian families. <sup>5</sup> Many colonial educators agreed with Thrunwald that, "the function of wife and mother demands an education devoted to these biological goals and must be different from that of the boys" (1935:197).

education of males concentrated on their participation in productive activities, the major thrust of women's education was confined to religious teachings and homecraft. As many missionaries were appalled by rural health problems (Shannon 1954:8), educational efforts focused on this aspect of the domestic sphere.<sup>6</sup> As a consequence, women's training centered on their mission-defined function to bear and rear Christian children in a healthful environment (Cf. Dobson, 1954:455; Shannon, 1954:8; Thurnwald, 1935:192). More sensitive and knowledgeable colonial educators criticized the system of instruction for its failure to consider pupils' actual living conditions<sup>7</sup> or to extend women's training into other acknowledged "feminine" fields such as teaching or nursing (Cf. Dobson, 1954:456; Shannon, 1954:10). However, even these educators failed to recognize the full extent of women's involvement in agriculture, trade, and crafts and their consequent need for training in these spheres. This apparent inability to identify women with productive tasks beyond child-bearing, systematically biased women's formal education and limited their opportunities to participate equally with men in on-going and emerging economic activities.

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<sup>6</sup>In fact, a number of mission schools for girls arose from a medical or health base. For example, one of the first girls' schools, Alliance, established about 1910, began as a medical center under the joint sponsorship of several Protestant missions. Missionary staff gradually started to teach sewing, cooking, and hygiene to the girls who had come for medical treatment. By 1948, Alliance Primary School had become a secondary school, adding Forms V and VI in 1961 (Hamilton, 1973:11).

<sup>7</sup>Among some educators, there was a recognition that teaching was often irrelevant to the student's lifestyle away from school--e.g., home economics might consist of learning to cook European foods which were unavailable in most rural areas, on European stoves which were too expensive for the majority of Kenyan families, in model houses which bore little resemblance to those occupied by the students (Dobson, 1954:455; Wipper, 1975/1976: 205).

In addition to biasing the curriculum presented to women, colonial prejudices qualified female access to educational facilities. Although a much debated topic, most schools were sexually segregated throughout the colonial period. Those in favor argued that such separation approximated indigenous institutions and protected girls from unsavory interactions with men. However, the separation of the sexes artificially restricted women's access to schooling by forbidding them entry to boys' institutions which constituted the majority of existing facilities. Further, such segregation facilitated separate curricula, and thus the concentration on homecraft for girls and vocational training for boys.<sup>8</sup> Besides sexual divisions, the colonial system was also racially stratified, providing separate educations to Africans, Asians, and Europeans to prepare each for the social positions they were to occupy (Hamilton, 1973: 11; Kinyanjui, 1975: 6-7; Smock, 1977: 6.)<sup>9</sup> Needless to say, African students received the least governmental resources and thus fewer places and lower quality institutions.

<sup>8</sup>

The importance of a separate curriculum for each sex is clearly expressed by Thurnwald who feared that mixed schooling would make it "impossible to accommodate the school in female requirements (without impeding) the progress made in the teaching of boys" (1935: 197). Accommodating female requirements meant the channeling of women into home economics which occurred at all levels of the colonial education system. For example, the first class of female students to complete courses at the University of Nairobi (then, University College, Nairobi) in the mid-1950s, received certificates in home economics. The first colonial Bachelor of Arts degree awarded to women in the late 1950s and early 1960s were also in home economics (Whiting, 1973: 71).

<sup>9</sup> Makerere University College, which opened in Kampala, Uganda in 1949, was the first East African institution to bring African, Asian, and European students together in a single faculty (Smock, 1977:7).

Financial priorities within the system meant that Kenyan women suffered from a dual discrimination, both as Africans and as females.<sup>10</sup> The colonial government did little to increase African access to formal education until the eve of independence. At that time, the added schools greatly favored males, not only failing to redress previous imbalances but emphasizing the disparity (Smock, 1977:28).<sup>11</sup>

Clearly, certain aspects of the colonial formal education system contrasted sharply with indigenous modes of instruction with differential consequences for men and women. First, the colonial system undercut the universality of indigenous training. With the introduction of formal western schooling, education became a scarce commodity offered to a select few who were almost exclusively male. For the first time, it could be said that women were less educated than men. Secondly, the emphasis shifted from the practical day-to-day problems of existence to a concern with "bookish" skills appropriate to urban areas and wage-earning jobs, situations in which most Kenyans, particularly women, seldom found themselves. Thirdly, formal education was often perceived to be the key to wage employment and thus to wealth, prestige, and a successful life away from the farm. To the extent that indigenous teachings were no longer

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<sup>10</sup>

Cf. Appendix IV, Tables 1 and 2

<sup>11</sup>

Although the first college preparatory secondary school for Kenyan women opened in the late 1940s (Whiting, 1973: 71), there were only six secondary schools for women with advanced levels by 1964 (Hamilton, 1973:11). This slow expansion of women's educational opportunities was characteristic of the period.

sufficient to obtain the "good life", they were devalued. As a consequence, community cohesion and family solidarity were reduced, and a number of traditional practices which supported the rights and position of women lost their efficacy (Fisher, 1954: 108; Shannon, 1954: 3). Moreover, the higher prestige associated with participation in the male-dominated wage-earning sector, decreased the respect accorded those skilled in the primarily female subsistence sphere. By disadvantaging both those women enrolled as students and those receiving exclusively indigenous instruction, the colonial formal education system contributed to a social and economic gap between the sexes which was previously unknown.

#### Post-Colonial Education

Since independence, the GOK has concentrated primarily on expanding rather than re-structuring the formal education system established during the colonial era. The high priority ascribed to growth is evident in governmental decisions to eliminate school fees for the first five years of primary school and to allocate approximately one-third of the annual recurrent budget to education. As a consequence of this emphasis, the proportion of the adult population with some exposure to the national schooling system has increased rapidly in the post-independence period (Smock, 1977:23). However, development has been uneven, reflecting regional, ethnic, and sexual disparities.<sup>12</sup> In general, women's access to formal schooling is positively correlated with the overall level of education in an area. The latter depends upon the extent of missionary contact during the colonial period as well as the degree of present economic development and the political

<sup>12</sup>

Cf. the demography section above for a summary of male and female participation in the post-colonial education system.

influence of the region (Kinyanjui, 1975 :9; Krystall, 1976:3). Female participation is particularly depressed in the semi-arid areas where pastoralism is the major subsistence mode (ILO, 1972:296).

In addition, there is a rural/urban differential with urban women exhibiting both a greater percentage of enrollment in formal education and higher educational attainment than their rural counterparts (Rempel, 1974:12).<sup>13</sup> Despite these regional inequalities, the number of women exposed to formal education has risen markedly in the last decade. However, women's participation remains depressed relative to that of men regardless of areal or ethnic context.

In both absolute and relative terms, women have made their most significant gains at the primary school level.<sup>14</sup> In the year prior to independence, primary enrollment was 66 per cent male and 34 per cent female. By 1969, the proportion of girls had risen to 41 per cent. However, only 33 percent of the female children of primary school age (5-14 years) were enrolled in school compared to 53 per cent of the males (Mutua, 1975:28). Between 1968 and 1972, the annual growth rate of female enrollment was significantly higher than the increase in total enrollment--i.e., 10 per cent for the former, compared to 7 percent for the latter (Kinyanjui, 1975:10).<sup>15</sup> As a consequence of this differential increase, by 1975, females comprised 46 per cent of the stu-

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<sup>13</sup>

Cf. Appendix I, Tables 6 and 7

<sup>14</sup> Primary school encompasses seven years of study--i.e., Standard One through Standard Seven. At the conclusion of their final year, students take a nationally administered examination for the Certificate of Primary Education (C.P.E.). Those who earn an adequate score are eligible for entry into secondary school.

<sup>15</sup>

Cf. Appendix IV, Table 3 for the primary growth rate by sex and province, 1968-1972.

dents attending primary school and sexual inequality at the national level was considerably reduced.<sup>16</sup> However, even though primary enrollment approaches parity in some areas of the country (Krystall, 1976: 3), regional inequalities remain significant (Cf. Kinyanjui, 1975).<sup>17</sup> For example, of the 41 per cent female primary enrollment enumerated in 1969, regional proportions varied from 15 per cent in the primarily pastoral North Eastern Province to 45 per cent in Nairobi and Central Provinces (Barnes, 1975: 39).<sup>18</sup> In addition, although the percentage of females entering and remaining in primary school has increased since independence (Krystall, 1976: 1), a comparison of the survival rates of boys and girls reveals further sexual inequities. Between 1960 and 1966, the primary drop out rate was 37 per cent female and eight per cent male (Germain and Smock, 1974:19). Typically, the proportion of females to males decreases as a class ascends from Standard One to Standard Seven. For example, females comprised 42 per cent of the pupils who began Standard One in 1966. By 1973, when the cohort entered Standard Seven, the proportion of girls had decreased to 37 per cent (Kinyanjui, 1975:10).<sup>19</sup>

<sup>16</sup> Cf. Appendix I, Table 5 for the annual breakdown of school enrollments by sex and age, 1963-1973.

<sup>17</sup> Cf. Appendix IV, Table 4 for the proportion of girls in primary school by province, 1962 and 1972, and Appendix IV, Table 5 for an educational profile of females aged 12 and over by selected ethnic group, 1969.

<sup>18</sup> Although the increase in primary enrollment following the elimination of school fees for the first four years decreased the discrepancy between the provinces, regional and sexual disparities remain (Smock, 1977:27-28). The impact of the recent decision to eliminate fees for Standard Five is as yet unknown.

<sup>19</sup> It should be noted that males swell the ranks of Standard Seven, suggesting that females who do not pass C.P.E. tend to drop out while males repeat (Krystall, 1976:3). Therefore, male figures may be inflated, including pupils repeating from an earlier cohort.

Women's access to secondary schooling does not exhibit the consistently positive national growth rate which characterizes primary enrollment.<sup>20</sup> In fact, during the first few years following independence, women's participation in secondary school actually decreased from 32 per cent in 1963 to 25 per cent in 1967. It was not until 1972 that female enrollment as percentage of total enrollment reached its pre-independence level. This same pattern is apparent in higher school certificate figures. Females comprised 23 per cent of the total enrollment in Forms V and VI in 1963. Dropping to 20 per cent in 1966, and rising to 24 per cent in 1973.<sup>21</sup> When these national figures are broken down by province, rural and urban residence, or ethnic group, female access to secondary education reveals disparities similar to those of primary enrollment.<sup>22</sup>

Although female secondary school participation is growing at a higher rate than that of males, women presently constitute less than one-third of all secondary school students (Smock, 1977: 13). This poor representation is partially a product of a high wastage rate (Kinyanjui, 1975:10). By the time a class begins Form I, about three-quarters of the girls who entered Standard

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Secondary school consists of four years of training- i.e., Forms I-IV. A national examination follows Form IV for the East African Certificate of Education (E.A.C.E.). Examination scores determine eligibility for entry into Forms V and VI which provide university preparation. A final national examination for the East African Advanced Certificate of Education (E.A.A.C.E.) follows Form VI and serves as part of the selection process for university entrance. Some secondary students sit the Kenya Junior Secondary Examination (K.J.S.E.) at the end of Form II. This exam may be taken by students intending to leave formal education at that stage. In addition, K.J.S.E. scores are required for students who wish to transfer from privately sponsored, harambee schools to government aided schools for Forms III and IV.

<sup>21</sup> Cf. Appendix I, Table 5 for an annual breakdown of school enrollment by sex and age, 1963-1973.

<sup>22</sup> Cf. Appendix IV, Tables 5 and 6.

One have been eliminated compared to two-thirds of the boys (Krystall, 1976:4). This initial disparity increases as the cohort approaches Form IV. For example, in 1965, of the 5,118 women enrolled in Form I, 72 per cent graduated from Form IV in 1968, compared to 79 per cent of the men (Kinyanjui, 1975:10). Of the students who entered Form I in 1970, 40 per cent of the women and 27 per cent of the men failed to complete Form IV in 1973 (Krystall, 1976:5). For those who successfully sit the E.A.C.E., fewer women than men proceed to pre-university training. Between 1965 and 1968, of the students passing E.A.C.E. with Division I scores,<sup>23</sup> 73 per cent of the males continued their education compared to 60 per cent of the females (Kinyanjui, 1975:12). As in the lower Forms, the female drop out rate in Forms V and VI is higher than that of males (ILO, 1972:297; Pala and Krystall, 1975:2). In addition to these disparities in wastage and intake rates, there are significant differences in patterns of areal concentration within the secondary school population. Students are unevenly apportioned between science and art streams with males dominating the former and females the latter. It has been estimated that two-thirds of the potential female candidates for university come from an arts background compared to one-third of the males (Smock, 1977:36). This distribution has considerable impact on the future educational and occupational possibilities of the men and women who do complete advanced secondary training.

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E.A.C.E. passes are grouped into four categories on the basis of the total number of points a student receives. The highest pass is Division I, followed by Divisions II, III, and IV.

Similar patterns characterize women's participation in advanced education. The University of Nairobi had a female enrollment of 14.7 per cent in 1973, dropping to 10.4 per cent in 1974, before rising to 17.6 per cent in 1975 (Krystall, 1976:24, Table 14).<sup>24</sup> It is estimated that the number of undergraduates pursuing studies outside of Kenya approximate the total enrollment at the University of Nairobi and that less than 10 per cent of those students are female (Smock, 1977:35). Although the first Kenyan women lawyers graduated from the University of Dar-es-Salaam in 1967 and several of the first medical students to graduate from the University of Nairobi, in 1973 were women (Whiting, 1973:71), the vast majority of female undergraduates are found in the Faculties of Arts, Education (Arts), and Advanced Nursing (Krystall, 1976:6). During the academic year 1974/1975, women constituted approximately 10 per cent of the undergraduate enrollment. These few women comprised 27 per cent of the Faculty of Arts, 30 per cent of the Faculty of Education, and 100 per cent of the Faculty of Advanced Nursing. In contrast, women were poorly represented in fields such as engineering,

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In contrast to Krystall's findings, figures recently compiled by Smock from the Office of the Registrar, University of Nairobi, reveal a steady decline in the percentage of Kenyan women undergraduates from 21.3 per cent in the academic year 1965/1966 to 9.9 per cent in 1975/1976 (1977:34). The discrepancy between the findings of Krystall and Smock may be the result of differences in enumeration. While Smock specifically states that she is enumerating Kenyan women undergraduates, it is unclear whether Krystall is restricting her figures to Kenyan women or is including all female undergraduates. Regardless of the differences between these findings, Kenya is a clear exception to the steady increase in the proportion of female university students which characterizes a number of educationally comparable countries--e.g., Ghana, Lesotho, Nigeria, Bolivia, Paraguay, and Peru (DAI, 1974:29).

agriculture, and the sciences (ibid:23, Table 14). Enrollment in non-university secondary school teacher's training was 51 per cent female in 1963 but fell to 27 per cent by 1973 (ibid: 25, Table 15). By 1976, female participation had risen to approximately 35 per cent. In primary teacher's training colleges, the proportion of women increased from 32 per cent in 1964 to 40 per cent in 1973. However, the Ministry of Education indicates that further expansion is prevented by lack of appropriate facilities for women.<sup>25</sup>

In summary, the rapid expansion of Kenya's post-independence formal education system has increased the number of both men and women receiving education at all levels. However, while male and female participation approaches parity for elementary schooling, there is an increasing sexual disparity at each stage above primary. Further, existing regional and ethnic inequalities are more pronounced for women than for men. Finally, sexual streaming begins early in a student's career, directing women toward home economics and the arts and men toward vocational training and the sciences. Clearly, the bias against women inherent in the colonial education system has not been overcome. This perpetuation of inequity cannot be understood without reference to the impact of social attitudes on patterns of attendance and areal concentration. Such attitudes are manifested in the value individual families assigned to the education of women, in the institutional structuring of opportunity itself, and in women's perceptions of their own possibilities.

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<sup>25</sup>

Cf. Appendix IV, Table 7 for the enrollment of female students at selected post-secondary institutions, 1974.

### Family Considerations

Formal education is highly valued in many parts of Kenya with families attempting to educate each of their children to the limits of his or her ability (Conference..., 1975:7). However, as school attendance decreases the household's financial and labor resources, most families must weigh its costs and benefits carefully. Consideration is given to a number of factors, many of which vary over time with an individual family's circumstances--e.g., the advisability of investing in a particular child's education versus purchasing additional land or livestock or making capital improvements in present holdings. As a consequence, within a single family, certain children may be allowed to attend school while others may not. There are strong indications that the factors influencing such decisions vary with the sex of the child. Enrollment patterns suggest that when choices must be made, parents prefer to educate sons (Krystall, 1976:2; Smock, 1977:11). Further, it appears that female children are the first to be withdrawn from school if the family experiences financial or labor shortages (Bookman, 1973:58; Hamilton, 1973:12; Kinyanjui, 1975: 10). These factors have a negative effect on female participation in formal schooling which is particularly apparent among poor, rural families. Although the relationship between family decision making and women's access to formal education is too complex to be discussed adequately in this paper, certain relevant considerations follow.

Because of the strong identification of formal education with employment in the male-dominated wage-earning sector, many rural families question the need for women's formal training. With the exception of literacy and numeracy, much of the content of formal instruction appears irrelevant for the majority of women who will spend their lives in a rural context cultivating the land, tending animals, and managing a domestic unit. In fact, as it is widely felt that necessary rural skills are most effectively learned at home, time spent school may be viewed as a serious hindrance to the real educational needs of rural women (Brokensha, 1973:87; Fisher, 1954:107; Hamilton, 1973:13; Mbilinyi, 1972:374). By reducing direct family participation in the educational process, school attendance generates parental concern that daughters may leave school alienated from their natal communities, unable or unwilling to perform tasks basic to rural survival. Such apprehensions are frequently expressed as a fear that formal schooling will "spoil" daughters, resulting in disobedience, laziness, and even pregnancy (Fisher, 1954:107; Maleche, 1972:28; Mbilinyi, 1972:375; Smock, 1977:39)<sup>26</sup>. To the extent that a girl's training leaves her unprepared for the responsibilities of rural living, her marital chances will be jeopardized. This can be a serious matter in many parts of the country where marriage is a prerequisite to full social adult status and legitimate access to productive resources.

<sup>26</sup>

Although poorly documented, there are widespread indications that many girls are forced to leave school because of pregnancy (Conference...1975:7; Krystall, 1975:5; Mbilinyi, 1975:77; Neison, 1975:3).

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From a strictly economic point-of-view, the education of daughters may be perceived to have higher opportunity costs and lower rates of return than the education of sons. Since girls do a major share of the household chores, their loss to the family labor pool is frequently more significant than that of boys (Abbott, 1975:62; Mønsted, 1977:14)<sup>27</sup>. In addition, girls without formal schooling tend to marry at a younger age, providing the family with early bridewealth and sparing them further expenses. On the other hand, there is a growing recognition that bridewealth may be substantially higher for educated women (Hamilton, 1973: 13; Maleche, 1972:29; Wachtel, 1974:2).<sup>28</sup> Moreover, such women are more likely to marry men with sufficient resources to provide financial assistance to the wife's family (Hamilton, 1973:13; Migot-Adholla, 1974:5). Consequently, the formal education of daughters may be recognized as a reasonable family investment. However, the education of sons is often judged a better use of limited resources. First, it is commonly believed that boys are inherently more capable and intelligent than girls and thus are more deserving of the sacrifices that formal education requires of the family

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<sup>27</sup> Krystall suggests that the relative lack of need for the labor of male, compared to female, children may contribute to the higher number of male repeaters of C.P.E.--i.e., boys can be spared from the household to try again while girls cannot (1976:3). A further reflection of the relative need for children's labor by sex may be found in the Kenyan preference for educating first born sons and second born daughters--i.e., any boy's labor is less significant to the household and the first born daughter performs enough of the necessary work to free her younger sister to attend school (Munroe and Munroe, 1971)

<sup>28</sup> In 1974, Migot-Adholla estimated that the bridewealth for a woman with a bachelor's degree approached KShs.10,000/=(S1,400) (1974:5).

(Maleche, 1972:29; Smock, 1977:39). Secondly, parents often feel a greater claim on their son's finances than on their daughter's. As lineage heirs, boys are expected to support their aged parents while daughters marry elsewhere endowing their husband's family with the major benefits of their education (Germain and Smock, 1974: 21; Gutto, 1976:59; Smock, 1977:40).<sup>29</sup> Finally, since the education system fails to provide women with the same prospects for salaried employment as it does their male counterparts, the higher earning potential of educated sons encourages more extensive family investment (Krystall, 1976:2; Mbilinyi, 1972:374; Pala and Krystall, 1975: 3.)<sup>30</sup>

Clearly, differences in family expectations regarding male and female children have strongly contributed to male predominance in formal education. Such expectations principally derive from two sources--i.e., the dissimilar structural positions of males and females within the patrilineal extended family and the unequal participation of the sexes in the cash economy. Within most Kenyan societies, males are expected to play a long-term productive role in their natal families--e.g., inheriting land and livestock, caring for aged parents, and aiding younger siblings. In addition, as a consequence of their control over major productive resources and greater access to wage employment, males

<sup>29</sup>

A greater expectation of return from male education may contribute to parental willingness to subsidize additional schooling for boys to re-take the C.P.E. (Smock 1977:44).

<sup>30</sup>

A positive relationship between potential earning power and parental willingness to pay for education receives further support from Reining's material which suggests that in parts of the country where both sexes are able to find reasonable employment, women are educated as frequently as men (AAAS, 1977:63).

are perceived to be the family's primary link with the cash economy. In contrast, the active tenure of women within their natal families tends to be abbreviated with most of the benefits of their special skills, fertility, and labor passing to affines at marriage. In fact, the natal family recognizes their maximum economic gains from daughters through their labor in childhood and the bridewealth received at marriage. As there is little expectation of wage employment for most women, major benefits accrue to both a daughter and her family from an early union with a man who is able to provide economic security for the former and extensive bridewealth for the latter. Thus, it is advantageous to all parties for a daughter to receive adequate training in rural skills and protection from interactions which might jeopardize her marital possibilities.

While these expectations remain significant, they are undergoing modification as a result of certain socioeconomic changes. These include the increased physical mobility of the population with associated erosion of community control over individual actions and enhanced opportunities for economic independence from kin which contribute to a more individualized conception of family obligations. In many parts of Kenya, such developments have strongly affected patterns of economic dependence and cooperation within the rural family. For example, with rising inflation, growing individual aspirations, and lengthening separations from rural relatives, many men have become increasingly unwilling or unable

to remit major portions of their earnings to natal kin. Thus, in many families, sons are no longer as central to the economic structure of their parent's household as they were in the indigenous economy. At the same time, there is a growing realization, particularly among rural women, that daughters can be relied upon for economic assistance. In fact, as women often remain in rural areas while men seek employment elsewhere, many families are finding daughters to be a more certain source of aid than sons (Conference...1975:7).<sup>31</sup> As a consequence, the expectation that a son's education will benefit his natal family while the education of a daughter enriches only her affines is beginning to break down. Further, the scarcity of arable land, the weakening of women's rights in productive resources, and the growing ambiguity concerning marital rights and obligations have decreased the economic security accruing to women from marriage. As a result, a number of rural women have turned to formal education in an attempt to provide their daughters with a measure of economic security which is to some degree independent of a husband's whims or fortunes (Germain and Smock, 1974: 21; Hamilton, 1973: 13; Maleche, 1972:29). Rural women are actively facilitating the formal education of their daughters by increasing their financial outlay for school associated expenses and allowing more free time at home for study (Njiriri, 1975:2; Pala, 1975:7; AAAS, 1977:63). Given the limited resources and heavy workloads of most rural women, such decisions require

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This view is clearly expressed by several Kikuyu women who felt that educated sons often forgot their mothers while daughters could always be relied upon for help (Stamp, 1975/1976:40, footnote 21).

considerable sacrifice. The effect of this growing commitment to women's formal education is evident in the increase in female school enrollments, especially at the primary level.<sup>32</sup>

#### Structural Factors

Even though Kenya has a centralized system of education with standardized curricula, syllabi, and examinations, there are structural features which mediate against equal access and opportunity for the sexes. Basic inequities are evident in the quantity and quality of existing facilities, the availability of courses, the adequacy of counseling, and the system of examinations. These disparities have had a negative impact on women's access to higher education and professional training and thus on their ability to participate in the wage-earning sector.

Officially, Kenyan schools are racially integrated and offer standardized curricula. However, aspects of the three-tiered colonial system remain. The GOK emphasis on expansion has limited the funds available to up-grade previously neglected non-elite schools or to provide full government support for newly opened educational facilities. As a result, the post-colonial education system remains hierarchical, with institutions differing dramatically in cost and quality. Schools can be divided into two major categories on the basis of their access to public funding--i.e., government aided institutions and community supported

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While this section is confined to a discussion of the relative access of Kenyan men and women to formal education, it is important to put these trends into an appropriate international perspective. In spite of the gap between male and female enrollments in the Kenyan system, the country exhibits a strong commitment to the formal instruction of women when contrasted with educationally comparable countries. For example, in Smock's survey of Mexico, Ghana, Kenya, the Philippines, and Pakistan, Kenya has considerably higher percentages of women completing each level of education than the other four countries (1977:40).

or harambee, facilities. The former are subsidized by government and thus are able to combine better facilities and teaching staff with lower fees. The latter derive their entire budgets from student tuition and community contributions. Consequently, they frequently offer poorer facilities and less experienced teachers while charging as much as four times the cost of assisted schools (Smock, 1977:12).<sup>33</sup>

Since the majority of primary schools are coeducational, criteria such as proximity or the ability to pay school fees determine access to high quality institutions more directly than the sex of the student. However, at the secondary level, most facilities are sexually segregated. While separate schooling is not in itself detrimental to women's participation in formal education, the particular distribution of secondary facilities in Kenya favors males with respect to number of places, level of education, and cost. In 1968, there were 303 secondary schools for males, 107 for females, and 191 for either sex (ibid: 31, Table 10). Thus, for every facility open to women, there were 1.6 available to men. By 1972, the ratio was 1 to 1.4. Similar skewing is apparent in Forms V and VI, providing males with 50 per cent greater access than females to pre-university training (Krystall, 1976:5). In addition to disparities in the absolute

<sup>33</sup>In 1970, primary school fees in rural areas ranged from KShs 30/= (\$4 at the 1970 exchange rate) to KShs 95/= (\$13) per year. In Nairobi, parents paid KShs 50/= (\$8) in former African schools, KShs 122/= (\$25.50) in former Asian schools, and KShs 579/= (\$81) in former European schools. Presently, secondary boarding facilities which are government assisted charge approximately KShs 1,300/= (\$225 at the 1977 exchange rate) per year with day school fees vary from KShs 400/= (\$50) to KShs 600/= (\$75). Harambee day schools, on the other hand, may charge as much as KShs 1,500/= (\$188) per year (Smock, 1977:11-12). Since the annual cost of a secondary education approaches the per capita income in Kenya at heavily subsidized boarding schools and exceeds it in many partially assisted or harambee schools, formal education is a tremendous financial burden for most families.

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number of secondary places, the balance between government assisted and community supported schools has increasingly discriminated against women. Between 1968 and 1973, a period of rapid growth in women's enrollment, the number of aided secondary schools for men increased 78 per cent compared to 34 per cent for women. As a consequence, the growth in women's participation has disproportionately occurred in harambee schools (ibid:4).<sup>34</sup> In 1968, 39 per cent of the women entering Forms I-IV attended unaided schools. By 1973, the proportion had risen to 51 per cent. During this period, the proportion of males in community supported schools decreased from 48 per cent to 42 per cent (ibid). These inequities are a clear statement of the greater willingness of the government to invest in the education of males over females. This unequal apportioning of public resources has provided men with a better opportunity than women to enter school, to receive a good education, to score well on examinations, and to earn places in advanced training. In addition, as families often must pay higher fees to educate daughters than sons, cost is a more serious obstacle to women's secondary education than it is to that of men.

Although the Ministry of Education(MOE) indicates that all Kenya schools use the same syllabi at each level, there are clear distinctions between the courses offered to males and to females (Conference...1975:2). While these differences are least evident at the elementary level, primary schools display both overt and subtle biases. From Standard Four, all girls must take home economics, a course which requires as much time as history and civics

<sup>34</sup> It has been argued in Kenya that school facilities and teaching quality are more significant to the performance than any other criteria, including the socioeconomic background of the child (Smock, 1977:10). Thus, the high female enrollment in generally lower quality harambee schools has significant consequences for the future possibilities of female students.

combined. Further, the texts and content of primary courses can be criticized for their failure to recognize the contributions of women to Kenyan history and development (Smock, 1977: 19). It is, however, at the secondary level that disparities in training opportunities are most pronounced. While men's schools commonly offer instruction in trade-oriented courses such as carpentry or metalwork, very few women's institutions are equipped to teach the most job-oriented course in the women's curriculum-- i.e., typing. In fact, the principal vocational training open to women is a non-professional home science course, concentrating on needlework and cookery (ibid:73). Sexual streaming also occurs in more academic subjects. For example, there are three times as many places in arts as science streams for women, while for men, the situation is reversed (ibid:32). In addition, of the 21 secondary institutions teaching new math in 1975, only six were open to women and three of these were coeducational (Pala and Krystall, 1975:4). Further, of 69 schools presently offering science subjects, 10 are for women, fourteen are mixed, and 45 are male only (Conference...1975:2). In Forms V and VI, the disparities are even greater (Smock, 1977:32). Moreover, at institutions providing science courses, the particular combinations necessary for continuation at the university level are differentially available to the sexes. At higher secondary facilities, broader combinations can be taken at approximately 75 per cent of the men's schools, 40 per cent of the women's institutions, and 36 per cent of the coeducational facilities (Krystall, 1976:6). Clearly, women are

not exposed to the same curricula and options as men. Rather, active channeling and lack of facilities direct women into home economics and the arts and men into science, math, and vocational training (Conference...1975:2; Lindsay, 1975:122; Smock, 1977: 73). The failure of women's secondary education to reflect the emphasis on science and math demanded by higher education and career training programs has decreased women's opportunities for both advanced training and employment (Smock:1977:21).

Guidance or career counseling is offered at approximately one-third of the schools in Kenya--primarily the more prestigious, government aided, male institutions. As a consequence of this scarcity, most students obtain advice informally from teachers, relatives, or peers (Lindsay, 1976:20-21). In addition, the MOE provides a Careers Information Booklet which lists available training programs together with their prerequisites. While the lack of personal counseling affects both sexes, women are particularly disadvantaged. Not only do they receive less exposure than men to existing counseling services, but the information which is available to them may be incorrect or biased. For example, although an official GOK publication, the MOE booklet describes many scientific and technical training programs as unavailable to women when they are actually open to both sexes (Conference...1975:3; Gutto, 1976:60-61; Krystall, 1976:6). In addition to overt misinformation, there are subtle, informal pressures which channel women into particular careers. In many

disciplines, women students lack the stimulation and example of female role models. This is particularly true in science and technical fields where there are few women professionals. Such imbalances are reinforced by the tendency for female teachers to specialize in home economics and health, leaving science and math to male instructors (Conference...1975:2; Pala, 1975: 11; Pala and Krystall, 1975:4). Further, it has been suggested that many teachers, particularly men, feel that male students are more important and intelligent than female students and transmit this attitude to members of their classes. As a consequence, female students may be discouraged from aspiring to higher education or professional careers (Conference...1975:2; Hamilton, 1973:12; Krystall, 1976:3; Pala and Krystall, 1975: 4; Smock, 1977:44). These trends appear to be self-perpetuating: de facto definitions of certain fields as feminine and others as masculine, result in the channeling of the sexes into appropriate disciplines. While a complex problem sexual streaming might be reduced by the provision of adequate counseling services. The training of teachers in counseling, particularly emphasizing the needs of women, would not only improve the quality of information available to all students but might decrease the channeling arising from the unconscious prejudices of instructors and broaden the range of career possibilities entertained by female students.

An emphasis on nationally set, administered, and scored examinations should assure both men and women of equal opportunities for advancement. However, the Kenyan examination system appears to discriminate against women. For example, the C.P.E.

eliminates 75 per cent of the female and 58 per cent of the male candidates. Although comprehensive data is unavailable, higher level examinations seem to result in similar skewing (Smock, 1977:45-46). A number of factors may contribute to these disparities. The results of the C.P.E. suggest that it tests the quality of the school more than the ability of the individual pupil (ibid:9). Schools with poor facilities and teaching staff frequently fail to cover the syllabus in the detail presupposed by the examination. Thus, national testing is disadvantageous to students from weak institutions--e.g., harambee facilities which enroll the majority of female secondary students. Further, a larger proportion of males than females re-take examinations, thereby providing males with increased opportunities to pass a failed test or to improve scores and qualify for government assisted schools (Krystall, 1976:3; Smock, 1977:44). In addition, there is evidence that certain subjects in the curriculum are taught less effectively to women than to men regardless of the quality of the institution.<sup>35</sup> This results in a general lowering of women's examination scores and strongly biases the subjects open to them at higher levels. Finally, as high passes in particular subjects determine the courses which can be pursued at the next level, the early channeling of women into a narrow range of fields may mean that women are bound throughout their academic

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Cf. Esiwani's pilot study (1975) which explores sex differences between Kenyan secondary school students with respect to the study of mathematics. Results indicate that the mode of instruction is a significant factor in performance. Women score higher on math achievement tests when they receive a human introduction to the subject followed by programmed texts. Men, on the other hand, perform better if these techniques are reversed. While some of the difference between the sexes may be attributed to the fact that women are often better readers than men, it is also likely that negative or inferior interactions with teachers may interfere with women's progress.

careers by choices made in primary school (Lindsay, 1976:14). As a consequence, exposure at the secondary level to counseling or successful women in math, science, or technical disciplines can have little impact on the career choices of women already structurally committed to home science or the arts.

#### Self-Selection

Women themselves are an integral part of the decision making process which determines the extent of their involvement in formal education. However, decisions taken are firmly rooted in a socio-economic context which influences men and women in disparate ways. As a consequence, male and female perceptions of the costs and benefits of their own formal schooling may differ dramatically.

In spite of a growing conviction that formal training is important for both sexes, there are indications that many women feel themselves to be of less consequence to educate than men. This attitude is a product of women's perceptions of their own biological and socioeconomic possibilities and reflects social realities to a varying degree. For example, many women internalize the belief that they are inherently less capable intellectually than men. The resultant negative self-image affects women's willingness both to attend school and to enter particular fields of study, especially those requiring competition with men. This belief in the innate intellectual inferiority of women is widely held by both sexes in spite of the many clearly non-biological sources of sexual difference in educational attainment. Women students often bear a double workload--i.e., school attendance combined with

extensive chores at home--which may contribute to poor school performance by restricting study time, increasing fatigue, and promoting irregular attendance. In addition, the tendency for teachers and parents to offer male students more encouragement and greater opportunity to retake courses or examinations, increases the likelihood that their academic performance will surpass that of their less privileged sisters. Besides considerations of innate potential, evaluations of relevance and priority influence academic choices. Here too, women and men may weigh their options differently. Even women who feel intellectually competent may question the significance of formal education to the lives they envision for themselves. Most women live in rural areas which offer few opportunities for salaried employment requiring formal training. As a consequence, both educated and uneducated women engage in essentially the same economic activities. By focusing on training relevant to the predominantly male wage employment sector, the present education system neglects the practical needs of rural women thereby reinforcing the position that formal education is less important for them. To the extent that female schooling is viewed as a luxury rather than a necessity, women may be unable to justify the personal and familial sacrifices required for school attendance (Conference...1975:3; Hamilton, 1973:13; Krystall, 1976: 2; Mbilinyi, 1975:74; Smock, 1977:41).

Women's educational and professional aspirations are also channeled by social definitions of appropriate role relationships between the sexes. While such conventions are many and varied, even superficial observation suggests potential problems for

educated women. In indigenous societies, men and women often work and socialize separately, defining particular areas of expertise. While women are subservient to their husbands in some spheres, they are expected to be competent and self-sufficient in others. Success models of Kanyan career women appear to follow the same pattern, simultaneously sanctioning male dominance and female participation in productive activities outside of the home (Whiting, 1973: 72-73). Although such models seem compatible with both formal education and wage employment for women, these new options create significant areas of overlap between sexual spheres. As a consequence, areas of ambiguity regarding male/female interaction have increased, multiplying potential points of conflict. The greater possibility of direct sexual competition exacerbates a basic point of cleavage in the model outlined above--i.e., that between male dominance and female independence. This conflict and its impact on female educational and occupational choices is most obvious in the marital arena.

The high priority ascribed to marriage and childbearing, the significantly younger age at which females marry, and the common expectation of male dominance within the family, strongly affect women's academic choices. For example, a woman's primary schooling may be cut short by an individual or family judgment that she is becoming too old to be a schoolgirl and should settle down and begin her own family. As a girl approaches adolescence, such decisions are often spurred by fears of unsanctioned pregnancy.

For those women who are able to continue to secondary school, marital considerations remain significant. The value attributed to early marriage seems a primary factor in female preference for short term training programs over more extensive undertakings such as university degrees. Although many employed Kenyan women benefit from the widespread use of domestic help, including child care (Whiting, 1973: 73), they still face considerable pressure to choose between their families and their professions. For example, the system of transfers prevalent in both the public and private sectors means that the mobility of employed persons of either sex is high. Women often try to increase their flexibility by training for careers with high geographic mobility--e.g., seeking employment as nurses, secretaries, or teachers (Conference...1975: 3; Pala and Krystall, 1975:3; Smock, 1977:41).

In addition to logistical problems, educated women face significant personal pressures. Even though a number of studies indicate that female university and secondary school students do not believe that having a career will affect their chances to marry (Lindsay, 1976: 23, ; Whiting, 1973: 72), there is considerable evidence to the contrary. For example, there is a good deal of ambivalence in the attitudes of men toward educated women who are both sought after as desirable spouses and feared as threats. Many educated men are attracted by the idea of a wife who can contribute a salary to the household and entertain their friends appropriately. At the same time, they may feel that the input of such women should be restricted to financial contributions or to a

more informed approach to child rearing and nutrition and should not include the license to assume authority in either household or public life (Hamilton, 1972:10-12); Van Allen, 1974:65). Further, in Hamilton's sample of university and secondary school students in Nairobi, 71 per cent of the men interviewed do not want to marry a woman with more education than themselves. They stereotype such women as bossy, disrespectful usurpers of the husband's preeminent position. A particularly strong point of condemnation is the untrustworthiness of potentially employable women arising from the fact that they are economically free to divorce at their discretion (1972:10). As a consequence of these attitudes, many women feel that it is wiser to find a more successful husband with higher educational attainment. Thus, as the level of a woman's education increases, the degree of male ambivalence grows while the pool of potential mates shrinks (Whiting, 1973:72).

Clearly, marital relations between educated, employed women and their husbands are in a transitional state in which women find themselves with more economic independence, but are faced with the dual problem of constructing a new model for marital relations and finding a man to play the complementary role. In spite of these problems, Fleming's work (1975) indicates that Kenyan women university and secondary school students are less ambivalent about success than their white American counterparts, continuing to seek higher educational attainment despite internal doubts and male antagonism. This may be partially a result of sexual segregation in the school system which means that most

women do not come into direct competition with men until the university level. Thus, Kenyan women may be more secure intellectually and psychologically than women from coeducational backgrounds before overt conflict occurs. Further, it has been suggested that openly expressed feelings of superiority may be easier to deal with than a myth of equality which is belied by discrimination (Whiting, 1973:74). Finally, one of the major reasons for Kenyan women's participation in higher education and advanced training seems to be economic. For example, 91 per cent of the women interviewed in Hamilton's survey said that they would continue their educations for economic reasons in spite of the disapproval of their husbands or boyfriends. Hamilton concludes that at present the desire for economic security represented by education and employment offsets negative social pressures to a certain degree (1972:13-14).

#### Conclusions and Recommendations

The cumulative effects of the socioeconomic and structural factors mentioned above, are detrimental to women's involvement in both education and wage employment. In general terms, the rapid expansion of the formal education system has increased the number of women at all levels, permitting female access to fields of study and employment previously unavailable. However, even though the socioeconomic potential of educated women is significantly improved relative to that of uneducated women, there has been little gain vis-a-vis educated men. This situation may be partially a

result of 'certificate obsolescence'--i.e., rapid growth which has devalued the social and economic worth of educational qualifications, particularly at the lower and intermediate levels where women have made their greatest gains (Smock, 1977: 76). As a significant number of female students do not proceed beyond the primary level, their formal education may be inadequate to enter the wage employment sector successfully. Unfortunately, the primary curriculum ignores the fact that there are proportionately fewer women than men who continue to higher educational levels and more women than men who reside in rural areas engaged in small-scale agriculture and petty trade. As a consequence, many so-called educated women are neither prepared to become self-supporting wage earners nor to enter into the usual economic activities of rural women. The economic possibilities of those women who do continue their education are often hindered by institutionalized sexual streaming which channels women into overcrowded fields providing access to low paid, low prestige occupations.<sup>36</sup>

Although a very small percentage of Kenyan women attend university, the declining female enrollment clearly illustrates the effects of sexual streaming. As competition for the limited number of university places increases, the particular educational backgrounds of candidates become more important. In addition, while the University of Nairobi has expanded in an attempt to accommodate more students, it has grown disproportionately in technical fields designated by the GOK as priority areas for Kenyan development. Given earlier sexual streaming, the expanding faculties are essentially closed to most female secondary school

<sup>36</sup> Cf. the following section on wage earners for a further discussion of this phenomenon.

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leavers as they require Form VI training in science and mathematics. Among the women science majors who do apply to university programs, a number have subject combinations which are unacceptable for admittance. It is unclear if this is primarily a result of poor counseling or a lack of appropriate facilities. At present, most female applicants seek admittance to the arts faculty which is already overcrowded and is designated a low priority area in which enrollment should be decreased. In fact, the only growing field with a large proportion of female students is education. As a consequence of these and other trends, even those women who are entering university are pursuing courses which provide limited opportunities for employment and which are not defined by the GOK as significant to national development (Conference...1975:2; Lindsay, 1975:120-121; 1976:12; Smock, 1977: 36).

The many obstacles to women's access to formal education have generated considerable discussion in recent years. While these issues must be considered within the context of the national education system as a whole, certain problems of particular relevance to women can be usually isolated. A good deal of discussion has centered on the question of appropriate training for female students. Two aspects have received particular attention--i.e., sexual disparities in access to high quality educational facilities and the relevance of the present curriculum to the needs of the majority of Kenyan women.

With respect to the former, major concern has been with the relatively high cost of women's education and the lack of adequate training in the scientific and technical fields. It has been

suggested that given financial constraints, the most reasonable course of action would be to shift from single sex to coeducational institutions at the secondary level. In this way, existing facilities could be made more widely available to women without the expenditures of time and money necessary to provide new institutions. Secondly, a number of women's leaders have suggested a pilot program to provide compensatory technical training for women at post-secondary institutions. It is argued that while expensive, such a program may be the only way to break the present cycle in which the scarcity of trained women science teachers contributes to the lack of science opportunities for women at lower levels of education (Conference...1975:3; Krystall, 1976:6).

Paralleling this concern with the provision of equivalent formal training for the sexes, is the realization that the majority of Kenyan women live in rural areas and are not wage employed. Consequently, there is an obvious need to develop a formal curriculum which is practically oriented and equips individuals and groups to participate in community development. It is recommended that primary schools begin to stress training in budgeting, family welfare, agriculture, and community organization. The secondary curriculum would continue this training emphasizing the development of community leadership skills. In addition, there is considerable support for the expansion of family life training courses to include all schools and both sexes. While still a controversial subject, the introduction of sex education, stressing reproduction and contraception, is receiving increasing support. In fact,

some women's leaders have argued that in light of the growing number of school girl pregnancies, the schools have a responsibility to provide necessary information to students. Finally, the present system has been criticized for its insensitivity to the particular needs of women as childbearers. With the exception of university, a pregnant woman, whether married or unmarried, is automatically expelled from most educational institutions. The rigid system of examinations and inflexible time tables usually preclude the possibility of part-time attendance or of temporarily dropping out to return later. Consequently, childbearing or home responsibilities may serve as an unnecessary barrier to the furtherance of women's educational careers (Conference...1975:4-6; Krystall, 1976:5-6; Pala and Krystall, 1975:5).

In addition to changes in curriculum design, the importance of women's contributions to Kenyan society and the necessity to educate women needs to be more actively promoted both within and without the education system. Mass media efforts in the countryside might well encourage parents to send their daughters to school. Special effort is clearly needed to provide women with accurate information regarding career and training possibilities. For example, the information concerning women's opportunities should be up-dated in the Ministry of Education's Careers Information Booklet. Teacher's training courses could benefit from the introduction of material on the contributions of women to Kenyan history and society. This work could then form the basis for the design of similar courses geared to primary and secondary school pupils. For those presently working as teachers or counselors,

in-service training focusing on the adequate preparation of female students could also be beneficial. In addition, the introduction of a pilot program which provided science and math teachers who concentrated on women pupils at the primary level might increase the number of women entering these fields. (Conference...1975:7; Gutto, 1976:61; Krystall, 1976:5-6); Smock, 1977:32-34).

Finally, although there is a considerable body of data available on education in Kenya, there are certain areas where further investigation might prove useful. Specifically, data could be collected on the nature and determinants of sex difference in academic performance, sex role differences in the relationship between education and economic possibilities, and the reasons for the decline in female enrollment at the University of Nairobi (Krystall, 1976:7; Paia and Krystall 1975:5; Smock, 1977: 77-79).

#### Vocational and Technical Training

Under indigenous circumstances, specialized training occurs within the family and the productivity of the sexes is relatively equal. However, the colonial education system introduced biases which worked to the disadvantage of women, excluding them from most wage oriented training and channeling them into areas of minimal relevance to many of their everyday economic needs. Similar policies continue to define Kenyan training possibilities, with differential impacts on the productivity of the sexes.

While women have substantially increased their participation

in formal education since independence, the gap between male and female access to vocational and technical training remains enormous. Women's underrepresentation in nonformal education arises from a number of sources. To a certain extent, their lower level of formal education relative to men precludes them from many educational programs, particularly those requiring E.A.C.E. (East African Certificate in Education) or passes in science or mathematics at the secondary level. The high rate of illiteracy among women also hinders their participation in vocational programs, few of which are geared to students who can neither read nor write. In fact, uneducated women often lack access to any kind of modern vocational or technical training (UN/ECA, 1972:368). In addition to educational handicaps, a primary obstacle to female training is the lack of programs which accept even well qualified women as students. Women are essentially excluded from government technical and vocational secondary schools. In 1974, for example, all of the 3,800 students enrolled in secondary technical programs and the 5,000 pupils in industrial education programs were male (Smock, 1977: 33). The GOK explains these figures in economic terms--i.e., the institutions are boarding facilities and there is not enough money to provide appropriate accommodations for women. However, little serious consideration has been given to the possibility of setting aside certain existing dormitories for women or reserving particular schools for female students. Further, it has been noted that some institutions willing to provide places for

women as day students or boarders have been refused permission to do so by the GOK (Gutto, 1976:59; Smock, 1977:33). Even Kenyan polytechnics which are aimed at unskilled/unemployed school leavers reveal little involvement by women who accounted for only 6 per cent of the enrollment in 1967 and 9 per cent in 1973 (Krystall, 1976:25, Table 15). Similar discrepancies are found in internationally funded training institutions such as the Management Training Centre established jointly by the ILO and the GOK. Between 1970 and 1973, this center trained 727 men but only 81 women (Muta, 1975:5). In addition, sponsorship by government agencies seems to accrue disproportionately to males, further exacerbating present sexual imbalances. The former Kenya/Israel School of Social Work illustrates this point. Although the first graduating class consisted of 26 female students, the proportion of women participants has seriously declined. This downward trend appears to have arisen from changes in recruitment policies instituted by the GOK. When the program first began in 1962, most students were self-sponsored or had arranged for assistance through voluntary or government agencies. However, in 1970 the first candidates entered under the sponsorship of the Ministry of Housing and Social Services. At this point, self-sponsorship was discouraged and higher academic training made a prerequisite. As a consequence, fewer students, particularly women, applied. This decrease in female participation was the result of women's relatively lower educational attainment coupled with a ministry preference to sponsor men. Such access problems are not restricted to public vocational programs. Within the private sector, there

are strong indications that women are invited less often than men to attend training programs organized by business and industry (Butterfield, 1977:16).

Women in Kenya are far more than housewives and mothers, yet of the nonformal training offered to women, most centers primarily on their roles as wives and mothers, ignoring their needs as farmers, traders, or artisans. This strong homecraft emphasis reflects 19th century European prejudices which recognize men as the primary economic providers more than it does the historical or present situation of Kenyan women. Even so, these beliefs have led the Ministry of Education to equate increased educational opportunities for women with the provision of improved home economics courses (Smock, 1977:18). In fact, it has been estimated that 50 per cent of the vocational and technical training available to women in Kenya is oriented toward a narrow definition of home improvement. In primary school, vocational courses are sexually segregated with boys enrolling in metal or woodworking while girls take cookery and sewing. At the secondary level, women are rarely encouraged to take technical training. In fact, the Careers Information Booklet and the official handbook for school guidance counselors indicate that most educational programs offered by government sponsored institutions are open to men only. These include training in agriculture, water development, and health (ibid:33). Not surprisingly, the courses proposed for women are in nursing, teaching, and secretarial fields. Finally, in a survey of

28 government and nongovernment agencies offering training to women and girls, an extraordinary emphasis on home economics was revealed. Employment oriented courses for women were restricted to secretarial training for secondary school leavers and occasional opportunities to study driving, tailoring, or dressmaking. Even functional literacy classes with heavy female enrollment use homecraft as the focus of lessons (CTWG, 1975:79-80; Germain and Smock, 1974:21; Lele, 1977:77; Pala and Krystall, 1975:2).

Clearly, vocational and technical programs in Kenya do not provide the same educational opportunities to both sexes. Rather, in a similar fashion to formal education, nonformal training directs women toward the home and men toward salaried or self-employment. As a consequence, women are disadvantaged in both the agricultural and modern wage sectors. To be an effective means of further integrating women into the economy, nonformal education needs to be restructured so that it assists women with their usual tasks and enables them to diversify and undertake activities with significant economic rewards. As the majority of Kenyan women engage in small-scale agricultural production and petty trade in the rural areas, there is a particular need to focus on the improvement of rural economic productivity. Although vocational training for women has been provided by missionary, public, and private efforts, most nonformal rural education has come through the network of extension offices in ministries such as Health, Housing and Social Services, Agriculture, and Cooperatives (Krystall, 1976:1). Given the importance of women to agricultural production and decision making, their understanding and acceptance of rural programs is

vital. There is considerable evidence that women can successfully resist proposed changes envisioned in development projects. In some instances, this resistance is the result of a realistic appraisal of the situation by women and a recognition of its failure to benefit them. At other times, it is the consequence of a lack of information regarding the possible advantages of new programs. In either case, informed evaluations of proposed changes require an extension service which is both responsive and readily available to rural women. Therefore, it is worthwhile to examine the extent to which women are integrated into the existing extension structure (Moock, 1976:835; Winans, 1972:15).

Women are not effectively mobilized by the present extension service which is heavily focused on male farmers. The structure institutionalizes European misunderstandings regarding the participation of women in the rural economy. In particular, services are based on the 'U.S.' model which provides male extension agents to contact farmers (who are assumed to be male) and female officers to provide home economics training for the farmer's wife (Smithells, 1972:13). The primary assumption is that men are the farmers and if they are not, they should be. Although such a model is clearly inappropriate to Kenya, the extension services are biased toward the provision of facilities to males at the expense of females. In fact, according to the ILO Report, there used to be a deliberate policy to withhold advice from female farmers in spite of an official recognition that women worked and managed many of the smallholdings in the country. This policy was based on the premise that males

composed the majority of the 'progressive' farmers--i.e., those considered most likely to respond to extension advice as a result of their large landholdings and access to cash (1972:153). Although the ILO Report consigns this position to the past, a recent study indicates that sex remains a significant index of a farmer's access to extension resources. Staudt's analysis of the availability of extension services reveals a negative bias in the provision of services to women which increases in intensity with the value of the service. Staudt attempts to relate this bias to perceptions of women as too poor to take advantage of opportunities or too conservative to undertake proposed changes. However, the skewing remains regardless of income level, degree of innovative activity, or size of landholding. This institutionalization of the assumption that males are more progressive or better risks as farm managers than women is surprising in light of the considerable evidence to the contrary. For example, in Staudt's sample, despite their lack of access to government services, women farmers maintain pace with male farmers with respect to the adoption of innovations. However, without receipt of proper services and training women cannot continue to maintain farm productivity levels and the agriculturally based economy of Kenya must suffer (Staudt, 1975/1976). In addition, such biases have had the effect of reducing women's participation in a number of aspects of agriculture--e.g., the use of mechanized equipment and modern inputs--while promoting their focus on home-craft (Lele, 1977:77; Mook, 1976:335; Staudt, 1975; Van Allen, 1974:61).

Clearly, women's need for agricultural services has been overlooked by both the colonial and post-independence extension services. This is apparent in many of the channels commonly used to disseminate information. There are four general techniques employed--i.e., large community meetings, farmer's training centres (FTCs), demonstration plots, and individual farm visits. While each method must be evaluated within the context of its impact on the total farming community, certain characteristics are particularly relevant to the involvement of women.

1. Extension personnel often attend baraza--i.e., large group meetings of the people in a particular area or neighborhood. While baraza seem to provide the opportunity to convey information to a large number of people efficiently, the audiences are primarily male. In many areas, women do not attend baraza unless they are specifically invited to meetings felt to be particularly relevant to women--e.g., those concerned with nutrition or child care. Women do not commonly attend such meetings for two main reasons. First, it is difficult for them to be away from their duties on the farm for the several hours required to meet. Secondly, in indigenous circumstances baraza usually exclude women. When they do attend, it is often as passive observers rather than active, articulate participants. Consequently, such meetings are not perceived to be a forum for women to discuss issues or even as a source of information relevant to women's lives.

2. Farmer's training centres in Kenya accept both men and women with available figures indicating that 33 percent of the participants are female. However, the total number of people served is low and the relatively high involvement of women is more often

confined to home economics courses rather than agriculture or animal husbandry. Further, many rural women are unaware of the existence of such facilities, the requirements for entry, or the availability of courses. In addition, as most adult women in Kenya are married, they must convince their husbands that FTC courses are important enough to warrant their absence from the household for an extended period of time. As a result, women who attend are often childless, elderly, or advantaged--i.e., women who are free from many household responsibilities or who are either formally educated or already involved in community nonformal education programs. (Barnes, 1975:10; Pala and Krystall, 1975:2; Staudt, 1975:48).

3. Demonstration plots are often set up to allow farmers a chance to compare the results of varying farm practices. In most cases, women are at a disadvantage in viewing such plots. Again, this is primarily a result of their lack of access to formal communication networks and not having the time to leave their own farms to travel to the demonstration plot.

4. Extension agents, the majority of whom are male, commonly make individual farm visits. With this method, extension advice directly benefits only a small proportion of existing farms which are usually selected by the rural officers themselves. Such choices are influenced by community social sanctions which often do not allow non-local males to visit women at home alone. The difficulties of cross-sex communication plus the biases in favor

of male farmers in general, mean that male extension agents primarily visit farms with resident males. As a consequence, a significant proportion of smallholder farms--i.e., those with female managers--are ignored (Bookman, 1973:67; Fisher, 1954:286; Krystall, 1976:1; Smithells, 1972:12; Staudt, 1975/1976:85).

To redirect extension techniques away from their male focus and to reach more women, there must be a realization that female and male communication networks are different and the present extension system feeds into the latter. Women's networks differ from men's mainly in their informal nature. While men tend to receive information directly from primary sources such as government officers, the reading of newspapers and pamphlets, etc., women tend to learn from secondary sources--e.g., the neighbors, local shops, traders, etc. As a consequence, women often lack exposure to important information or receive a modified or abbreviated version from indirect channels. Further, direct access to certain extension information for women is restricted by the scarcity of female extension officers working outside of home economics. In 1967, the Weir Commission on agricultural education noted that women's access to agricultural services was limited in sharp contrast to their major role in agricultural production. At the time of the report, there were no women in the first or secondary categories of the agricultural field staff--i.e., Agricultural Officers and Assistant Agricultural Officers. At the third level, Technical Officers, 24 of 1,254 were female. As these patterns are mainly attributable to the inadequacy of available training, the

Weir Commission recommended that agricultural training be offered to women at all levels from FTCs to university to permit women to qualify in all categories of the agricultural extension service. At the time of the report, none of the three intermediate level institutions--i.e., Egerton, Embu, or the Animal Health and Industry Training Institute (AHITI)--could enroll even qualified women students (Staudt, 1974: 12-13). In 1968, Embu accepted eight female students along with 136 males. When Egerton instituted a home economic program in 1969 at the request of the GOK, that department began to admit female students (Garman, 1975:1). The AHITI has recently begun to admit women as well, but not to the full range of courses provided. For example, range management is closed to females (Wachtel, 1974:9). As a consequence of these patterns, the recruitment of women into government extension has been slow and remains concentrated in home economics.

The training programs which are available to women in rural areas are characterized by a high drop out rate. Although a number of factors contribute to this situation, a primary consideration is women's perceptions of the utility of the material presented. Their heavy workloads and management responsibilities mean that rural women must carefully evaluate the use of their time. Too often extension services or courses are judged to be less valuable than the farm tasks which must be foregone or rescheduled to participate. Frequently, suggestions are too abstract, restricted in scope, or expensive to benefit the majority of rural women. Women do not need to be told that additional cash incomes would be helpful to their families or that improved nutrition would benefit

their children. Rather, they need to participate in the design and implementation of projects which are suitable to their particular socioeconomic environment and which can be carried out with available resources. In addition, to maintain women's involvement, the focus of training must be broadened to include more of their roles than those of wife and mother. In particular, there is a need for training in small business management, cooperative development, and agricultural production. With respect to the latter, although agriculture is a major focus of extension efforts, there is a tendency to concentrate on the propagation of cash crops at the expense of food crops which absorb the major portion of women's agricultural efforts. Further, instead of teaching topics such as agriculture, health, sanitation, and nutrition as discrete entities, the material should be brought together into a locally relevant and integrated approach to the improvement of community life. In addition, such information should be made available to both sexes. To make one sex the expert in particular areas of living, ignores the complexities of household interaction. If men remain ignorant of nutrition, child care, and food preservation and women are not taught improved farming techniques, both sexes remain ill-equipped to provide useful inputs into many areas of household decision making and may even obstructs beneficial changes from ignorance. Finally, women's access to financial resources is often less than men's so they are particularly in need of the coordination of education with the provision of inputs which make the implementation of recommended practices possible. Women clearly recognize that while they may read

about the growing of cash crops or vegetables in adult literacy classes, they cannot utilize their new knowledge without loans or other necessary inputs. As a consequence, many women question the usefulness of learning procedures which are impossible to implement.

A recognition of the difficulties involved in effectively providing extension services to women has resulted in attempts to reach rural women in other ways. One such method is through the training of women's group leaders so that they may pass on their knowledge to their peers. Women's groups have been a widespread phenomenon in Kenya from precolonial times until the present. The groups themselves are most commonly begun as informal gatherings of relatives or neighbors who assist one another in a reciprocal fashion. Some groups involve themselves more formally in commercial activities such as poultry keeping or dressmaking while others engage in social welfare pursuits such as improving the roofs of their houses or building local clinics and schools. Although varying in primary purpose and bases of affiliation, the groups tend to maintain a continuity over time which serves as an excellent base for disseminating information to women. In many areas of Kenya, such groups have successfully formed the core of adult literacy classes, community development projects, and forums for the exchange of information about local conditions and aspirations. In recognition of the development potential of rural women's organizations, a Women's Group Programme component was built into the Special Rural Development Programme (SRDP). In its initial phase as a pilot project in the six SRDP areas, the program attempted to develop indigenous

women's institutions and to train a limited number of women's group leaders to provide extension services in their local areas. Attempts were also made to coordinate the activities of various ministries and agencies in planning, administering, and following up training offered. In addition, a group approach to extension was utilized to reach larger numbers of women in an environment designed to foster collective consideration of the material presented. Finally, efforts were made to link groups with available resources and to coordinate their activities in order to increase their impact on the development of their communities. While the program has generally been adjudged a success, certain problems have arisen regarding the basic direction of women's groups and their coordination by government bodies. With respect to the former, opinions differ regarding the final goals of group formation--i.e., whether the final aim is to develop community resources, to improve women's problem solving abilities, or to provide group extension. In addition, the program has been criticized by those who feel that in order to develop community solidarity and self-reliance group formation and activities must arise from within the local community itself and may not be imposed by people greatly removed in space, experience, and perceptions. Finally, lack of funds and central coordination have restricted the ability of the GOK to follow up training or to monitor the success of the program to determine if it is of benefit to people in the community who have not themselves attended training. At present, the Women's Bureau in the Ministry of Housing and Social Services in conjunction with a number of

non-government agencies is attempting to resolve such problems and to expand the program into a nationwide effort (Browne, 1975: 36-37; Browne and Pala, 1975:57; Dobson, 1954:457; Krystall, 1976: 8; Pala, 1975:18; Pala et al, 1975: Remy, n.d.: 5).

It is obvious that women need wider opportunities to receive technical and vocational training particularly in wage-oriented fields, agriculture, cooperative organization, community development, and leadership training. However, to be effective, such training must utilize communication techniques which provide the greatest benefit to a largely illiterate and often spatially and temporally constrained rural adult population. The difficulty of involving rural women is indicative of the unsuitability of much of the instruction, particularly of lengthy, information-filled lectures. With such a technique, learning is limited both by the memory of the participant and his or her willingness to accept the views of an outside instructor without reflection or exchange. Problem centered approaches which emphasize the participant's ability to make use of information to solve immediate problems within the community appear to have positive affects on both the participant's self-image and his or her ability to retain and utilize information generated. Further, the difficulties that women have finding time and transport suggest that formats need to be developed which carry educational resources more directly to women within their own communities. Instruction could take place locally during periods of time when women would be most able to leave their agricultural and domestic duties. Such an approach could be facilitated by the use of itinerant teachers, the provision of educational radio programs or cassette courses, and an emphasis

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on group extension. In addition to developing women's groups, visits by teams of men and women extension agents to mixed-sex neighborhood groups might be an economical and efficient way to reach large numbers of both sexes. With this method, it would be possible to gain direct feedback from the farmers as well as to encourage them to discuss and evaluate suggestions among themselves. In this way the extension service could more readily fulfill its function as a two-way communication channel. In addition, material could be presented in a direct and integrated fashion to both sexes. Finally, those presenting the courses should encourage the active participation of women in the discussion of all aspects of rural life. This could be facilitated by the increased recruitment of women into all areas of the extension service, particularly agriculture and animal husbandry. Also, pre- and in-service training for extension officers which emphasizes the importance of women to the rural economy and suggests techniques to involve women in group and community enterprises could improve the ability of extension agents to integrate women into ongoing programs (Barnes, 1975:10; Krystal, 1976:7; Reynolds, 1975:95; SIDA, 1974:37).

## WOMEN'S ECONOMIC ACTIVITIES

There is little in the way of statistical data to quantify women's economic activities. Unfortunately, most national economic data are not disaggregated by sex. However, the Central Bureau of Statistics Social Perspectives, Vol.3, No. 3., April 1978 issue entitled "Women in Kenya" synthesizes two important areas of women's economic activity - farming and wage employment. We will quote directly from that discussion:

### Farming

The majority of females in the rural areas are engaged in farming activities on their smallholdings. According to the IRS 1975/76<sup>2</sup> data, approximately 90 per cent of females in the rural small farm population had no other employment apart from operating their own holdings. A very small proportion - 1.5 per cent, was engaged in teaching and government employment and 3 per cent in other rural work. However, the agricultural productivity of women tends to be relatively low, partly due to the lack of agricultural training and extension services catering for women, and partly due to the fact that research has failed to focus on food crops (with the

<sup>2</sup>

This survey, unlike IRS 1974/75, did include non-agricultural rural households.

\* (Vol. 4 of the 1969 Census is expected to focus on economic activities of the Kenya population, but this material was not available at the time of writing this report.)

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exception of maize), which absorb a large proportion of women's agricultural efforts. As a result the gap between the labour productivity of men and women in farming continues to widen.<sup>3</sup>

Women make up a very small minority of the total adult labour force engaged in permanent non-agricultural rural activities. The results of the 1969 Survey of Non-Agricultural Rural Enterprises conducted by the Bureau showed that women made up only about 19 per cent of the total adult labour force engaged in permanent non-agricultural rural enterprises. Approximately half of the women (15,000 out of a total of 31,000) were working in family enterprises. Indeed, it is interesting to note that women were found to constitute the majority of family workers as compared to only 9,000 men employed in the same capacity. On the other hand men made up the bulk of the labour force in the 'self-employed' category - 63,000 as against 4,000 women. The small proportion

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See Kathleen Staudt's "Effects of Government Agricultural Policy on Women Farmers", Institute for Development Studies, Working Paper No. 225 and Achola A. Pala's "Women and Development. An Overview of Kenya". American Council for Education, 1975.

of women in permanent rural enterprises is the result of several factors: a lack of training and apprenticeship opportunities for acquiring needed skills, lack of capital necessary for undertaking self-owned enterprises and limited access to loan facilities being the three most significant ones.

#### Wage Employment

Females have always constituted a very small proportion of regular wage employees in rural areas. In 1971/72 there were 15,000 females employed as regular wage workers on small farms and settlement schemes as compared to 180,000 males. On the other hand the proportion of females engaged in casual wage employment has been much larger. The 1971/72 estimates, referred to above for example, indicate that more than 30 per cent of persons employed as casual wage workers in small farms and settlement schemes were female.

The disparity that exists between the number of males and females engaged in wage employment in small farms and settlement schemes is reflected also in estimates of earnings. According to the 1971/72 estimates, for example, total earnings of female regular wage employees amounted to K£830,000 as compared to total earnings of K£8.5 million of

males, while the total earnings of females employed as casual wage workers amounted to K£1.7 million as compared to earnings of K£3.4 million of their male counterparts.

#### Government Employment

While there are few published national level statistics regarding women's employment within the GOK, certain general observations can be made. Although all positions in the public sector are legally open to both men and women, it is clear that sex influences the type and level of position available as well as the conditions of service offered.

Women civil servants predominate in spheres defined as female--e.g., the women's branches of the military and prisons, family focused social welfare programs, and certain aspects of education for women and young children. As a consequence of sexually biased hiring practices, the majority of the civil service positions filled by women are in the MHSS which includes the Women's Bureau and most of the social service organizations encompassed by government. Proportionately fewer women are found in government bodies with more broadly defined policy responsibilities such as the Ministry of Foreign Affairs, the Office of the President, or the Ministry of State. In addition to being channeled into particular fields, women are disproportionately found in lower levels of the hierarchy. While qualified women have little problem obtaining jobs with the civil service, the biggest employer of skilled women in the country, there appears to be considerable difference in career development between the sexes. In particular, women are absent from most decision making posts. In fact, the

public sector in general seems to discriminate more heavily against recruiting women to managerial or professional positions than does the private sector.<sup>37</sup> Finally, there is a significant difference between terms of service and benefits offered to each sex. A primary, and seemingly sex-linked, distinction in the civil service is that between contract and permanent terms, with proportionately more women than men falling into the former category. Contract employees have no job security and do not qualify for the GOK pension scheme. The government rationale for its reticence to hire more women on a permanent basis is related to official policy regarding transfers and travel. Within the civil service, the government reserves the right to transfer any employee anywhere at short notice. The argument is that the flexibility of the government is reduced when married women refuse transfers or try to obtain transfers which will enable them to follow their husbands. The assumption that married women wish to remain home with their families is also cited as a reason for not promoting women into higher level positions which often require considerable travel. While single women should have fewer problems in gaining permanent employment, they suffer because they are viewed as potential wives, soon to create the same difficulties as married women. Not all female employees object to contract terms which permit short notice for resignations and allow access to earned gratuities within 36 months instead of requiring an employee to retire before he or she can utilize accumulated pensions. The main objection to the present system is that women have not been able to choose the

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<sup>37</sup>

Cf. Appendix IV, Table 8.

type of employment which they felt was most suitable to their lives. Although the Ndegwa Commission which was appointed in the late 1960s to investigate the structure of the civil service, recommended that women be given a choice of terms, the situation remains essentially unchanged.

In addition to sexual discrimination with respect to employment type, women do not receive the same fringe benefits as men. For example, under the Widows and Young Children's Pension Act (Cap. 195, as amended 1971), single or married men holding the position of public officer are entitled to contribute to a fund to benefit their widows and orphans. A woman who is a public officer may contribute only if she is married and able to prove that her husband is wholly or mainly dependent upon her. An unmarried mother is ineligible to provide this security for her children. Besides inequities in the pension system, married women are disadvantaged with respect to their take home salaries. Although official sources indicate that there is no de jure salary differential based on sex, there is a de facto difference resulting from women's relative lack of promotion--i.e., men who enter the civil service at the same time with the same starting salary as women will eventually make higher salaries as a consequence of more frequent promotions. Further, while men are given housing allowances automatically, married women are refused unless they can prove that they are the sole support of their families. Many women feel that such allowances are necessary supplements to their equal pay for equal work. Finally, a thorny question within the service has been that connected with maternity leave for

women. At present, expectant mothers, whether married or unmarried, receive paid maternity leave for three months. In any year in which maternity leave is taken, the mother should forfeit her three week annual leave. There is no equivalent leave for men (Germain and Smock, 1974: 22; Githu, 1975: 3; Gutto, 1976: 48-49; Hamilton, 1973:18-19; Smock, 1977: 54; Wakhungu, 1975:2).

## CHILD CARE FACILITIES

In the indigenous extended family system child care is shared among available adult women and older children of either sex with adult males taking little active responsibility. Although children under the age of three years demand regular breast feeding by their mothers, after that age they are freely entrusted to the temporary care of reliable relatives. Such nurses are often females between the ages of 10 and 14 years. Even in their infancy, babies are often cared for by relatives while their mothers work in nearby fields, available for nursing or emergencies. As a consequence of the child care available, mothers are not the central focus to their children that they are in nuclear families and thus have more freedom to allocate their time to responsibilities other than child rearing.

In spite of these patterns, the concept of employing paid, non-family to care for one's children on a regular basis is relatively new in Kenya. However, a number of socioeconomic changes have led to an increasing demand for institutionalized services such as child nurses, day care centers, and kindergartens. Among the primary contributors to this need are the breakdown in the extended family system, the increasing significance of the cash economy, and the major importance ascribed to formal education. With the increased mobility of families, the trend toward individual ownership of productive resources, the decrease in polygamy, and the greater involvement of family members in schooling or

occupations which remove them from their homes, the labor available for child care within the household has decreased substantially. This scarcity coupled with the spatial separation of home and workplace which characterizes wage employment means that both rural and urban women are finding it increasingly difficult to combine child care with other economically productive activities in the formal, informal, or subsistence sectors. (Dobson, 1954: 456; Fisher, 1954: 50; Gakuru, 1975: 1; Mbilinyi, 1972: 373; Paia, 1975: 4; Remy, n.d., 2; Smock, 1977: 15; Whiting, 1973: 73).

As a result, both rural and urban women have ascribed a high priority to the development of local child care institutions. Many such facilities have arisen from the self-help activities of women's groups as well as from mixed sex County Councils, church organizations, and community welfare associations. At the national level, support for the development of day care centers and the training of nursery school teachers has come from the National Christian Council of Kenya, UNICEF, and the Ministry of Housing and Social Services within the GOK. In 1973, it is estimated that there were 5,300 day care centers in rural Kenya serving 400,000 children. In Nairobi in 1977, there were 16,000 children enrolled in approximately 215 pre-schools employing 700 teachers. The majority of these institutions are primarily sponsored by private and voluntary organizations. From its initial involvement in 1968, the GOK itself has focused on the upgrading of facilities through the training of teachers and supervisors, the publishing of teaching materials, and the development of model day care centers.

However, their efforts have been hindered by financial constraints and the absence of a clearly formulated official policy regarding pre-school education. In particular, with the exception of Ministry of Health guidelines regarding physical requirements for public schools, there are presently no national standards for pre-school instructors or supervisors, staff remuneration, or school fees. As a consequence, the GOK has served primarily in an advisory capacity without the power to control quality, costs, or curricula in the majority of Kenyan pre-schools.

In rural areas, the general quality of both facilities and instruction is low. Teachers are frequently untrained and receive an erratic pay from the monthly voluntary contributions of their pupils' parents. In addition, most schools lack even rudimentary educational and recreational equipment. As a result, many facilities serve a primarily babysitting function. As parents become more concerned that their children receive preparation for primary school, there is an increasing willingness to hire trained teachers and to provide necessary facilities. However, attempts to improve the quality of rural pre-schools are handicapped by a lack of financial resources.

The demand for pre-school services is even greater in urban areas where nuclear families are more common, a larger percentage of parents work away from home, and the competition for primary school places is more intense. However, the urban socioeconomic setting has resulted in different approaches to institutionalized child care than the rural situation. Urban children are defined

as the private concern of their nuclear family to a far greater extent than are rural children. With the lack of community characteristic of most urban residential areas, families are forced to make individual arrangements for child care. Unfortunately, this pattern is reinforced by the failure of most government or private employers to provide such facilities for their workers.<sup>38</sup> Further crowded living quarters, inadequate play areas, new sources of physical danger, and reductions in productive tasks suitable to young children's level of skill mean that urban children need greater time inputs by adults while providing fewer economic returns to the household than rural children. Finally, unlike the majority of rural families, many urban parents discover that they are ill-equipped to teach the symbolic, motor, and social skills necessary for successful living.

Many urban families are financially unable to pay for child care. Their children are sent to live with rural relatives, are left to care for themselves for extended periods of time, or remain with their non-working or self-employed mothers or elder siblings. For those families able to afford assistance, there are two major alternatives--i.e., private nurses and day care centers. While young people, usually female, are often brought into urban centers to care for children or combine school attendance with child care, attempts to transplant the child nurse concept from a rural to an urban setting have proved relatively unsatisfactory. In many cases, such nurses are young, untrained, and as inexperienced with urban living and educational needs as their charges. Therefore,

<sup>38</sup> Notable exceptions to this policy include the military and police forces, the East African Breweries, and the East African Posts and Telecommunications Corporation.

they are unable to instil necessary intellectual, social, or physical skills. In addition, the child nurses themselves often suffer deprivation in the city. Some are actually abused by their employers, working long hours seven days a week for little or no pay. Most are deprived of the opportunity to go to school and train for more productive occupations. As a consequence, children may be neglected or mistreated through ignorance or resentment on the part of the nurse who is trapped in a low prestige, low pay occupation.

In recognition of such problems increasing numbers of people are attempting to enroll their children in organized pre-schools. The demand for places has a particular urgency in urban areas where there is growing competition for primary school openings, many of which require pre-school experience for entry. In fact, it has been suggested that enrollment in pre-school is the most important factor in primary school selection. Associated with increased competition at higher levels is a growing interest in academically oriented institutions rather than in child care facilities per se. In spite of the widely felt desire to place children in pre-schools, the growth of enrollment has been slowed by the lack of available places and the high cost of attendance.<sup>39</sup> There have been two major consequences of high cost and high demand. First,

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School fees for pre-schools are frequently higher than those of high quality primary schools. Most pre-schools offer three terms, occasionally four. Fees per term range from KShs 30/= (ca \$3.75 at the 1977 exchange rate) in rural areas to KShs 1300/= (ca \$225) in urban areas. In 1977, 75 per cent of the pre-schools in Nairobi charged between KShs 150/= (\$18.75) and KShs 750/= (\$93.75) per term.

pre-schools have become a very lucrative business attracting inexperienced and sometimes unscrupulous entrepreneurs offering poor facilities for exorbitant sums.<sup>40</sup> Secondly, the necessity of pre-school attendance for acceptance at good primary schools means that inequities in educational opportunities arising from a family's economic status are introduced at an even earlier age. As in other levels of the educational hierarchy, female children from poor families have the least opportunity to pursue high quality pre-school training.<sup>41</sup>

In most societies, women and older children take on the major burden of child care. To the extent that such responsibilities, are unpaid and interfere with women's ability to participate in other socioeconomic endeavors, women are disadvantaged. Therefore, access to low cost, high quality child care facilities is particularly important to both rural and urban women. In addition, the exploitation of child nurses decrease if other options were more accessible to families. Most recommendations focus on the development of cooperative child care centers financed by private industry, individual contributions, and the GOK, while managed by the parents utilizing the facility. For wage employees, such institutions could be located near businesses, offices, and factories and managed by a worker's association. In addition, it has

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<sup>40</sup> The rapid spread of child care centers is indicated by the relative youth of most ~~day care~~ facilities. For example, out of 185 nursery centers registered in Nairobi in 1968, less than 40 claimed to be in existence prior to 1960 (Gakuru, 1975:2).

<sup>41</sup> There are some indications that the abolition of school fees for Standards 1-4 has affected pre-school enrollments to the advantage of females. The number of places available increased in some low cost institutions as parents were able to afford to let their primary school aged children move up to Standard 1. In addition, many families were able to reallocate resources previously utilized by these children to their siblings. As a result, more girls were given the opportunity to attend pre-school.

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been recommended that more flexible working hours be introduced including half day options which would enable parents of either sex to both work and share child care responsibilities. In rural areas, already functioning community welfare, County Council, or women's groups could oversee such facilities which could be set up in local churches, schools, and community centers. However, while many cooperative groups have shown both the interest and ability to sustain child care facilities, the GOK in cooperation with local voluntary and international donor agencies needs to take a strong role in the training of teachers, production of teaching materials, and the control of quality and curricula within the entire network of pre-schools (Gakuru, 1975: ILO, 1972: 298; Krystall and Maleche, 1975: Nelson, 1975: 14; Pala, 1975: 19; Remy, n.d.,: 2; Smock, 1977: 15; Wakhungu, 1975: 5; Wallis, 1975: 66; Whiting, 1972: 5, 1973:73).

APPENDIX ITable 1AGE-SPECIFIC BIRTH RATES

<u>Age Group of Mothers</u>	<u>Births Per Thousand Women</u>	<u>Percentage Of Total</u>
15-19	132.0	8.68
20-24	330.5	21.74
25-29	337.3	22.20
30-34	294.2	19.35
35-39	223.2	14.68
40-44	135.1	8.90
45-49	67.7	4.45
	<u>1,520.00</u>	<u>100.00</u>

Source: Herz, 1974: 290

Table 2POPULATION OF KENYA BY AGE AND SEX

<u>Age Group</u>	<u>Per Cent Male</u>	<u>Per Cent Female</u>	<u>Total Percentage</u>
0-4	19.3	19.2	19.2
5-9	16.7	16.4	16.6
10-14	13.0	12.2	12.6
15-19	10.2	10.0	10.1
20-24	7.8	8.2	8.0
25-29	6.4	7.5	7.0
30-39	9.7	10.3	10.0
40-49	6.7	6.7	6.7
50-59	4.5	4.4	4.5
60 +	5.6	5.1	5.4
Total	<u>99.9</u>	<u>100.00</u>	<u>100.00</u>

Source: Ominde, 1974: 36.

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APPENDIX I

Table 3  
PROPORTION OF POPULATION  
UNDER AGE FIFTEEN BY PROVINCE, 1969

<u>Province</u>	<u>Per Cent Under Age 15 (Both Sexes)</u>
Nairobi	36.1
Central	53.0
Coast	44.8
Eastern	51.2
North Eastern	49.6
Nyanza	52.1
Rift Valley	49.8
Western	54.7
<hr/>	
Kenya	50.6

Source: Ominde, 1974: 38. -

Table 4  
SEX RATIOS BY 5-YEAR AGE GROUPS  
AND URBAN-RURAL RESIDENCE

<u>Age Group</u>	<u>Total Area</u>	<u>Urban Area</u>	<u>Rural Area</u>
Total	98.6	132.6	91.7
0-4	98.6	101.9	98.1
5-9	97.5	95.2	97.5
10-14	97.4	89.6	103.0
15-19	90.7	85.1	92.0
20-24	88.0	108.1	78.6
25-29	101.2	130.5	77.2
30-34	109.6	240.0	62.2
35-39	119.2	252.3	69.6
40-44	109.6	347.7	80.2
45-49	112.9	302.6	68.5
50-54	107.2	242.0	90.1
55-59	99.7	314.6	84.8
60-64	97.7	186.7	85.6
65-69	107.1	169.6	103.7
70-74	126.3	123.6	126.0
75 +	111.3	90.6	112.8

Source: CBS, 1975: 14.

APPENDIX ITable 5

FEMALE ENROLLMENT AS PERCENTAGE OF TOTAL ENROLLMENT  
IN PRIMARY AND SECONDARY SCHOOLS, 1963-1973

<u>Year</u>	<u>Primary Standard I-VII</u>	<u>Secondary Forms I-IV</u>	<u>Higher Secondary Forms V-VI</u>
1963	34	32	23
1964	35	30	23
1965	36	29	20
1966	39	26	20
1967	40	25	21
1968	41	26	21
1969	41	28	22
1970	43	30	22
1971	43	31	23
1972	44	32	24
1973	45	33	24

Source: Smock, 1977: 29.

Table 6

PERCENTAGE DISTRIBUTION OF THE LEVEL OF EDUCATION COMPLETED  
IN DIFFERENT AGE GROUPS IN NAIROBI

<u>Education</u>	<u>Age</u>							
	<u>Total</u>		<u>0-14</u>		<u>15-24</u>		<u>25 or over</u>	
	M	F	M	F	M	F	M	F
None <sup>a</sup>	22.80	21.25	11.91	12.28	1.41	2.55	9.48	6.43
Std. 1-4	9.05	6.74	3.91	3.78	1.17	1.44	3.97	1.62
Std. 5-8	16.58	7.67	1.36	1.23	5.90	4.04	9.32	2.40
Form I, II	4.08	1.63	0.09	0.08	2.13	0.98	1.85	0.68
Form III, IV	4.99	2.27	..	..	2.51	1.31	2.48	0.96
Form V +	2.05	0.90	..	..	0.43	0.22	1.52	0.68
Total	59.54	40.46	17.27	17.37	13.65	10.53	28.72	12.57

<sup>a</sup> These percentages include "not stated".

Source: Rempel, 1974: 12.

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APPENDIX ITable 7

PERCENTAGE DISTRIBUTION OF THE LEVEL OF EDUCATION COMPLETED  
IN DIFFERENT AGE GROUPS IN KENYA

<u>Education</u>	<u>Age</u>							
	<u>Total</u>		<u>0-14</u>		<u>15-24</u>		<u>25 or over</u>	
	<u>M</u>	<u>F</u>	<u>M</u>	<u>F</u>	<u>M</u>	<u>F</u>	<u>M</u>	<u>F</u>
None <sup>a</sup>	33.26	39.66	19.71	19.90	2.86	5.03	10.59	14.73
Std. 1-4	7.41	5.76	4.05	3.31	1.53	1.33	1.82	1.12
Std. 5-8	7.34	3.79	0.78	0.57	3.53	2.33	3.03	0.89
Form I, II	1.16	0.37	0.01	0.01	0.70	0.26	0.44	0.10
Form III, IV	0.70	0.23	::	::	0.38	0.14	0.32	0.09
Form V +	0.25	0.10	::	::	0.06	0.03	0.19	0.07
Total	50.10	49.90	24.56	23.79	9.06	9.11	16.48	16.99

<sup>a</sup> These percentages include "not stated".

Source: Rempel, 1974: 71

## APPENDIX II

Table I

PERCENTAGE DISTRIBUTION OF DE-FACTO POPULATION  
BY 5 YEAR AGE GROUPS, SEX AND MARITAL STATUS, BASELINE SURVEY  
AND 1969 CENSUS FOR THE WHOLE COUNTRY

<u>Area and age groups</u>	<u>Total reported</u>		<u>Single</u>		<u>Married</u>		<u>Widowed</u>		<u>Divorced or Separated</u>	
	<u>Males</u>	<u>Females</u>	<u>Males</u>	<u>Females</u>	<u>Males</u>	<u>Females</u>	<u>Males</u>	<u>Females</u>	<u>Males</u>	<u>Females</u>
1973										
<u>TOTAL</u>	100.0	100.0	44.3	29.7	53.1	58.7	1.0	8.7	1.6	2.9
12-14	100.0	100.0	99.8	99.0	0.2	1.0	0.0	0.0	0.0	0.0
15-19	100.0	100.0	98.1	56.0	1.8	32.8	0.0	0.0	0.0	1.3
20-24	100.0	100.0	70.4	23.2	28.8	72.3	0.0	0.8	1.1	3.5
25-29	100.0	100.0	27.4	6.8	70.7	86.9	0.2	1.4	1.6	4.9
30-34	100.0	100.0	9.7	0.7	87.6	93.1	0.2	1.8	1.5	4.4
35-39	100.0	100.0	4.3	1.6	92.5	85.9	0.3	5.3	2.9	5.1
40-44	100.0	100.0	2.8	1.7	93.2	93.8	1.2	9.8	2.8	4.8
45-49	100.0	100.0	2.5	1.1	93.0	81.0	1.2	14.7	3.4	3.2
50-54	100.0	100.0	3.4	0.6	91.9	74.5	2.6	22.9	2.2	1.9
55-59	100.0	100.0	2.0	0.6	92.6	66.4	2.3	30.5	2.9	2.4
60-64	100.0	100.0	2.0	1.5	91.8	57.2	3.6	38.4	2.6	3.0
65 and over	100.0	100.0	2.0	1.3	85.2	32.2	10.0	65.6	2.8	0.8
<hr/>										
1969										
<u>TOTAL</u>	100.0	100.0	51.0	31.1	46.2	53.6	1.2	8.6	1.6	2.7
10-14	100.0	100.0	99.5	98.5	0.4	1.4	-	-	-	0.1
15-19	100.0	100.0	96.4	64.2	3.4	33.6	0.1	0.3	0.3	0.1
20-24	100.0	100.0	72.5	18.6	26.3	76.2	0.2	1.1	1.0	4.1
25-29	100.0	100.0	32.5	5.5	66.0	87.2	0.4	2.0	2.1	4.3
30-34	100.0	100.0	13.7	3.8	82.8	88.2	0.7	4.2	2.8	3.8
35-39	100.0	100.0	9.1	3.2	87.1	85.7	0.9	6.7	2.9	3.4
40-49	100.0	100.0	6.7	2.8	88.7	80.5	1.5	13.4	3.1	3.3
50-59	100.0	100.0	5.7	3.0	88.7	56.9	2.8	27.1	2.9	3.0
60-69	100.0	100.0	5.2	4.2	86.8	48.6	5.0	43.9	2.9	3.3
70 and over	100.0	100.0	5.1	5.9	81.3	31.1	10.7	50.1	2.9	2.9

Source: DBS, 1975: 18.

APPENDIX IITable 3PERCENTAGE DISTRIBUTION OF MALE HOUSEHOLD HEADSBY NUMBER OF WIVES AND PROVINCE<sup>a</sup>

	<u>Central</u>	<u>Coast</u>	<u>Eastern</u>	<u>Nyanza</u>	<u>Rift Valley</u>	<u>Western</u>	<u>Total %</u>
None	1	4	3	1	5	2	2
One	88	63	86	65	77	76	78
Two	8	23	9	28	16	16	16
Three	3	5	2	5	-	6	4
Four or More	-	5	-	1	1	-	-
Total	100	100	100	100	100	100	100
% of Married Male Heads in Polygamous Unions	11	34	12	34	18	22	21

<sup>a</sup> Excludes pastoral and large farm areas.

Source: IRS, 1977: 33

APPENDIX IIITable 1RATES OF TAX

The individual rates of tax shall be:

	Rate in each shs 20/=
on the first £1200	2/=
" " next £ 600	3/=
" " " £ 600	4/=
" " " £ 600	5/=
" " " £ 600	6/=
" " " £ 600	7/=
" " " £ 600	8/=
" " " £ 600	9/=
" " " £ 600	10/=
" " " £ 600	11/=
" " " £ 600	12/=
" " " £1600	13/=
on all total income over £9000	14/=

Source: Uche, 1974: 27

APPENDIX IVTable 1SCHOOL ENROLLMENTS AS PERCENTAGE OF POPULATION COHORTSBY RACIAL GROUP, 1962

	<u>Primary School</u>	<u>Secondary School</u>
African	34.7	1.3
Arab	36.9	9.4
Asian	77.5	80.9
European	74.6	98.9

Source: Sheffield, 1971: 16

Table 2AFRICAN ENROLLMENTS AS PERCENTAGE OF POPULATION COHORTSBY LEVEL OF SCHOOL, 1961

	<u>Boys</u>	<u>Girls</u>
Primary school age cohort		
Enrolled Standards 1-4	73	47
Enrolled Standards 5-8	29	9
Secondary school age cohort		
Forms I-IV	2	— <sup>a</sup>

<sup>a</sup> Less than 0.5 per cent.

Source: Smock, 1977: 22.

APPENDIX IVTable 3ANNUAL PRIMARY GROWTH RATE, 1968-1972

<u>Provinces and Selected Urban Centers</u>	<u>Percentage Males</u>	<u>Percentage Females</u>	<u>Total</u>
Coast	8.3	9.7	8.7
Eastern	7.2	11.0	8.8
North Eastern	19.7	24.5	20.5
Central	6.6	9.9	8.2
Rift Valley	7.2	11.8	9.5
Nyanza	3.3	7.4	5.1
Western	11.9	13.5	12.6
Nairobi	6.2	7.6	6.9
Mombasa	4.7	6.8	5.1
Nakuru	8.6	8.9	8.8
Kisumu	2.6	4.0	3.3
Kenya	7.2	10.3	8.6

Source: Kinyanjui, 1975: 20.

Table 4PERCENTAGE OF FEMALES TO MALES IN PRIMARY ENROLLMENT

<u>Provinces and Selected Urban Centers</u>	<u>1968</u>	<u>1972</u>
Coast	31.1	32.4
Eastern	40.4	43.8
North Eastern	16.2	18.4
Central	44.7	47.6
Rift Valley	35.8	39.9
Nyanza	36.1	39.4
Western	46.1	42.9
Nairobi	45.6	46.8
Mombasa	41.0	42.2
Nakuru	45.9	46.3
Kisumu	44.7	45.9
Kenya	40.1	42.9

Source: Kinyanjui, 1975: 20.

APPENDIX IVTable 5EDUCATIONAL PROFILE OF FEMALES AGED 12 AND OVERBY SELECTED ETHNIC GROUP, 1969

<u>Ethnic Group</u>	<u>None</u>	<u>Standard 1-4</u>	<u>Standard 5-8</u>	<u>Form I-IV</u>	<u>Form V+</u>
Kikuyu	58%	18%	21%	3%	.1%
Embu	64%	16%	18%	2%	.1%
Kamba	77%	13%	9%	1%	.03%
Luhya	50%	19%	19%	2%	.1%
Kisii	78%	13%	11%	1%	.02%
Luo	76%	11%	12%	1%	.07%
Turkana	99%	1%	.5%	—	—
Masai	91%	4%	5%	1%	.007%
Kipsigis	80%	9%	10%	1%	.03%
Miji Kanda	94%	3%	3%	.03%	.06%
Meru	76%	12%	11%	1%	.06%
Nandi	79%	12%	9%	1%	.05%

Source: Smock, 1977: 25.

APPENDIX IVTable 6SECONDARY SCHOOL ENROLLMENT BY SEX, 1970 and 1973

<u>Provinces and Selected Urban Centers</u>	<u>1970</u>		<u>1973</u>	
	<u>Number of Females</u>	<u>Females as % of Total Enrollment</u>	<u>Number of Females</u>	<u>Females as % of Total Enrollment</u>
Coast	1785	39.4	1448	25.6
Eastern	5090	29.9	7910	32.7
North Eastern	7	4.6	51	14.3
Central	9366	33.4	15472	35.0
Rift Valley	3364	27.9	5775	31.4
Nyanza	3122	21.6	5658	28.8
Western	3260	25.0	6507	30.8
Nairobi	7648	34.7	8401	35.0
Mombasa	2454	31.0	2992	33.1
Nakuru	767	26.1	843	27.5
Kisumu	645	30.7	777	32.9
Kenya	37508	30.3	55835	33.3

Source: Kinyanjui, 1975: 21.